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Wednesday
October 8, 1997

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Presidential Documents

Title 3—

The President

Proclamation 7032 of October 3, 1997

Fire Prevention Week, 1997

By the President of the United States of America

A Proclamation

Of all the disasters that confront Americans every year, few cause more loss of life and property than fire. Across the country each day, fire threatens our communities, our livelihoods, and our lives. Last year alone, almost 5,000 men, women, and children perished in fires, and nearly 80 percent of these deaths occurred in homes. This tragic statistic is a call to action for all of us, not only to remain vigilant in our efforts to prevent fires, but also to learn how to react quickly and sensibly when fires occur.

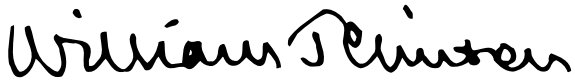
Many people do not understand the speed at which fire can spread, the intensity of its heat, or the toxic power of its smoke. Because a quick, decisive response often means the difference between life and death, it is important to learn about fire, to recognize how deadly a threat it is, and to react to it immediately. The National Fire Protection Association, in partnership with the Federal Emergency Management Agency and our Nation's fire services, has selected ''Know When to Go! React Fast To Fire!'' as the theme of this year's Fire Prevention Week. This theme reinforces a simple but essential element of fire safety: escape planning.

Because approximately 80 percent of last year's fatal fires occurred in the home, every family should develop a home escape plan. If a smoke or fire alarm sounds, everyone must react quickly. When away from home, we need to make it a habit to locate the nearest exit in any building we occupy. Most important, we must never reenter a burning building.

By following these basic safety rules, we can save lives and reduce the risks to our Nation's firefighters. Every 16 seconds, a fire department responds to a fire somewhere in the United States. Last year, thousands of firefighters were injured, and 92 made the ultimate sacrifice in the line of duty. Our Nation will acknowledge the extraordinary dedication of these valiant men and women by paying tribute to America's career and volunteer firefighters on Sunday, October 5, 1997, at the National Fallen Firefighters Memorial Service in Emmitsburg, Maryland.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim October 5 through October 11, 1997, as Fire Prevention Week. I encourage the people of the United States to take an active role in fire prevention not only during this week, but throughout the year. I also call upon all Americans to honor the courageous members of our Nation's fire and emergency services by learning about the dangers posed by fire and by preparing their friends and family members to react immediately and safely to fires when they occur.

IN WITNESS WHEREOF, I have hereunto set my hand this third day of October, in the year of our Lord nineteen hundred and ninety-seven, and of the Independence of the United States of America the two hundred and twenty-second.



[FR Doc. 97–26823
Filed 10–7–97; 8:45 am]
Billing code 3195–01–P

Presidential Documents

Proclamation 7033 of October 6, 1997

Child Health Day, 1997

By the President of the United States of America

A Proclamation

For children, childhood seems to last forever; but for adults—particularly for those of us who are parents—it passes in the blink of an eye. The little girl smiling at us from her tricycle and the little boy running to catch the school bus will soon be driving away to their first jobs. One of the greatest gifts we can offer our children while they are still in our care is a healthy start in life.

We are making tremendous progress as a nation in helping more children get that healthy start. This year I signed into law historic legislation to extend health care coverage to millions of uninsured children. This $24 billion initiative over 5 years is the largest investment in children's health since the creation of Medicaid in 1965. On October 1, the Federal Government and the States began a partnership to help provide meaningful health insurance to children whose families earn too much for Medicaid but too little to afford private coverage.

This new initiative will take an enormous step toward improving the health of our Nation's children. In 1995, approximately 10 million of them were not covered by health insurance, and they were either ineligible for or not enrolled in publicly financed medical assistance programs. Last year, another 800,000 uninsured children joined their ranks. These children are less likely to receive the primary care services they need to maintain good health, and they are at risk of receiving lower quality care. Too often they become trapped in a tragic downward spiral—poor health keeps them out of school, keeps them from pursuing their studies with energy and enthusiasm, and often keeps them from acquiring the knowledge and self-esteem they need to reach their full potential. With this new children's health initiative, we can provide millions of children the coverage they need to grow up healthy and strong.

We are making progress in other areas, as well. Thanks to advances in medical research and our increasing knowledge about prevention and the importance of good nutrition, many childhood diseases and illnesses can now be averted. Funding for childhood immunization has doubled since 1993, and immunization rates are at an all-time high. In addition, we recently announced an important Food and Drug Administration regulation requiring manufacturers to do studies on pediatric populations for new prescription drugs—and those currently on the market—to ensure that our prescription drugs have been adequately tested for the unique needs of children. We have dramatically increased participation in the Women, Infants and Children Supplemental Nutrition Program, providing nutrition packages and information and health referrals to more than 7 million infants, children, and pregnant women. With the enactment of the Kassebaum-Kennedy bill last year, we have helped millions of children keep their healthcare coverage when their parents change or lose jobs.

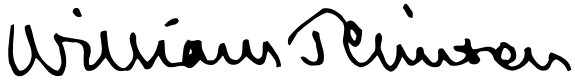
We are also taking strong actions to prevent our children from smoking. Each day 3,000 children become regular smokers and 1,000 of them will die from a tobacco-related illness. Last year, my Administration issued guide-

lines to eliminate easy access to tobacco products and to prohibit companies from directing advertising towards children.

To acknowledge our profound responsibility to nurture the health and development of America's children, the Congress, by joint resolution approved May 18, 1928, as amended (36 U.S.C. 143), has called for the designation of the first Monday in October as ''Child Health Day'' and has requested the President to issue a proclamation in observance of this day.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim Monday, October 6, 1997, as Child Health Day. I call upon my fellow Americans to join me on that day, and every day throughout the year, in strengthening our national commitment to the well-being of our children.

IN WITNESS WHEREOF, I have hereunto set my hand this sixth day of October, in the year of our Lord nineteen hundred and ninety-seven, and of the Independence of the United States of America the two hundred and twenty-second.



[FR Doc. 97–26823
Filed 10–7–97; 8:45 am]
Billing code 3195–01–P

Presidential Documents

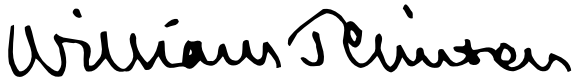
Presidential Determination No. 97–36 of September 30, 1997

Presidential Determination on Ex-Im Loan to China for Shanghai Metro

Memorandum for the Secretary of State

Pursuant to section 2(b)(2)(D)(ii) of the Export-Import Bank Act of 1945, as amended, I determine that it is in the national interest for the Export-Import Bank of the United States to extend a loan in the approximate amount of $60 million to the People's Republic of China to finance the export of U.S. goods and services for the construction of Shanghai Metro Phase II, Line I, located in the city of Shanghai, China.

You are authorized and directed to report this determination to the Congress and to publish it in the **Federal Register**.



THE WHITE HOUSE,
Washington, September 30, 1997.

[FR Doc. 97–26880
Filed 10–7–97; 8:45 am]
Billing code 4710–10–M

Presidential Documents

Presidential Determination No. 97–39 of September 30, 1997

Delegation of Authority Under Section 1322(c) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106)

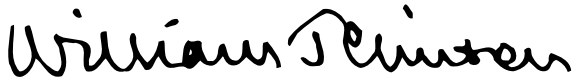
Memorandum for the Secretary of Defense

By the authority vested in me by the Constitution and laws of the United States of America, I hereby delegate to the Secretary of Defense the duties and responsibilities vested in the President by section 1322(c) of the National Defense Authorization Act for Fiscal Year 1996 (''the Act'') (Public Law 104–106, 110 Stat. 478–479 (1996)).

The reporting requirement delegated by this memorandum may be redelegated not lower than the Under Secretary level. The Department of Defense shall obtain concurrence on the report from the following agencies: the Department of Commerce, the Department of State, the Department of the Treasury, and the Director of Central Intelligence on behalf of the intelligence community prior to submission to the Congress.

Any reference in this memorandum to the provisions of any Act shall be deemed to be a reference to such Act or its provisions as may be amended from time to time.

The Secretary of Defense is authorized and directed to publish this memorandum in the **Federal Register**.



THE WHITE HOUSE,
Washington, September 30, 1997.

[FR Doc. 97–26867
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Billing code 5000–04–M

Rules and Regulations

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DEPARTMENT OF ENERGY

10 CFR Part 820

Procedural Rules for DOE Nuclear Activities; General Statement of Enforcement Policy

AGENCY: Department of Energy.

ACTION: Interim rule; amendment of enforcement policy statement.

SUMMARY: The Department of Energy (DOE) is amending its General Statement of Enforcement Policy (Policy), which is contained in an Appendix to the Procedural Rules for DOE Nuclear Activities. DOE has reevaluated this Policy in consideration of the changing mission of DOE and experience gained from applying the Policy since its publication. Under the amended Policy, DOE no longer intends to base civil penalty amounts on the type of nuclear facility involved. The amended Policy also adds new sections on (1) DOE's use of enforcement letters to close out investigations, (2) self-identification and tracking systems, and (3) self-disclosing events.

DATES: This amended Policy takes effect on November 7, 1997. Although the amended Policy will be effective November 7, 1997, DOE invites and will consider public comment. Written comments must be received by November 7, 1997.

ADDRESSES: Written comment (5 copies) should be addressed to: R. Keith Christopher, U.S. Department of Energy, Office of Enforcement and Investigation, EH–10–GTN, 1000 Independence Avenue SW., Washington, DC 20585, (301) 903–0106. Written comments may be examined between 9 a.m. and 4 p.m., Monday through Friday, in: U.S. Department of Energy, Reading Room, room 1E–190, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–6020.

FOR FURTHER INFORMATION CONTACT: Howard Wilchins, U.S. Department of Energy, Office of Enforcement and Investigation, EH–10–GTN, 1000 Independence Avenue SW., Washington, DC 20585, (202) 903–0100.

SUPPLEMENTARY INFORMATION:

I. Background

DOE's Nuclear Safety Requirements [1] set forth the requirements for DOE's contractors, subcontractors and suppliers to ensure that DOE's nuclear facilities and activities are operated in a manner that protects worker and public safety and the environment. In promulgating Procedural Rules for DOE Nuclear Activities, DOE published a General Statement of Enforcement Policy (Policy) as Appendix A to 10 CFR Part 820, 58 FR 43680 (Aug. 17, 1993). The Policy provides the bases and processes DOE uses to take enforcement actions for violations of the DOE Nuclear Safety Requirements. The enforcement provisions embodied in Part 820 and reflected in the Policy are based on a philosophy of encouraging contractors to provide adequate protection of safety, health, and the environment in compliance with the DOE Nuclear Safety Requirements. The Policy provides for discretion in pursuing enforcement actions where contractors demonstrate initiative in safety management performance, self-identification of deficiencies, self-reporting of noncompliances to DOE, and prompt and comprehensive corrective actions for the deficiencies identified. Where a contractor's actions are not adequate, DOE may issue a Preliminary Notice of Violation and propose the assessment of civil penalties under the authority of the Price-Anderson Amendments Act of 1988 (PAAA).

Since the Policy was published in August 1993, DOE has accumulated experience in applying the Policy. The complexion of DOE's operating facilities and activities has changed over the past several years. In particular, its array of weapons production facilities and activities has been significantly reduced so that DOE now manages a broad mix of operating facilities, research and development activities, decontamination and decommissioning operations, and environmental management and restoration activities. DOE has reevaluated the structure of its Policy considering the changing mission of DOE and its experience with the Policy. This reevaluation found that the Policy emphasized hazards based on the type of nuclear facilities and activities, such as the risk to the public of an accident involving a reactor or a release of large quantities of radiological material. The Policy placed inadequate emphasis on violations that caused or potentially caused a significant hazard to a worker or the environment, regardless of the type of facility or activity involved, in determining the applicable base civil penalty. That result sent a message to contractors inconsistent with DOE's intent to focus attention on assuring the safe conduct of work at its facilities and during nuclear activities conducted for DOE.

DOE in recent years has placed greater responsibility on management and operating and other contractors to assure the safety of the public, workers, and the environment for the activities that they perform. This has included use of incentive or award fees to recognize proper performance by contractors, integration of safety management

[1] 10 CFR § 820.2 defines ''DOE Nuclear Safety Requirements'' as ''the set of enforceable rules, regulations, or orders relating to nuclear safety adopted by DOE (or by another Agency if DOE specifically identifies the rule, regulation, or order) to govern the conduct of persons in connection with any DOE nuclear activity and includes any programs, plans, or other provisions intended to implement these rules, regulations, orders, a Nuclear Statute or the [Atomic Energy] Act, including technical specifications and operational safety requirements for DOE nuclear facilities. For purposes of the assessment of civil penalties, the definition of DOE Nuclear Safety Requirements is limited to those identified in 10 CFR § 820.20(b).'' Section 820.20(b) states that civil penalties may be assessed on the basis of a violation of any DOE Nuclear Safety Requirements, a Compliance Order, or any program, plan, or other provision required to implement such Requirement or Compliance Order.

systems, and application of enforcement sanctions for significant cases where DOE Nuclear Safety Requirements have not been met. DOE's amendment to the Policy is consistent with the philosophy of emphasizing the importance of protecting workers, the public and the environment. The amendment also clarifies DOE's enforcement processes and policies so that DOE's expectations and protocols are better understood. Comments received will be considered and additional amendments made if necessary. This amended Policy will take effect 30 days from the date of publication.

II. Amendments to Policy

A. Base Civil Penalty Structure

The PAAA, as modified by the Federal Civil Penalties Inflation Adjustment Act of 1990, establishes a statutory limit of $110,000[2] on the amount of civil penalties DOE can assess for each violation. DOE is eliminating the civil penalty structure that is based on the categorization of the type of nuclear facility, but it is retaining and modifying that portion of the structure based on the three Severity Levels of violations. DOE is simplifying the determination of civil penalties by moving from two tables to one table. DOE is removing Table 1A in newly-designated Section IX which is based on categorization of five types of nuclear facilities.

Eliminating the sliding scale of civil penalties based on the categorization of type of nuclear facility will better reflect DOE's current mission and practices. The categorization of facility approach, although similar to that in NRC's enforcement policy,[3] is not appropriate for DOE's current programs where both large, complex facilities and activities, and smaller, but not necessarily less hazardous, facilities and activities are often operated and managed by the same contractors. A violation affecting the environment or the health and safety of a worker or the public can occur both at high hazard facilities and activities, and at relatively low hazard facilities and activities at the same site. Accordingly, DOE is removing the facility categories table from the Policy as a means of establishing the base civil penalty.

DOE is redesignating Table 1B as Table 1 and revising it to set civil penalty percentages for violations of Severity Levels I, II, and III as a percentage of the maximum statutory limit for civil penalties per violation per day. Severity Level I violations are assessed at the highest level of civil penalty of 100% of the statutory limit per violation per day. Severity Level II is set at 50% of the statutory limit. Severity Level III is set at 10% of the statutory limit.

For Severity Level III violations, DOE is reducing the percentage of the statutory limit from 20% to 10%. DOE believes that a 10% penalty for Category Level III will more accurately reflect its intent to lower civil penalties for noncompliances of small or indirect safety consequences and to encourage contractor responsibility for correcting noncompliances. Except in unusual circumstances, DOE would not assess a civil penalty for violations of Severity Level III. There is no change to the percentages for Severity Levels I and II.

In the revised table, the dollar amount of the civil penalty to which the percentages apply has been deleted so that the percentages now apply to the statutory limit of the maximum civil penalty that can be assessed, whatever that may be at the time. DOE is required to adjust the statutory limit for inflation at least every four years. *See* footnote 2. This approach is intended to establish a direct relationship between the magnitude of the base civil penalty and the significance of the violation.

B. Enforcement Letters

In its experience with enforcement over the past several years, DOE has developed the Enforcement Letter to close out investigations. An Enforcement Letter is an administrative action which has been incorporated into the enforcement process to streamline the process and to better communicate to contractors the status of DOE closure of enforcement investigations and DOE expectations for corrective action of a noncompliance.

Enforcement letters serve to communicate to the contractor DOE's decision not to issue a Preliminary Notice of Violation for a noncompliance that has been reported to DOE, DOE's basis for not pursuing enforcement in that case, and notice to the contractor of DOE's expectations for implementation of the contractor's commitments to take actions to correct the noncompliance. While the Enforcement Letter is not addressed in the current Policy and would not be used in all cases where DOE decides not to pursue a Preliminary Notice of Violation, it has served an effective role in several investigations that DOE has undertaken involving more complex matters or those of some safety significance. The amended Policy adds Section VIII to describe DOE's use of Enforcement Letters.

C. Self-Identification and Tracking Systems

The amended Policy adds a new paragraph 5 in newly-designated Section IX on self-identification and tracking systems. This paragraph emphasizes that contractors should be proactive in identifying and reporting noncompliances before they result in an event with potential safety consequences and should take prompt and effective corrective actions to correct noncompliances to preclude recurrence. Contractors have tended to rely on self-reporting to expect significant reduction or full remission of civil penalties for simply reporting noncompliances that occur. The amended Policy encourages contractors to use the full spectrum of appropriate safety management responses such as prompt self-identification, reporting, and timely and effective corrective action to improve nuclear safety.

The present Policy notes that DOE would consider partial reduction of a civil penalty if a contractor self-identifies the noncompliance and reports it to DOE. With the impracticality of formally reporting all noncompliances with DOE Nuclear Safety Requirements, including, for example, minor or trivial noncompliances with procedures, DOE will allow contractors an option of self-tracking those noncompliances that fall below certain threshold levels. In DOE's enforcement guide, *Guidance for Identifying, Reporting and Tracking Nuclear Safety Noncompliances*,[4] DOE recommends threshold levels. For noncompliances below the threshold, DOE will accept a contractor's self-tracking as acceptable self-reporting if DOE has access to the contractor's self-tracking system and the contractor has tagged the items as noncompliances

[2] The Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. 2461 note, as amended by the Debt Collection Improvement Act of 1996 (Pub. L. 104–134), requires Federal agencies to regularly adjust each civil monetary penalty provided by law within the jurisdiction of the agency. As amended, the law requires each agency to make an initial inflationary adjustment for all applicable civil penalties, and to make further adjustments at least once every four years. DOE has promulaged a new Subpart G in 10 CFR Part 820, 62 FR 4618 (Sept. 2, 1997) (final rule), to establish by regulation that $110,000 is the new maximum civil penalty per violation per day authorized by 42 U.S.C. 2282a and 28 U.S.C. 2461 note.''

[3] Nuclear Regulatory Commission, General Statement of Policy and Procedure for Enforcement Actions, 61 FR 65561 (Oct. 18, 1996) (revision of policy).

[4] *Guidance for Identifying, Reporting and Tracking Nuclear Safety Noncompliances*, and Addendum, *Noncompliance Tracking System Users Manual*, DOE–HDBK–1089–95, July 1995. This guide is available through the DOE Technical Standards Program on the internet at http://apollo.osti.gov/html/techstds/techstds.html.

with DOE Nuclear Safety Requirements. For reporting items of noncompliance of potentially greater safety significance above the thresholds, contractors may elect to report through the voluntary DOE Noncompliance Tracking System (NTS), which is also described in the guide.

D. Self-Disclosing Events

A new paragraph 6 is added in newly-designated Section IX on self-disclosing events. Reduction of civil penalties may not be appropriate when a violation is disclosed by an event or discovered through the subsequent investigation of the root cause of an event (*i.e.*, a self-disclosing event) because the disclosure is not the result of contractor initiative. The new paragraph clarifies how DOE would consider reducing penalties for self-disclosing events. In general, a self-disclosing event does not constitute self-identification of the noncomplying event, even if the contractor reported it promptly after the event. A determination to reduce civil penalties for identification of an event after the fact will depend on various factors, including the duration of the noncompliance, and ease and opportunities for identification.

E. Summary of Changes

The Department is making formatting changes throughout Appendix A to conform to **Federal Register** codification requirements. As a result, paragraph designations such as a., b., c., etc. have been added to sections currently containing multiple undesignated paragraphs. The Department is also making substantive changes by adding new Section VIII, Enforcement Letter, and redesignating the remaining sections accordingly. Newly-redesignated Section IX has been reprinted in its entirety to: add paragraph designations throughout; add paragraph 5, Self-Identification and Tracking Systems, and paragraph 6, Self-Disclosing Events; remove Table 1A and revise and redesignate Table 1B as Table 1 in paragraph 2 Civil Penalty; correct cross-references to the Tables throughout the section; change references to Section VIII to read ''this section'' to reflect the redesignation; remove the phrase ''and a categorization of DOE facilities operated'', and revise ''facilities'' to read ''Severity Levels'' in paragraph 2c.; remove the phrase ''and different categories of facilities,'' revise the phrase ''$100,000 per day'' to read ''the statutory limit'' in paragraph 2e. In paragraph 8, the reference to 10 CFR 820.60 is corrected to read ''820.50.'' In newly-designated Section XII, the phrase ''$100,000'' has been changed to read ''the statutory limit'' in paragraph a.

III. Procedural Requirements

A. Review Under Executive Order 12866

This amended Policy is not a ''significant regulatory action'' as defined in section 3(f) of Executive Order 12866, ''Regulatory Planning and Review,'' 58 FR 51735 (Oct. 4, 1993), and, thus, has not been reviewed by the Office of Information and Regulatory Affairs of the Office of Management and Budget for this purpose.

B. Review Under the Paperwork Reduction Act

No new information collection requirements subject to the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, are imposed by this amended Policy.

C. Review Under the National Environmental Policy Act

The Department has determined that this amended Policy is not a major federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, and does not require preparation of an environmental impact statement or an environmental assessment. Today's action is covered under Categorical Exclusion A.5 in DOE guidelines implementing NEPA (Appendix A to Subpart D, 10 CFR part 1021), which applies to the interpretation or amendment of an existing rule or regulation that does not change the environmental effect of the rule or regulation being amended.

D. Review Under Executive Order 12612

Executive Order 12612, ''Federalism,'' 52 FR 41685 (Oct. 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 National Government and the States, or in the distribution of power and responsibilities among various levels of government. If there are sufficient substantial direct effects on States, on the relationship between the National Government and the States, or in the distribution of power and responsibilities among various levels of government, the Executive Order requires preparation of a federalism assessment to be used in all decisions involved in promulgating and implementing a policy action. This action will not have a substantial direct effect on the institutional interest or traditional functions of the States or various levels of government.

E. 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 (Feb. 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. Section (3) of Executive Order 12988 requires Executive agencies to review regulations to determine whether the applicable standards in section 3 are met. DOE has completed the required review and determined that, to the extent permitted by law, this amended Policy meets the relevant standards of Executive Order 12988.

F. Congressional Notification

Consistent with the Small Business Regulatory Enforcement Fairness Act of 1996, DOE will submit to Congress a report regarding the issuance of this amended Policy prior to the effective date set forth at the beginning of this notice. The report will note that the Office of Management and Budget has determined that this amended Policy does not constitute a ''major rule'' under that Act. 5 U.S.C. 801, 804.

List of Subjects in 10 CFR Part 820

Government contracts, DOE contracts, Nuclear safety, Civil penalty, Criminal penalty.

Issued in Washington, D.C., on September 19, 1997.

Tara O'Toole,

Assistant Secretary for Environment, Safety and Health.

For the reason set forth in the preamble, 10 CFR part 820 is amended as set forth below:

PART 820—PROCEDURAL RULES FOR DOE NUCLEAR ACTIVITIES

1. The authority citation for Part 820 continues to read as follows:

Authority: 42 U.S.C. 2201, 2282(a), 7191.

Appendix A to Part 820—[Amended]

2. Appendix A to Part 820—General Statement of Enforcement Policy is amended by adding paragraph designations in the following sections:

In Section I., Introduction, add the paragraph designations a. b. c. d. and e. to the five paragraphs.

In Section V., Procedural Framework, add the paragraph designations a. b. and c. to the three paragraphs.

In Section VI., Severity of Violations, add the paragraph designations a. b. c. d. e. and f. to the six paragraphs.

In Section VII, Enforcement Conferences, add the paragraph designations a. and b. to the two paragraphs.

3. Appendix A to Part 820 is amended by redesignating Sections VIII through XI as Sections IX through XII and adding a new Section VIII to read as follows:

Appendix A to Part 820—General Statement of Enforcement Policy

* * * * *

VIII. Enforcement Letter

a. In cases where DOE has decided not to issue a Preliminary Notice of Violation, DOE may send an Enforcement Letter to the contractor signed by the Director. The Enforcement Letter is intended to communicate the basis of the decision not to pursue further enforcement action for a noncompliance. The Enforcement Letter is intended to direct contractors to the desired level of nuclear safety performance. It may be used when DOE concludes the specific noncompliance at issue is not of the level of significance warranted for issuance of a Preliminary Notice of Violation (PNOV). Even where a noncompliance may be significant, the Enforcement Letter recognizes that the contractor's actions may have attenuated the need for further enforcement action. The Letter will typically recognize how the contractor handled the circumstances surrounding the noncompliance and address additional areas requiring the contractor's attention and DOE's expectations for corrective action. The Enforcement Letter notifies the contractor that, when verification is received that corrective actions have been implemented, DOE will close the enforcement action.

b. In many investigations, an Enforcement Letter may not be required. When DOE decides that a contractor has appropriately corrected a noncompliance or that the significance of the noncompliance is sufficiently low, it may close out an investigation simply through an annotation in the DOE Noncompliance Tracking System (NTS). *See Guidance for Identifying, Reporting and Tracking Nuclear Safety Noncompliances,* and Addendum, *Noncompliance Tracking System Users Manual,* DOE–HDBK–1089–95, July 1995. A closeout of a noncompliance with or without an Enforcement Letter may only take place after DOE has confirmed that corrective actions have been completed.

4. Newly-designated Section IX, Enforcement Action, is revised to read as follows:

IX. Enforcement Actions

a. This section describes the enforcement sanctions available to DOE and specifies the conditions under which each may be used. The basic sanctions are Notices of Violation and civil penalties. In determining whether to impose enforcement sanctions, DOE will consider enforcement actions taken by other Federal or State regulatory bodies having concurrent jurisdiction, e.g., instances which involve NRC licensed entities which are also DOE contractors, and in which the NRC exercises its own enforcement authority.

b. The nature and extent of the enforcement action is intended to reflect the seriousness of the violation involved. For the vast majority of violations for which DOE assigns severity levels as described previously, a Notice of Violation will be issued, requiring a formal response from the recipient describing the nature of and schedule for corrective actions it intends to take regarding the violation. Administrative actions, such as determination of award fees where DOE contracts provide for such determinations, will be considered separately from any civil penalties that may be imposed under this Enforcement Policy. Likewise, imposition of a civil penalty will be based on the circumstances of each case, unaffected by any award fee determination.

1. Notice of Violation

a. A Notice of Violation (either a Preliminary or Final Notice) is a document setting forth the conclusion of the DOE Office of Nuclear Safety that one or more violations of DOE Nuclear Safety Requirements has occurred. Such a notice normally requires the recipient to provide a written response which may take one of several positions described in Section V of this policy statement. In the event that the recipient concedes the occurrence of the violation, it is required to describe corrective steps which have been taken and the results achieved; remedial actions which will be taken to prevent recurrence; and the date by which full compliance will be achieved.

b. DOE will use the Notice of Violation as the standard method for formalizing the existence of a violation and, in appropriate cases as described in this section, the notice of violation will be issued in conjunction with the proposed imposition of a civil penalty. In certain limited instances, as described in this section, DOE may refrain from the issuance of an otherwise appropriate Notice of Violation. However, a Notice of Violation will virtually always be issued for willful violations, if past corrective actions for similar violations have not been sufficient to prevent recurrence and there are no other mitigating circumstances, or if the circumstances otherwise warrant increasing Severity Level III violations to a higher severity level.

c. DOE contractors are not ordinarily cited for violations resulting from matters not within their control, such as equipment failures that were not avoidable by reasonable quality assurance measures, proper maintenance, or management controls. With regard to the issue of funding, however, DOE does not consider an asserted lack of funding to be a justification for noncompliance with DOE Nuclear Safety Requirements. Should a contractor believe that a shortage of funding precludes it from achieving compliance with one or more DOE Nuclear Safety Requirements, it must pursue one of two alternative courses of action. First, it may request, in writing, an exemption from the requirement(s) in question from the appropriate Secretarial Officer (SO), explicitly addressing the criteria for exemptions set forth in 10 CFR 820.62. A justification for continued operation for the period during which the exemption request is being considered should also be submitted. In such a case, the SO must grant or deny the request in writing, explaining the rationale for the decision. Second, if the criteria for approval of an exemption cannot be demonstrated, the contractor, in conjunction with the SO, must take appropriate steps to modify, curtail, suspend or cease the activities which cannot be conducted in compliance with the DOE Nuclear Safety Requirement(s) in question.

d. DOE expects the contractors which operate its facilities to have the proper management and supervisory systems in place to assure that all activities at DOE facilities, regardless of who performs them, are carried out in compliance with all DOE Nuclear Safety Requirements. Therefore, contractors are normally held responsible for the acts of their employees and subcontractor employees in the conduct of activities at DOE facilities. Accordingly, this policy should not be construed to excuse personnel errors.

e. Finally, certain contractors are explicitly exempted from the imposition

of civil penalties pursuant to the provisions of the PAAA, 42 U.S.C. 2282a(d), for activities conducted at specified facilities. See 10 CFR 820.20(c). In addition, in fairness to non-profit educational institutions, the Department has determined that they should be likewise exempted. See 10 CFR 820.20(d). However, compliance with DOE Nuclear Safety Requirements is no less important for these facilities than for other facilities in the DOE complex which work with, store or dispose of radioactive materials. Indeed, the exempted contractors conduct some of the most important nuclear-related research and development activities performed for the Department. Therefore, in order to serve the purposes of this enforcement policy and to emphasize the importance the Department places on compliance with all of its nuclear safety requirements, DOE intends to issue Notices of Violation to the exempted contractors and non-profit educational institutions when appropriate under this policy statement, notwithstanding the statutory and regulatory exemptions from the imposition of civil penalties.

2. Civil Penalty

a. A civil penalty is a monetary penalty that may be imposed for violations of applicable DOE Nuclear Safety Requirements, including Compliance Orders. See 10 CFR 820.20(b). Civil penalties are designed to emphasize the need for lasting remedial action, deter future violations, and underscore the importance of DOE contractor self-identification, reporting and correction of violations of DOE Nuclear Safety Requirements.

b. Absent mitigating circumstances as described below, or circumstances otherwise warranting the exercise of enforcement discretion by DOE as described in this section, civil penalties will be proposed for Severity Level I and II violations. Civil penalties will be proposed for Severity Level III violations which are similar to previous violations for which the contractor did not take effective corrective action. ''Similar'' violations are those which could reasonably have been expected to have been prevented by corrective action for the previous violation. DOE normally considers civil penalties only for similar Severity Level III violations that occur over a reasonable period of time to be determined at the discretion of DOE.

c. DOE will impose different base level civil penalties considering the severity level of the violation(s) by Price-Anderson indemnified contractors. Table 1 shows the daily base civil penalties for the various categories of severity levels. However, as described above in Section IV, the imposition of civil penalties will also take into account the gravity, circumstances, and extent of the violation or violations and, with respect to the violator, any history of prior similar violations and the degree of culpability and knowledge.

d. Regarding the factor of ability of DOE contractors to pay the civil penalties, it is not DOE's intention that the economic impact of a civil penalty be such that it puts a DOE contractor out of business. Contract termination, rather than civil penalties, is used when the intent is to terminate these activities. The deterrent effect of civil penalties is best served when the amount of such penalties takes this factor into account. However, DOE will evaluate the relationship of affiliated entities to the contractor (such as parent corporations) when it asserts that it cannot pay the proposed penalty.

e. DOE will review each case involving a proposed civil penalty on its own merits and adjust the base civil penalty values upward or downward appropriately. As indicated above, Table 1 identifies the daily base civil penalty values for different severity levels. After considering all relevant circumstances, civil penalties may be escalated or mitigated based upon the adjustment factors described below in this section. In no instance will a civil penalty for any one violation exceed the statutory limit. However, it should be emphasized that if the DOE contractor is or should have been aware of a violation and has not reported it to DOE and taken corrective action despite an opportunity to do so, each day the condition existed may be considered as a separate violation and, as such, subject to a separate civil penalty. Further, as described in this section, the duration of a violation will be taken into account in determining the appropriate severity level of the base civil penalty.

TABLE 1.—SEVERITY LEVEL BASE CIVIL PENALTIES

Severity level	Base civil penalty amount (percentage of maximum civil penalty per violation per day)
I	100
II	50
III	10

3. Adjustment Factors

a. DOE's enforcement program is not an end in itself, but a means to achieve compliance with DOE Nuclear Safety Requirements, and civil penalties are not collected to swell the coffers of the United States Treasury, but to emphasize the importance of compliance and to deter future violations. The single most important goal of the DOE enforcement program is to encourage early identification and reporting of nuclear safety deficiencies and violations of DOE Nuclear Safety Requirements by the DOE contractors themselves rather than by DOE, and the prompt correction of any deficiencies and violations so identified. DOE believes that DOE contractors are in the best position to identify and promptly correct noncompliance with DOE Nuclear Safety Requirements. DOE expects that these contractors should have in place internal compliance programs which will ensure the detection, reporting and prompt correction of nuclear safety-related problems that may constitute, or lead to, violations of DOE Nuclear Safety Requirements before, rather than after, DOE has identified such violations. Thus, DOE contractors will almost always be aware of nuclear safety problems before they are discovered by DOE. Obviously, public and worker health and safety is enhanced if deficiencies are discovered (and promptly corrected) by the DOE contractor, rather than by DOE, which may not otherwise become aware of a deficiency until later on, during the course of an inspection, performance assessment, or following an incident at the facility. Early identification of nuclear safety-related problems by DOE contractors has the added benefit of allowing information which could prevent such problems at other facilities in the DOE complex to be shared with all appropriate DOE contractors.

b. Pursuant to this enforcement philosophy, DOE will provide substantial incentive for the early self-identification, reporting and prompt correction of problems which constitute, or could lead to, violations of DOE Nuclear Safety Requirements. Thus, application of the adjustment factors set forth below may result in no civil penalty being assessed for violations that are identified, reported, and promptly and effectively corrected by the DOE contractor.

c. On the other hand, ineffective programs for problem identification and correction are unacceptable. Thus, for example, where a contractor fails to disclose and promptly correct violations

of which it was aware or should have been aware, substantial civil penalties are warranted and may be sought, including the assessment of civil penalties for continuing violations on a per day basis.

d. Further, in cases involving willfulness, flagrant DOE-identified violations, repeated poor performance in an area of concern, or serious breakdown in management controls, DOE intends to apply its full statutory enforcement authority where such action is warranted.

4. Identification and Reporting

Reduction of up to 50% of the base civil penalty shown in Table 1 may be given when a DOE contractor identifies the violation and promptly reports the violation to the DOE. In weighing this factor, consideration will be given to, among other things, the opportunity available to discover the violation, the ease of discovery and the promptness and completeness of any required report. No consideration will be given to a reduction in penalty if the DOE contractor does not take prompt action to report the problem to DOE upon discovery, or if the immediate actions necessary to restore compliance with DOE Nuclear Safety Requirements or place the facility or operation in a safe configuration are not taken.

5. Self-Identification and Tracking Systems

a. DOE strongly encourages contractors to self-identify noncompliances with DOE Nuclear Safety Requirements before the noncompliances lead to a string of similar and potentially more significant events or consequences. When a contractor identifies a noncompliance through its own self-monitoring activity, DOE will normally allow a reduction in the amount of civil penalties, regardless of whether prior opportunities existed for contractors to identify the noncompliance. DOE will normally not allow a reduction in civil penalties for self-identification if significant DOE intervention was required to induce the contractor to report a noncompliance.

b. Self-identification of a noncompliance is possibly the single most important factor in considering a reduction in the civil penalty amount. Consideration of self-identification is linked to, among other things, whether prior opportunities existed to discover the violation, and if so, the age and number of such opportunities; the extent to which proper contractor controls should have identified or prevented the violation; whether discovery of the violation resulted from a contractor's self-monitoring activity; the extent of DOE involvement in discovering the violation or in prompting the contractor to identify the violation; and the promptness and completeness of any required report. Self-identification is also considered by DOE in deciding whether to pursue an investigation.

c. DOE has established a voluntary Noncompliance Tracking System (NTS) which allows contractors to elect to report noncompliances. In the guidance document supporting the NTS (DOE–HDBK–1089–95), DOE has established reporting thresholds for reporting items of noncompliance of potentially greater safety significance into the NTS. Contractors may, however, use their own self-tracking systems to track noncompliances below the reporting threshold. This self-tracking is considered to be acceptable self-reporting as long as DOE has access to the contractor's system and the contractor's system notes the item as a noncompliance with a DOE Nuclear Safety Requirement. For noncompliances that are below the reportability thresholds, DOE will credit contractor self-tracking as representing self-reporting. If an item is not reported in NTS but only tracked in the contractor's system and DOE subsequently finds the facts and their safety significance have been significantly mischaracterized, DOE will not credit the internal tracking as representing appropriate self-reporting.

6. Self-Disclosing Events

a. DOE expects contractors to demonstrate acceptance of responsibility for safety of the public, workers, and the environment and to proactively identify noncompliance conditions in their programs and processes. In deciding whether to reduce any civil penalty proposed for violations revealed by the occurrence of a self-disclosing event, DOE will consider the ease with which a contractor could have discovered the noncompliance and the prior opportunities that existed to discover the noncompliance. When the occurrence of an event discloses noncompliances that the contractor could have or should have identified before the event, DOE will not generally allow a reduction in civil penalties for self-identification, even if the underlying noncompliances were reported to DOE. If a contractor simply reacts to events that disclose potentially significant consequences or downplays noncompliances which did not result in significant consequences to workers, the public, and the environment, such contractor actions do not lead to the improvement in nuclear safety contemplated by the Act.

b. The key test is whether the contractor reasonably could have detected any of the underlying noncompliances that contributed to the event. Examples of events that provide opportunities to identify noncompliances include, but are not limited to:

(1) prior notifications of potential problems such as those from DOE operational experience publications or vendor equipment deficiency reports;

(2) normal surveillance, quality assurance assessments, and post-maintenance testing;

(3) readily observable parameter trends; and

(4) contractor employee or DOE observations of potential safety problems. Failure to utilize these types of events and activities to address noncompliances may result in higher civil penalty assessments or a DOE decision not to reduce civil penalty amounts.

c. For example, a critique of the event might find that one of the root causes was a lack of clarity in a Radiation Work Permit (RWP) which led to improper use of anti-contamination clothing and resulting uptake of contamination by the individual. DOE could subsequently conclude that no reduction in civil penalties for self-identification should be allowed since the event itself disclosed the inadequate RWP and the contractor could have, through proper independent assessment or by fostering a questioning attitude by its workers and supervisors, identified the inadequate RWP before the event.

d. Alternatively, if, following a self-disclosing event, DOE found that the contractor's processes and procedures were adequate and the contractor's personnel generally behaved in a manner consistent with the contractor's processes and procedures, DOE could conclude that the contractor could not have been reasonably expected to find the single procedural noncompliance that led to the event and thus, might allow a reduction in civil penalties.

7. Corrective Action To Prevent Recurrence

The promptness (or lack thereof) and extent to which the DOE contractor takes corrective action, including actions to identify root cause and prevent recurrence, may result in up to a 50% increase or decrease in the base civil penalty shown in Table 1. For example, very extensive corrective action may result in reducing the proposed civil penalty as much as 50%

of the base value shown in Table 1. On the other hand, the civil penalty may be increased as much as 50% of the base value if initiation or corrective action is not prompt or if the corrective action is only minimally acceptable. In weighing this factor, consideration will be given to, among other things, the appropriateness, timeliness and degree of initiative associated with the corrective action. The comprehensiveness of the corrective action will also be considered, taking into account factors such as whether the action is focused narrowly to the specific violation or broadly to the general area of concern.

8. DOE's Contribution to a Violation

There may be circumstances in which a violation of a DOE Nuclear Safety Requirement results, in part or entirely, from a direction given by DOE personnel to a DOE contractor to either take, or forbear from taking an action at a DOE facility. In such cases, DOE may refrain from issuing an NOV, and may mitigate, either partially or entirely, any proposed civil penalty, provided that the direction upon which the DOE contractor relied is documented in writing, contemporaneously with the direction. It should be emphasized, however, that pursuant to 10 CFR 820.50, no interpretation of a DOE Nuclear Safety Requirement is binding upon DOE unless issued in writing by the General Counsel. Further, as discussed in this section of this policy statement, lack of funding by itself will not be considered as a mitigating factor in enforcement actions.

9. Exercise of Discretion

Because DOE wants to encourage and support DOE contractor initiative for prompt self-identification, reporting and correction of problems, DOE may exercise discretion as follows:

a. In accordance with the previous discussion, DOE may refrain from issuing a civil penalty for a violation which meets all of the following criteria:

(1) The violation is promptly identified and reported to DOE before DOE learns of it.

(2) The violation is not willful or a violation that could reasonably be expected to have been prevented by the DOE contractor's corrective action for a previous violation.

(3) The DOE contractor, upon discovery of the violation, has taken or begun to take prompt and appropriate action to correct the violation.

(4) The DOE contractor has taken, or has agreed to take, remedial action satisfactory to DOE to preclude recurrence of the violation and the underlying conditions which caused it.

b. DOE may refrain from proposing a civil penalty for a violation involving a past problem, such as in engineering design or installation, that meets all of the following criteria:

(1) It was identified by a DOE contractor as a result of a formal effort such as a Safety System Functional Inspection, Design Reconstitution program, or other program that has a defined scope and timetable which is being aggressively implemented and reported;

(2) Comprehensive corrective action has been taken or is well underway within a reasonable time following identification; and

(3) It was not likely to be identified by routine contractor efforts such as normal surveillance or quality assurance activities.

c. DOE will not issue a Notice of Violation for cases in which the violation discovered by the DOE contractor cannot reasonably be linked to the conduct of that contractor in the design, construction or operation of the DOE facility involved, provided that prompt and appropriate action is taken by the DOE contractor upon identification of the past violation to report to DOE and remedy the problem.

d. DOE may refrain from issuing a Notice of Violation for an item of noncompliance that meets all of the following criteria:

(1) It was promptly identified by the DOE nuclear entity;

(2) It is normally classified at a Severity Level III;

(3) It was promptly reported to DOE;

(4) Prompt and appropriate corrective action will be taken, including measures to prevent recurrence; and

(5) It was not a willful violation or a violation that could reasonably be expected to have been prevented by the DOE contractor's corrective action for a previous violation.

e. DOE may refrain from issuing a Notice of Violation for an item of noncompliance that meets all of the following criteria:

(1) It was an isolated Severity Level III violation identified during a Tiger Team inspection conducted by the Office of Environment, Safety and Health, during an inspection or integrated performance assessment conducted by the Office of Nuclear Safety, or during some other DOE assessment activity.

(2) The identified noncompliance was properly reported by the contractor upon discovery.

(3) The contractor initiated or completed appropriate assessment and corrective actions within a reasonable period, usually before the termination of the onsite inspection or integrated performance assessment.

(4) The violation is not willful or one which could reasonably be expected to have been prevented by the DOE contractor's corrective action for a previous violation.

f. In situations where corrective actions have been completed before termination of an inspection or assessment, a formal response from the contractor is not required and the inspection or integrated performance assessment report serves to document the violation and the corrective action. However, in all instances, the contractor is required to report the noncompliance through established reporting mechanisms so the noncompliance issue and any corrective actions can be properly tracked and monitored.

g. If DOE initiates an enforcement action for a violation at a Severity Level II or III and, as part of the corrective action for that violation, the DOE contractor identifies other examples of the violation with the same root cause, DOE may refrain from initiating an additional enforcement action. In determining whether to exercise this discretion, DOE will consider whether the DOE contractor acted reasonably and in a timely manner appropriate to the safety significance of the initial violation, the comprehensiveness of the corrective action, whether the matter was reported, and whether the additional violation(s) substantially change the safety significance or character of the concern arising out of the initial violation.

h. It should be emphasized that the preceding paragraphs are solely intended to be examples indicating when enforcement discretion may be exercised to forego the issuance of a civil penalty or, in some cases, the initiation of any enforcement action at all. However, notwithstanding these examples, a civil penalty may be proposed or Notice of Violation issued when, in DOE's judgment, such action is warranted on the basis of the circumstances of an individual case.

5. Newly designated Section X., Procurement of Products or Services and the Reporting of Defects, is amended by adding the paragraph designations a. b. and c. to the first three paragraphs.

6. Newly designated Section XI., Inaccurate and Incomplete Information, is amended by adding the paragraph designations a. and b. to the first two paragraphs, redesignating paragraphs (a) through (g) as (b)(1) through (b)(7), and adding the paragraph designations c., d., e. and f. to the remaining paragraphs.

7. Newly-designated Section XII, Secretarial Notification and Consultation, is amended by revising ''$100,000'' to read ''the statutory limit'' in paragraph a.

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BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–NM–149–AD; Amendment 39–10116; AD 97–18–06]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Boeing Model 737 series airplanes, that requires revising the FAA-approved maintenance program to prohibit the use of pressure washing within the wheel well or on the landing gear and to prohibit the use of pumps and/or nozzles for washing wheel wells or the landing gear; or incorporation of a certain Temporary Revision to the Boeing Airplane Maintenance Manual into the FAA-approved maintenance program. This amendment is prompted by a review of the design of the flight control systems on Model 737 series airplanes. The actions specified by this AD are intended to prevent corrosion of certain equipment due to the use of inappropriate pressure washing techniques. Corrosion of bearings, cables, electrical connectors, or other equipment in the main wheel well, if not detected and corrected in a timely manner, could result in reduced controllability of the airplane.

DATES: Effective November 12, 1997.

The incorporation of reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 12, 1997.

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

FOR FURTHER INFORMATION CONTACT: David Herron, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2672; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all Boeing Model 737 series airplanes was published in the **Federal Register** on August 28, 1996 (61 FR 44239). That action proposed to require revising the FAA-approved maintenance program to prohibit the use of pressure washing within the wheel well or on the landing gear and to prohibit the use of pumps and/or nozzles for washing wheel wells or the landing gear.

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

Support for the Proposal

One commenter supports the proposal.

Request To Revise Statement of Findings of Critical Design Review Team

One commenter requests the second paragraph of the Discussion section that appeared in the preamble to the proposed rule be revised to accurately reflect the findings of the Critical Design Review (CDR) team. The commenter asks that the FAA delete the one sentence in that paragraph, which read: ''The recommendations of the team include various changes to the design of the flight control systems of these airplanes, as well as correction of certain design deficiencies.'' The commenter suggests that the following sentences should be added: ''The team did not find any design issues that could lead to a definite cause of the accidents that gave rise to this effort. The recommendations of the team include various changes to the design of the flight control systems of these airplanes, as well as incorporation of certain design improvements in order to enhance its already acceptable level of safety.''

The FAA does not find that a revision to this final rule in the manner suggested by the commenter is necessary, since the Discussion section of a proposed rule does not reappear in a final rule. The FAA acknowledges that the CDR team did not find any design issue that could lead to a definite cause of the accidents that gave rise to this effort. However, as a result of having conducted the CDR of the flight control systems on Boeing Model 737 series airplanes, the team indicated that there are a number of recommendations that should be addressed by the FAA for each of the various models of the Model 737. In reviewing these recommendations, the FAA has concluded that they address unsafe conditions that must be corrected through the issuance of AD's. Therefore, the FAA does not concur that these design changes merely ''enhance [the Model 737's] already acceptable level of safety.''

Request To Withdraw the Proposal: Existing Procedures Are Adequate

Several commenters request that the proposed rule be withdrawn since pressure washing procedures exist that adequately clean the wheel wells and landing gear, yet provide protective shielding for various components.

The FAA does not concur that this final rule should be withdrawn for the reason requested by the commenters. Since the issuance of the proposal, the FAA has reviewed and approved a new Temporary Revision to the Airplane Maintenance Manual (AMM), Chapter 12–40–0, that lists specific components that require protection from exposure to moisture. The Temporary Revision describes procedures to shield and protect these specific components from moisture during pressure washing. Therefore, the FAA has revised paragraph (a) of this final rule to provide an alternative method of compliance for the requirements of this AD by incorporating the Temporary Revision into the AMM.

Request To Withdraw the Proposal: No Supporting Data

Several commenters contend that there are no data or records of in-service findings that support the conclusion that corrosion of the wheel wells or the landing gear is induced by proper pressure washing. One commenter considers that the improper use of pressure equipment, lack of protection of critical areas, and improper lubrication techniques are the more significant and likely causes of any corrosion occurring in the wheel well. The commenter suggests that the appropriate action to minimize the possibility of corrosion is: proper training of cleaning personnel, use of proper equipment, protection of critical

areas, and proper lubrication techniques.

The FAA does not concur that the rule should be withdrawn for the reasons presented by the commenters. The FAA acknowledges that pressure washing done correctly may not induce corrosion of the wheel wells or the landing gear. However, incorrect pressure washing techniques of the bearings, cables, electrical connectors, and other equipment in the main wheel well can result in fluids (or additives in the fluids) being forced into these areas. Such retention of fluid in these areas can result in the development of corrosion. Therefore, the FAA finds that one method of preventing fluids from being forced into certain areas is to prohibit the use of pressure washing within the wheel well or landing gear.

Request To Withdraw the Proposal: Alternative Methods of Washing Are Unsatisfactory

Several commenters state that methods other than pressure washing do not clean the area as well. The commenters point out that surfaces of the wheel wells or the landing gear that are not adequately cleaned could adversely affect the ability to perform accurate structural inspections for cracking. The commenters also contend that hand washing of the wheel wells or the landing gear would take significantly more work hours to accomplish than pressure washing and, consequently, would be much more costly to perform. The commenters request that the proposal be withdrawn since use of alternative methods of washing are unsatisfactory.

The FAA does not concur that the rule should be withdrawn for the reasons presented by the commenters. The FAA acknowledges that proper pressure washing techniques provide adequate cleaning of wheel wells and landing gears, which enables structural inspections for cracking to be performed under optimum conditions. As stated previously, the FAA has revised paragraph (a) of this final rule, which provides for pressure washing by incorporation of the previously described Temporary Revision into the AMM as an alternative method of compliance with the requirements of this AD.

Request to Clarify the Prohibition of Pressure Washing

Several commenters request that the FAA clarify whether the proposed prohibition of pressure washing would include the use of de-icing fluids since de-icing fluids are also applied with pressure equipment. One commenter, an operator, requests that de-icing be specifically excluded from the requirements of the proposed AD. The commenter notes that it applies indirect pressure spray to remove rime ice buildup and other frozen accumulations from the airplane. The commenter states that there is a high potential for anomalous operation if ice and grime are not removed from the airplane. Another operator requests that pressure de-icing fluid be permitted when used with a fan spray pattern, which the operator asserts will reduce the impact of the fluid on the airplane structure.

The FAA acknowledges that clarification is appropriate. This AD addresses procedures and limitations of pressure washing as applicable only to the cleaning of the airplane prior to repair and inspection. Since de-icing fluids are generally applied with a lower pressure than pressure washing, and de-icing normally impacts the ice directly, rather than the sensitive components, the FAA does not consider de-icing to be encompassed within this rule. However, if additional information warrants further consideration of the aspects of de-icing as related to pressure application, the FAA may consider additional rulemaking to address that issue.

Request to Revise the Limit of 80 Pounds Per Square Inch, Gauge (PSIG)

Several commenters suggest that the FAA has not given proper consideration to the effects of impact pressure (force) or momentum in determining the need for a prohibition of use of pressure equipment. One commenter points out that impact pressure is a function of flow rate and the square root of pressure. This commenter states that pressure psig is merely one component of the force function. Another commenter added that the temperature of the spraying fluid should also be considered since hot water or steam has a much higher capability of dissolving grease than cold water when applied at the same pressure. Two other commenters suggested the following procedures to establish an appropriate pressure limit: One procedure is to use an equation that would establish an impact pressure, and the other procedure is to base the pressure limit upon the pain threshold of impact on the human hand.

The FAA does not concur that the proposed pressure limit (80) psig should be revised. The FAA established a conservative figure based on water tap pressure with an upper limit of 80 psig, as provided by some municipalities. The FAA has determined that with a limitation of 80 psig during washing, water and other contaminates such as dirt are not likely to be driven into close tolerance areas such as sealed bearings. Therefore, if an operator elects to eliminate pressure washing in order to comply with the requirements of this AD, 80 psig is an appropriate pressure limit, since fluid would still be needed to clean the wheel wells or landing gear.

Additionally, the FAA does not concur with the commenters' suggested means of establishing a pressure limit. The methods suggested by the commenters provide no documentation as to whether or not a pressure limit established by either method proposed would provide protection against water and other contaminates such as dirt from being driven into close tolerance areas.

Request to Clarify Design Consideration

One commenter requests clarification of the statement in the preamble of the proposal indicating that ''the FAA concludes that these aircraft were designed to operate with contaminate buildup in the wheel wells and landing gears.'' The FAA concurs that clarification of the impact of design considerations is necessary. The manufacturer has advised the FAA that certain elements of the airplane design are not readily changed. For example, the feel and centering mechanism of the aileron system has bearings that must be oriented horizontally. That orientation results in a pool of water/solvent and debris accumulating on the top of certain component equipment within the wheel well.

Another commenter states that pressure washing is comparable to the airplane design to withstand the momentum of rain droplets hitting gears at 200 knots (which may be expected with a Boeing Model 737 series airplane during final approach). This commenter further states that, while intense gear and wheel well washing of the type done during a C-check normally occurs only once a year, airplanes could be expected to fly through precipitation with gear extended fifty or more times a year.

The FAA does not concur that the impact of rain is analogous to pressure washing. While the design of the airplane provides for the landing gear to withstand the impact of rain, the wheel well is located outside the streamline flow. Consequently, rain pellets entering the wheel well would be well below the streamline velocity of the flow field around the airplane. Therefore, the FAA considers a certain amount of contaminate buildup in the wheel wells

and landing gears to be an inherent consideration of the design.

Request to Revise Estimated Cost

Several commenters (operators) state that the estimated cost impact information presented in the proposal is clearly understated. These operators all state, that instead of the estimated 5 work hours specified in the proposal to perform the wheel well washings, it would be more accurate and realistic to estimate 40 or 50 work hours per airplane for methods other than pressure washing. The commenters state that the expense of implementing this type of corrective action is inappropriate since pressure cleaning done properly is, in itself, not a cause of corrosion.

The FAA concurs that the cost impact information, below, should be revised based on information received from the commenters. The FAA has revised this information to specify 40 work hours to perform the wheel well washings by means other than pressure washing. Additionally, the FAA has included cost impact information of one work hour for incorporating the Temporary Revision into the AMM for those operators who elect to accomplish this method of complying with the requirements of this AD.

Request to Clarify How Restricting Pressure Washing Impacts Controllability of the Airplane

One commenter requests clarification on how pressure washing affects the controllability of the airplane. The operator points out that, in its experience, no incidents have occurred where the controllability of the airplane has been compromised due to washing of the landing gear.

The FAA acknowledges that clarification is necessary. Corroded or contaminated joints of the landing gear could cause an increase in forces that could adversely affect the actuation/retraction of the landing gear or movement of flight control surfaces during flight. Additionally, damage such as weakened seals due to erosion or abrasion to hydraulic hoses or other elements located on the landing gear could further contribute to an adverse effect on the controllability of the airplane during flight and/or landing. Therefore, the FAA finds that the failure of bearings, cables, electrical connectors, or other equipment in the main wheel well, if not detected and corrected in a timely manner, could result in reduced controllability of the airplane.

Conclusion

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

Cost Impact

There are approximately 2,463 Model 737 series airplanes of the affected design in the worldwide fleet.

The FAA estimates that 1,040 airplanes of U.S. registry will be affected by this AD, that it will take approximately 40 work hours per airplane to accomplish washing of the wheel wells and landing gear by means other than pressure washing, and that the average labor rate is $60 per work hour. If operators choose to comply with this AD by prohibiting pressure washing, the cost impact of the AD on U.S. operators is estimated to be $2,400 per airplane, per washing.

If operators choose to comply with this AD by incorporating a certain Temporary Revision into the AMM, it will take approximately 1 work hour per airplane, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of U.S. operators is estimated to be $60 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

97–18–06 Boeing: Amendment 39–10116. Docket 96–NM–149–AD.

Applicability: All Model 737 series airplanes, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent corrosion in the bearings, cables, electrical connectors, or other equipment in the main wheel well, which could result in reduced controllability of the airplane, accomplish the following:

(a) Within 90 days after the effective date of this AD, perform the requirements of either paragraph (a)(1) or (a)(2) of this AD.

(1) Incorporate a revision into the FAA-approved maintenance program that prohibits the use of pressure washing within the wheel well or on the landing gear, and that prohibits the use of pumps and/or nozzles for washing wheel wells or the landing gear. Pressure washing is defined as the use of any fluid under pressure greater

than 80 pounds per square inch, gauge (psig); or

(2) Incorporate the following Temporary Revision(s) to Chapter 12 of the Boeing Model 737 Airplane Maintenance Manual (AMM), all dated February 7, 1997; as applicable; into the FAA-approved maintenance program.

Airplane model	Temporary revision No.
737–100/200	12–368 12–369 12–370 12–371 12–372 12–373
737–300/–400/–500	12–85

Note 2: Once an operator has incorporated the above procedures into its maintenance program, this AD does *not* require that the operator subsequently record accomplishment each time the wheel well is cleaned. Future changes to the above maintenance program require prior approval of an appropriate FAA Principal Maintenance Inspector (PMI).

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA PMI, who may add comments and then send it to the Manager, Seattle ACO.

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

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

(d) Except as specified in paragraph (a)(1) of this AD, the actions shall be done in accordance with the following Temporary Revisions to Chapter 12 of the Boeing Model 737 Airplane Maintenance Manual.

Airplane model	Temporary revision No.	Dated
737–100/200	12–368	Feb. 7, 1997.
	12–369	Feb. 7, 1997.
	12–370	Feb. 7, 1997.
	12–371	Feb. 7, 1997.
	12–372	Feb. 7, 1997.
	12–373	Feb. 7, 1997.
737–300/–400/–500.	12–85	Feb. 7, 1997.

The incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington.

(e) This amendment becomes effective on November 12, 1997.

Issued in Renton, Washington, on August 25, 1997.

James V. Devany,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–24334 Filed 10–7–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–SW–32–AD; Amendment 39–10151; AD 97–20–15]

RIN 2120–AA64

Airworthiness Directives; Hiller Aircraft Corporation Model UH–12A, UH–12B, UH–12C, UH–12D, and UH–12E Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to Hiller Aircraft Corporation Model UH–12A, UH–12B, UH–12C, UH–12D, and UH–12E helicopters, that currently requires a dye penetrant inspection of the head of the main rotor outboard tension-torsion (T–T) bar pin for cracks; a visual inspection of the outboard T–T bar pin for proper alignment and an adjustment, if necessary; and, installation of shims at the inboard end of the drag strut. This amendment requires the same actions required by the existing AD, but allows a magnetic particle inspection of the T–T bar pin as an alternative to the currently required dye penetrant inspection, and requires reporting the results of the inspections only if cracks are found, rather than reporting all results of inspections as required by the existing AD. This amendment is prompted by an FAA analysis of a comment to the existing AD, and the fact that no cracks have been reported since the issuance of the existing AD. The actions specified by this AD are intended to prevent cracks in the head area of the outboard T–T bar pin, which could result in loss of in-plane stability of the main rotor blade and subsequent loss of control of the helicopter.

DATES: Effective November 12, 1997.

The incorporations by reference of certain publications listed in the regulations were approved by the Director of the Federal Register as of June 23, 1995 (60 FR 30184, June 8, 1995).

ADDRESSES: The service information referenced in this AD may be obtained from Hiller Aircraft Corporation, 3200 Imjin Road, Marina, California 93933–5101, telephone (408) 384–4500, fax (408) 883–3648. This information may be examined at the FAA, Office of the Assistant Chief Counsel, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Charles Matheis, Aerospace Engineer, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Blvd., Lakewood, California 90712–4137, telephone (562) 627–5235, fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 95–12–02, Amendment 39–9252 (60 FR 30184), which is applicable to Hiller Model UH–12A, UH–12B, UH–12C, UH–12D, and UH–12E helicopters, was published in the **Federal Register** on January 7, 1997 (62 FR 951). That action proposed to require (1) an inspection of the alignment of the outboard T–T bar pin and an adjustment, if necessary; and (2) an inspection for cracks in the head of the outboard T–T bar pin using a dye penetrant method or a magnetic particle method. Additionally, that action proposed to require, within 25 hours TIS or at the next 100 hour inspection, whichever occurs first, the installation of shims between the inboard end of the drag strut and the outboard T–T bar pin.

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

The one commenter states that AD 95–12–02 should be eliminated, and that the requirement to report results of each 100 hour TIS inspection to the FAA should be discontinued, unless a crack is found. The commenter states that they have not experienced a T–T bar pin failure in 30 years of service history, and that if the procedures in the manufacturer's service information is followed, the AD is not needed. The FAA concurs that the reporting of the inspection should be accomplished only if the inspection reveals a crack. However, the FAA does not concur that the AD should be eliminated. The

National Transportation Safety Board recommended that the FAA issue an AD to make the requirements of the applicable service information mandatory. The FAA concurred, and issued AD 95–12–02. Based on an FAA analysis, the FAA has determined that the amendment will not be removed, but the reporting requirement will be changed.

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

The FAA estimates that 700 helicopters of U.S. registry will be affected by this AD, that it will take approximately 2 work hours per helicopter to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will cost approximately $700 per pin. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $574,000, assuming one pin must be replaced on every helicopter in the fleet.

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–9252 (60 FR 30184), and by adding a new airworthiness directive (AD), Amendment 39–10151, to read as follows:

97–20–15 Hiller Aircraft Corporation: Amendment 39–10151. Docket No. 96–SW–32–AD. Supersedes AD 95–12–02, Amendment 39–9252.

Applicability: Model UH–12A, UH–12B, UH–12C, UH–12D, and UH–12E helicopters, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent cracks in the head area of the outboard tension-torsion (T–T) bar pin, which could result in loss of in-plane stability of the main rotor blade and subsequent loss of control of the helicopter, accomplish the following:

(a) Within 25 hours time-in-service (TIS) after the effective date of this AD, or at the next 100 hour inspection, whichever occurs first, and thereafter at intervals not to exceed 100 hours TIS, inspect the alignment of the outboard T–T bar pin, part number (P/N) 51452, and adjust the alignment, if necessary, in accordance with Hiller Aviation Service Letter (SL) 51–2, dated March 31, 1978.

(b) Within 25 hours TIS after the effective date of this AD, or at the next 100 hour inspection, whichever occurs first, and thereafter at intervals not to exceed 100 hours TIS, inspect the head of the outboard T–T bar pin for cracks using a dye penetrant or magnetic particle inspection method.

(c) If a crack is found as a result of the inspection required by paragraph (b) of this AD, report the results within 7 working days following the inspection to the Manager, Los Angeles Aircraft Certification Office, Attention Charles Matheis, ANM–120L, 3960 Paramount Blvd., Lakewood, California 90712–4137. Include the helicopter model number, serial number, and total TIS of the outboard T–T bar pin in the report. Reporting requirements have been approved by the Office of Management and Budget and assigned OMB control number 2120–0056.

(d) Within 25 hours TIS after the effective date of this AD, or at the next 100 hour inspection, whichever occurs first, install shims between the inboard end of the drag strut and the outboard T–T bar pin in accordance with the Accomplishment Instructions of Hiller Aviation Service Bulletin No. 51–9, dated April 8, 1983.

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

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

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

(g) The adjustment of the alignment of the T–T bar pin shall be done in accordance with Hiller Aviation SL 51–2, dated March 31, 1978, and the installation of the shims shall be done in accordance with Hiller Aviation Service Bulletin No. 51–9, dated April 8, 1983. These incorporations by reference were approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 as of June 23, 1995 (60 FR 30184, June 8, 1995). Copies may be obtained from Hiller Aircraft Corporation, 3200 Imjin Road, Marina, California 93933–5101, telephone (408) 384–4500, fax (408) 883–3648. Copies may be inspected at the FAA, Office of the Assistant Chief Counsel, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(h) This amendment becomes effective on November 12, 1997.

Issued in Fort Worth, Texas, on September 26, 1997.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 97–26621 Filed 10–7–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. 29030; Amendment No. 71–29]

Airspace Designations; Incorporation By Reference

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends 14 CFR part 71 relating to airspace designations to reflect the approval by the Director of the Federal Register of the incorporation by reference of FAA Order 7400.9E, Airspace Designations and Reporting Points. This action also explains the procedures the FAA will use to amend the listings of Class A, Class B, Class C, Class D, and Class E airspace areas and reporting points incorporated by reference.

EFFECTIVE DATE: These regulations are effective September 16, 1997, through September 15, 1998. The incorporation by reference of FAA Order 7400.9E is approved by the Director of the Federal Register as of September 16, 1997, through September 15, 1998.

FOR FURTHER INFORMATION CONTACT: Brenda Brown or Janet Glivings, Airspace and Rules Division (ATA–400), Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

History

FAA Order 7400.9D, Airspace Designations and Reporting Points, dated September 4, 1996, and effective September 16, 1996, listed Class A, Class B, Class C, Class D, and Class E airspace areas and reporting points. Due to the length of these descriptions, the FAA requested approval from the Office of the Federal Register to incorporate the material by reference in the Federal Aviation Regulations section 71.1 (14 CFR 71.1). The Director of the Federal Register approved the incorporation by reference of FAA Order 7400.9D in section 71.1, effective September 16, 1996, through September 15, 1997. During the incorporation by reference period, the FAA processed all proposed changes of the airspace listings in FAA Order 7400.9D in full text as proposed rule documents in the **Federal Register.** Likewise, all amendments of these listings were published in full text as final rules in the **Federal Register.** This rule reflects the periodic integration of these final rule amendments into a revised edition of Airspace Designations and Reporting Points, Order 7400.9E. The Director of the Federal Register has approved the incorporation by reference of FAA Order 7400.9E in section 71.1, as of September 16, 1997, through September 15, 1998. This rule also explains the procedures the FAA will use to amend the airspace designations incorporated by reference in part 71. Section 71.5, 71.31, 71.33, 71.41, 71.51, 71.61, 71.71, 71.79, and 71.901 are also updated to reflect the incorporation by reference of FAA Order 7400.9E.

The Rule

This action amends part 71 of the Federal Aviation Regulations (14 CFR part 71) to reflect the approval by the Director of the Federal Register of the incorporation by reference of FAA Order 7400.9E, effective September 16, 1997, through September 15, 1998. During the incorporation by reference period, the FAA will continue to process all proposed changes of the airspace listings in FAA Order 7400.9E in full text as proposed rule documents in the **Federal Register.** Likewise, all amendments of these listings will be published in full text as final rules in the **Federal Register.** The FAA will periodically integrate all final rule amendments into a revised edition of the Order, and submit the revised edition to the Director of the Federal Register for approval for incorporation by reference in section 71.1.

The FAA has determined that this action: (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1997); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. This action neither places any new restrictions or requirements on the public, nor changes the dimensions or operating requirements of the airspace listings incorporated by reference in part 71. Consequently, notice and public procedure under 5 U.S.C. 553(b) are unnecessary. Because this action will continue to update the changes to the airspace designations, which are depicted on aeronautical charts, and to avoid any unnecessary pilot confusion, I find that good cause exists, under 5 U.S.C. 553(d), for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E, AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

2. Section 71.1 is revised to read as follows:

§ 71.1 Applicability.

The complete listing for all Class A, Class B, Class C, Class D, and Class E airspace areas and for all reporting points can be found in FAA Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997. 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. The approval to incorporate by reference FAA Order 7400.9E is effective September 16, 1997, through September 15, 1998. During the incorporation by reference period, proposed changes to the listings of Class A, Class B, Class C, Class D, and Class E airspace areas and to reporting points will be published in full text as proposed rule documents in the **Federal Register.** Amendments to the listings of Class A, Class B, Class C, Class D, and Class E airspace areas and to reporting points will be published in full text as final rules in the **Federal Register.** Periodically, the final rule amendments will be integrated into a revised edition of the Order and submitted to the Director of the Federal Register for approval for incorporation by reference in this section. Copies of FAA Order 7400.9E may be obtained from the Airspace and Rules Division, ATA–400, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, (202) 267–8783. Copies of FAA Order 7400.9E may be inspected in Docket No. 29030 at the Federal Aviation Administration, Office of the Chief Counsel, AGC–200, Room 915G, 800 Independence Avenue, SW., Washington, D.C., weekdays between 8:30 a.m. and 5:00 p.m., or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC. This section is effective September 16, 1997, through September 15, 1998.

§ 71.5 [Amended]

3. Section 71.5 is amended by removing the words ''FAA Order 7400.9D'' and adding, in their place, the words ''FAA Order 7400.9E.''

§ 71.31 [Amended]

4. Section 71.31 is amended by removing the words ''FAA Order 7400.9D'' and adding, in their place, the words ''FAA Order 7400.9E.''

§ 71.33 [Amended]

5. Paragraph (c) of Section 71.33 is amended by removing the words ''FAA Order 7400.9D'' and adding, in their place, the words ''FAA Order 7400.9E.''

§ 71.41 [Amended]

6. Section 71.41 is amended by removing the words ''FAA Order 7400.9D'' and adding, in their place, the words ''FAA Order 7400.9E.''

§ 71.51 [Amended]

7. Section 71.51 is amended by removing the words ''FAA Order 7400.9D'' and adding, in their place, the words ''FAA Order 7400.9E.''

§71.61 [Amended]

8. Section 71.61 is amended by removing the words ''FAA Order 7400.9D'' and adding, in their place, the words ''FAA Order 7400.9E.''

§ 71.71 [Amended]

9. Paragraphs (b), (c) (d), (e), and (f) of Section 71.71 are amended by removing the words ''FAA Order 7400.9D'' and adding, in their place, the words ''FAA Order 7400.9E.''

§ 71.79 [Amended]

10. Section 71.79 is amended by removing the words ''FAA Order 7400.9D'' and adding, in their place, the words ''FAA Order 7400.9E.''

§ 71.901 [Amended]

11. Paragraph (a) of Section 71.901 is amended by removing the words ''FAA Order 7400.9D'' and adding, in their place, the words ''FAA Order 7400.9E.''

Issued in Washington, DC, September 30, 1997.

John S. Walker,

Program Director for Air Traffic Airspace Management.

[FR Doc. 97–26610 Filed 10–7–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF JUSTICE

28 CFR Part 0

Deputization of State and Local Law Enforcement Officers as Task Force Officers, and Cross-Designation of Federal Law Enforcement Officers; Redelegation of Authority

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This final rule authorizes the Drug Enforcement Administration (DEA) Chief, State and Local Section, Office of Domestic Operations, Operations Division, to deputize state and local law enforcement officers as Task Force Officers, and authorizes the Chief, Domestic Liaison Section, Office of Domestic Operations, Operations Division, to cross-designate Federal law enforcement officers to undertake title 21 drug investigations under the supervision of DEA.

EFFECTIVE DATE: September 25, 1997.

FOR FURTHER INFORMATION CONTACT: Calvin F. McFarland, Chief, Domestic Liaison Section, Office of Domestic Operations, Operations Division, Drug Enforcement Administration, (202) 307–8932, or Jayme S. Walker, Associate Chief Counsel, Office of Chief Counsel, Drug Enforcement Administration, (202) 307–8030.

SUPPLEMENTARY INFORMATION: The Controlled Substances Act, 21 U.S.C. 801 et seq., as amended (CSA), specifically, 21 U.S.C. 878(a), provides that Federal, state or local law enforcement officers designated by the Attorney General may exercise certain powers of Federal law enforcement personnel. Under title 21 sections 873 and 965, the Attorney General may request other Federal law enforcement agencies to provide law enforcement assistance to DEA. Designated law enforcement officers may undertake title 21 drug investigations under the supervision of DEA.

The Attorney General delegated the functions vested in the Attorney General by the CSA to the Administrator of DEA, at 28 CFR 0.100(b), with leave for the DEA Administrator to further redelegate those functions to any of his subordinates, at 28 CFR 0.104.

The Administrator had previously delegated the authority to deputize state and local law enforcement officers as DEA Task Force Officers, and to cross-designate Federal law enforcement officers to undertake title 21 drug investigations under the supervision of DEA, to the Deputy Assistant Administrator for Investigative Support, at 28 CFR, Part 0, Appendix to Subpart R—Redelegation of Functions, sections 10 and 11. That position was, however, eliminated in 1995 during an internal DEA reorganization. This final rule amends sections 10 and 11 by transferring those duties previously assigned to the Deputy Assistant Administrator for Investigative Support, to the Chief, State and Local Section, Office of Domestic Operations, Operations Division, and to the Chief, Domestic Liaison Section, Office of Domestic Operations, Operations Division, respectively.

The Administrator certifies that this action will have no impact upon entities whose interests must be considered under the Regulatory Flexibility Act (5 U.S.C. 601). Pursuant to sections 1(a)(3) and 1(b) of Executive Order 12291, this rule is not a major rule and relates only to the organization of functions within DEA. Accordingly, it has not been reviewed by the Office of Management and Budget. This action has been analyzed in accordance with Executive Order 12612 and it has been determined that this matter has no federalism implications which would warrant the preparation of a Federalism Assessment.

List of Subjects in 28 CFR Part 0

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

For the reasons set forth above, and pursuant to the authority vested in the Administrator of the Drug Enforcement Administration by 28 CFR 0.100 and 0.104, and 21 U.S.C. 871, title 28 of the Code of Federal Regulations, part 0, Appendix to Subpart R, Redelegation of Functions, sections 10 and 11, are amended as follows:

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

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

Authority: 5 U.S.C. 301; 28 U.S.C. 509, 510, 515–519.

2. The appendix to subpart R, sections 10 and 11, are revised to read as follows:

Appendix to Subpart R—Redelegation of Functions

* * * * *

Sec. 10. *Deputization of State and Local Law Enforcement Officers.* The Chief, State and Local Section, Office of Domestic Operations, Operations Division is authorized to exercise all necessary functions with respect to the deputization of state and local law enforcement officers as Task Force Officers of DEA pursuant to 21 U.S.C. 878(a).

Sec. 11. *Cross-Designation of Federal Law Enforcement Officers.* The Chief, Domestic Liaison Section, Office of Domestic Operations, Operations Division is authorized to exercise all necessary functions with respect to the cross-designation of Federal law enforcement officers to undertake title 21 drug investigations under the supervision of DEA pursuant to 21 U.S.C. 873(a).

* * * * *

Dated: September 25, 1997.

Thomas A. Constantine,

Administrator.

[FR Doc. 97–26660 Filed 10–7–97; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

28 CFR Part 0

Authorization of DEA Laboratory Directors to Release DEA Laboratory Information to Federal and State Prosecutors; Redelegation of Authority

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This final rule authorizes Drug Enforcement Administration (DEA) Laboratory Directors to release DEA laboratory information, and to authorize testimony by DEA laboratory personnel, in response to Federal and State prosecutors' requests for same.

EFFECTIVE DATE: January 22, 1997.

FOR FURTHER INFORMATION CONTACT: Jayme S. Walker, Associate Chief Counsel, Office of Chief Counsel, Drug Enforcement Administration, (202) 307–8030.

SUPPLEMENTARY INFORMATION: The Administrator of the DEA is authorized at 28 CFR 0.103(a) to release DEA information, and to authorize DEA personnel to testify, in response to requests from Federal and State prosecutors who are engaged in the enforcement of laws which are related to controlled substances. The Administration is authorized by § 0.104 to redelegate to any of his subordinates any of the powers and functions assigned to him by subpart R.

DEA Special Agents in Charge were previously delegated the authority to grant § 0.103(a) requests as they related to DEA Special Agents, Diversion Investigators, and other personnel under this supervision, at 28 CFR, Appendix to Subpart R, section 2. This redelegation will amend section 2 to give DEA Laboratory Directors corresponding authority over DEA laboratory information and testimony, specifically, the authority to release DEA laboratory information, and to authorize the testimony of DEA laboratory personnel, under the circumstances described at 28 CFR 0.103(a).

The Administrator certifies that this action will have no impact upon entities whose interests must be considered under the Regulatory Flexibility Act (5 U.S.C. 601). Pursuant to sections 1 (a)(3) and 1(b) of Executive Order 12291, this rule is not a major rule and relates only to the organization of functions with DEA. Accordingly, it has not been reviewed by the Office of Management and Budget. This action has been analyzed in accordance with Executive Order 12612 and it has been determined that this matter has no federalism implications which would warrant the preparation of a Federalism Assessment.

List of Subjects in 28 CFR Part 0

Authority Delegations (Government Agencies), Organizations and functions (Government Agencies).

For the reasons set forth above, and pursuant to the authority vested in the Administrator of the Drug Enforcement Administration by 28 CFR 0.100 and 0.104, and 21 U.S.C. 871, title 28 of the Code of Federal Regulations, part 0, Appendix to Subpart R, Redelegation of Functions, section 2, is amended as follows:

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

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

Authority: 5 U.S.C. 301; 28 U.S.C. 509, 510, 515–519.

2. The Appendix to subpart R, section 2, is revised to read as follows:

Appendix to Subpart R—Redelegation of Functions

* * * * *

Sec. 2. *Supervisors.* All Special Agents-in-Charge of the DEA, and the FBI are authorized to conduct enforcement hearings under 21 U.S.C. 883, and to take custody of seized property under 21 U.S.C. 881. All Special Agents-in-Charge of the DEA and the FBI are authorized to release information pursuant to 28 CFR 0.103(a) (1) and (2) which is obtained by the DEA and the FBI, and to authorize the testimony of DEA and FBI officials in response to prosecution subpoenas under 28 CFR 0.103(a)(3). All DEA Laboratory Directors are authorized to release information pursuant to 28 CFR 0.103(a) (1) and (2) which is obtained by a DEA laboratory, and to authorize the testimony of DEA laboratory personnel in response to prosecution subpoenas under 28 CFR 0.103(a)(3). All DEA Special Agents-in-Charge are authorized to take custody of, and make disposition of, controlled substances seized pursuant to 21 U.S.C. 824(g).

* * * * *

Dated: September 25, 1997.

Thomas A. Constantine,

Administrator.

[FR Doc. 97–26732 Filed 10–7–97; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Parts 501 and 597

Reporting and Procedures Regulations; Foreign Terrorist Organizations Sanctions Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Office of Foreign Assets Control is issuing the Foreign Terrorist Organizations Sanctions Regulations to implement sections 302 and 303 of the Antiterrorism and Effective Death Penalty Act as they relate to the Treasury Department. Conforming and technical amendments are made to the Reporting and Procedures Regulations.

EFFECTIVE DATE: October 6, 1997.

FOR FURTHER INFORMATION CONTACT: Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220; tel.: 202/622–2520.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

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Page) = http://www.fedworld.gov; FTP = ftp.fedworld.gov (192.239.92.205). Additional information concerning the programs of the Office of Foreign Assets Control (''OFAC'') is available for downloading from OFAC's Internet Home Page: http://www.ustreas.gov/treasury/services/fac/fac.html, or in fax form through OFAC's 24–hour fax–on–demand service: call 202/622–0077 using a fax machine, fax modem, or (within the United States) a touch–tone telephone.

Background

On April 24, 1996, President Clinton signed into law the Antiterrorism and Effective Death Penalty Act of 1996, Pub. L. 104–132, 110 Stat. 1214–1319 (the ''Act''). Section 302 of the Act (new 8 U.S.C. 1189) authorizes the Secretary of State, in consultation with the Secretary of the Treasury and the Attorney General, to designate organizations meeting stated requirements as foreign terrorist organizations, with prior notification to Congress of the intent to designate. Upon that notification to Congress, the Secretary of the Treasury may require U.S. financial institutions to block financial transactions involving assets in their possession or control of the foreign organizations proposed for designation.

Section 303 of the Act (new 18 U.S.C. 2339B) prohibits persons within the United States or subject to U.S. jurisdiction from knowingly providing material support or resources to a designated foreign terrorist organization, and makes violations punishable by criminal penalties under title 18, United States Code. Additionally, except as authorized by the Treasury Department, financial institutions in possession or control of funds in which a foreign terrorist organization or its agent has an interest are required to block such funds and file reports in accordance with Treasury Department regulations. Financial institutions in violation of 18 U.S.C. 2339B(a)(2) are subject to civil penalties administered by the Treasury Department. In implementation of sections 302 and 303 and the statutory purpose stated in section 301, the Treasury Department is issuing the Foreign Terrorist Organizations Sanctions Regulations (the ''Regulations'').

Transactions otherwise prohibited under this part but found to be consistent with U.S. policy may be authorized by a general license contained in subpart E or by a specific license issued pursuant to the procedures described in subpart D of part 501 of this chapter. Penalties for violations of the Regulations are described in subpart G.

Conforming and technical amendments are also made to the Reporting and Procedures Regulations, 31 CFR Part 501. Since the Regulations involve a foreign affairs function, the provisions of Executive Order 12866 and the Administrative Procedure Act (5 U.S.C. 553), requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date, are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601–612) does not apply.

Paperwork Reduction Act

The Regulations are being issued without prior notice and public comment procedure pursuant to the Administrative Procedure Act (5 U.S.C. 553). The collections of information related to the Regulations are contained in part 501 of this chapter (the ''Reporting and Procedures Regulations''). Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), those collections of information have been approved by the Office of Management and Budget (''OMB'') under control number 1505–0164. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

List of Subjects

31 CFR Part 501

Administrative practice and procedure, Banks, banking, Blocking of assets, Foreign trade, Reporting and recordkeeping requirements

31 CFR Part 597

Administrative practice and procedure, Banks, banking, Blocking of assets, Foreign terrorist organizations, Penalties, Reporting and recordkeeping requirements, Terrorism, Transfer of assets.

For the reasons set forth in the preamble, 31 CFR chapter V is amended as follows:

PART 501—REPORTING AND PROCEDURES REGULATIONS

1. The authority citation for part 501 continues to read as follows:

Authority: 22 U.S.C. 287c; 31 U.S.C. 321(b); 50 U.S.C. 1701–1706; 50 U.S.C. App. 1–44.

2. Section 501.101 is revised to read as follows:

§ 501.101 Relation of this part to other parts in this chapter.

This part sets forth standard reporting and recordkeeping requirements and license application and other procedures governing transactions regulated pursuant to other parts codified in this chapter, as well as to economic sanctions programs for which implementation and administration are delegated to the Office of Foreign Assets Control. Substantive prohibitions and policies particular to each economic sanctions program are not contained in this part but are set forth in the particular part of this chapter dedicated to that program, or, in the case of economic sanctions programs not yet implemented in regulations, in the applicable executive order or other authority. License application procedures and reporting requirements set forth in this part govern transactions undertaken pursuant to general or specific licenses. The criteria for general and specific licenses pertaining to a particular economic sanctions program are set forth in subpart E of the individual parts in this chapter. Statements of licensing policy contained in subpart E of the individual parts in this chapter, however, may contain additional information collection provisions that require production of specified documentation unique to a given general license or statement of licensing policy.

3. The following note is added to the end of § 501.601 to read as follows:

Note: See subpart F of part 597 for the relationship between this section and part 597.

4. Section 501.602 is amended by revising the last sentence to read as follows, and by adding the following note to the end of the section:

§ 501.602 Reports to be furnished on demand.

* * * Except as provided in parts 596 and 597, the Director may, through any person or agency, conduct investigations, hold hearings, administer oaths, examine witnesses, receive evidence, take depositions, and require by subpoena the attendance and testimony of witnesses and the production of all books, papers, and documents relating to any matter under investigation, regardless of whether any report has been required or filed in connection therewith.

Note: See subpart F of part 597 for the relationship between this section and part 597.

5. The following note is added to the end of § 501.603 to read as follows:

Note: See subpart F of part 597 for the relationship between this section and part 597.

6. Section 501.806 is amended by revising paragraph (b) to read as follows:

§ 501.806 Procedures for unblocking funds believed to have been blocked due to mistaken identity.

* * * * *

(b) Requests to release funds which a party believes to have been blocked due to mistaken identity must be made in writing and addressed to the Office of Foreign Assets Control, Compliance Programs Division, 1500 Pennsylvania Avenue, NW—Annex, Washington, DC 20220, or sent by facsimile transmission to the Compliance Programs Division at 202/622–1657.

* * * * *

7. Section 501.807 is amended by revising paragraph (a) to read as follows:

§ 501.807 Procedures governing removal of names from appendices A, B, and C to this chapter.

* * * * *

(a) A specially designated national (''SDN''), specially designated terrorist (''SDT''), specially designated narcotics trafficker (''SDNT''), or an agent of a foreign terrorist organization (''AFTO'') (collectively, a ''designated person''), or a person owning a majority interest in a blocked vessel, may request disclosure of the factual basis for designation and, subject to the limitations contained in paragraph (c) of this section, review factual materials relied upon by the Office of Foreign Assets Control in designating the person or vessel.

8. Part 597 is added to read as follows:

PART 597—FOREIGN TERRORIST ORGANIZATIONS SANCTIONS REGULATIONS

Subpart A—Relation of This Part to Other Laws and Regulations

Sec.

Subpart B—Prohibitions

Subpart C—General Definitions

Subpart D—Interpretations

Subpart E—Licenses, Authorizations and Statements of Licensing Policy

Subpart F—Reports

Subpart G—Penalties

Subpart H—Procedures

Subpart I—Paperwork Reduction Act

Authority: 31 U.S.C. 321(b); Pub. L. 104–132, 110 Stat. 1214, 1248–53 (8 U.S.C. 1189, 18 U.S.C. 2339B).

Subpart A—Relation of This Part to Other Laws andRegulations

§ 597.101 Relation of this part to other laws and regulations.

(a) This part is separate from, and independent of, the other parts of this chapter, with the exception of part 501 of this chapter, the recordkeeping and reporting requirements and license application and other procedures of which apply to this part. Differing statutory authority and foreign policy and national security contexts may result in differing interpretations of similar language among the parts of this chapter. No license or authorization contained in or issued pursuant to those other parts authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to any other provision of law or regulation authorizes any transaction prohibited by this part.

(b) No license or authorization contained in or issued pursuant to this part relieves the involved parties from complying with any other applicable laws or regulations. This part does not implement, construe, or limit the scope of any other part of this chapter, including (but not limited to) the Terrorism Sanctions Regulations, part 595 of this chapter, and does not excuse any person from complying with any other part of this chapter, including (but not limited to) part 595 of this chapter.

(c) This part does not implement, construe, or limit the scope of any criminal statute, including (but not limited to) 18 U.S.C. 2339B(a)(1) and 2339A, and does not excuse any person from complying with any criminal statute, including (but not limited to) 18 U.S.C. 2339B(a)(1) and 18 U.S.C. 2339A.

Subpart B—Prohibitions

§ 597.201 Prohibited transactions involving blocked assets or funds of foreign terrorist organizations or their agents.

(a) Upon notification to Congress of the Secretary of State's intent to designate an organization as a foreign terrorist organization pursuant to 8 U.S.C. 1189(a), until the publication in the **Federal Register** as described in paragraph (c) of this section, any U.S. financial institution receiving notice from the Secretary of the Treasury by means of order, directive, instruction, regulation, ruling, license, or otherwise shall, except as otherwise provided in such notice, block all financial transactions involving any assets of such organization within the possession or control of such U.S. financial institution until further directive from the Secretary of the Treasury, Act of Congress, or order of court.

(b) Except as otherwise authorized by order, directive, instruction, regulation, ruling, license, or otherwise, from and after the designation of an organization as a foreign terrorist organization pursuant to 8 U.S.C. 1189(a), any U.S. financial institution that becomes aware that it has possession of or control over any funds in which the designated foreign terrorist organization or its agent has an interest shall:

(1) Retain possession of or maintain control over such funds; and

(2) Report to the Secretary of the Treasury the existence of such funds in accordance with § 501.603 of this chapter.

(c) Publication in the **Federal Register** of the designation of an organization as a foreign terrorist organization pursuant to 8 U.S.C. 1189(a) shall be deemed to constitute a further directive from the Secretary of the Treasury for purposes of paragraph (a) of this section, and shall require the actions contained in paragraph (b) of this section.

(d) The requirements of paragraph (b) of this section shall remain in effect until the effective date of an administrative, judicial, or legislative revocation of the designation of an organization as a foreign terrorist organization, or until the designation lapses, pursuant to 8 U.S.C. 1189.

(e) When a transaction results in the blocking of funds at a financial institution pursuant to this section and a party to the transaction believes the funds have been blocked due to mistaken identity, that party may seek to have such funds unblocked pursuant to the administrative procedures set forth in § 501.806 of this chapter. Requests for the unblocking of funds pursuant to § 501.806 must be submitted to the attention of the Compliance Programs Division.

§ 597.202 Effect of transfers violating the provisions of this part.

(a) Any transfer after the effective date which is in violation of § 597.201 or any other provision of this part or of any regulation, order, directive, ruling, instruction, license, or other authorization hereunder and involves any funds or assets held in the name of a foreign terrorist organization or its agent or in which a foreign terrorist organization or its agent has or has had an interest since such date, is null and void and shall not be the basis for the assertion or recognition of any interest in or right, remedy, power or privilege with respect to such funds or assets.

(b) No transfer before the effective date shall be the basis for the assertion or recognition of any right, remedy, power, or privilege with respect to, or interest in, any funds or assets held in the name of a foreign terrorist organization or its agent or in which a foreign terrorist organization or its agent has an interest, or has had an interest since such date, unless the financial institution with whom such funds or assets are held or maintained, prior to such date, had written notice of the transfer or by any written evidence had recognized such transfer.

(c) Unless otherwise provided, an appropriate license or other authorization issued by or pursuant to the direction or authorization of the Director of the Office of Foreign Assets Control before, during, or after a transfer shall validate such transfer or render it enforceable to the same extent that it would be valid or enforceable but for the provisions of this part, and any regulation, order, directive, ruling, instruction, or license issued hereunder.

(d) Transfers of funds or assets which otherwise would be null and void or unenforceable by virtue of the provisions of this section shall not be deemed to be null and void or unenforceable as to any financial institution with whom such funds or assets were held or maintained (and as to such financial institution only) in cases in which such financial institution is able to establish to the satisfaction of the Director of the Office of Foreign Assets Control each of the following:

(1) Such transfer did not represent a willful violation of the provisions of this part by the financial institution with whom such funds or assets were held or maintained;

(2) The financial institution with which such funds or assets were held or maintained did not have reasonable cause to know or suspect, in view of all the facts and circumstances known or available to such institution, that such transfer required a license or authorization by or pursuant to this part and was not so licensed or authorized, or if a license or authorization did purport to cover the transfer, that such license or authorization had been obtained by misrepresentation of a third party or the withholding of material facts or was otherwise fraudulently obtained; and

(3) The financial institution with which such funds or assets were held or maintained filed with the Office of Foreign Assets Control a report setting forth in full the circumstances relating to such transfer promptly upon discovery that:

(i) Such transfer was in violation of the provisions of this part or any regulation, ruling, instruction, license, or other direction or authorization hereunder; or

(ii) Such transfer was not licensed or authorized by the Director of the Office of Foreign Assets Control; or

(iii) If a license did purport to cover the transfer, such license had been obtained by misrepresentation of a third party or the withholding of material facts or was otherwise fraudulently obtained.

Note to paragraph (d): The filing of a report in accordance with the provisions of paragraph (d)(3) of this section shall not be deemed evidence that the terms of paragraphs (d)(1) and (2) of this section have been satisfied.

(e) Except for exercises of judicial authority pursuant to 8 U.S.C. 1189(b), unless licensed or authorized pursuant to this part, any attachment, judgment, decree, lien, execution, garnishment, or other judicial process is null and void with respect to any funds or assets which, on or since the effective date, were in the possession or control of a U.S. financial institution and were held in the name of a foreign terrorist organization or its agent or in which there existed an interest of a foreign terrorist organization or its agent.

§ 597.203 Holding of funds in interest–bearing accounts; investment and reinvestment.

(a) Except as provided in paragraph (c) of this section, or as otherwise directed by the Office of Foreign Assets Control, any U.S. financial institution holding funds subject to § 597.201(b) shall hold or place such funds in a blocked interest–bearing account which is in the name of the foreign terrorist organization or its agent and which is located in the United States.

(b)(1) For purposes of this section, the term *interest–bearing account* means a blocked account:

(i) in a federally–insured U.S. bank, thrift institution, or credit union, provided the funds are earning interest at rates which are commercially reasonable for the amount of funds in the account or certificate of deposit; or

(ii) with a broker or dealer registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934, provided the funds are invested in a money market fund or in U.S. Treasury Bills.

(2) Funds held or placed in a blocked interest–bearing account pursuant to this paragraph may not be invested in instruments the maturity of which exceeds 180 days. If interest is credited to a separate blocked account or sub–account, the name of the account party on each account must be the same and must clearly indicate the foreign terrorist organization or agent having an interest in the accounts.

(c) Blocked funds held as of the effective date in the form of stocks, bonds, debentures, letters of credit, or instruments which cannot be negotiated for the purpose of placing the funds in a blocked interest–bearing account pursuant to paragraph (a) may continue to be held in the form of the existing security or instrument until liquidation or maturity, provided that any dividends, interest income, or other proceeds derived therefrom are paid into a blocked interest–bearing account in accordance with the requirements of this section.

(d) Funds subject to this section may not be held, invested, or reinvested in

a manner in which an immediate financial or economic benefit or access accrues to the foreign terrorist organization or its agent.

§ 597.204 Evasions; attempts; conspiracies.

Any transaction for the purpose of, or which has the effect of, evading or avoiding, or which facilitates the evasion or avoidance of, any of the prohibitions set forth in this part, is hereby prohibited. Any attempt to violate the prohibitions set forth in this part is hereby prohibited. Any conspiracy formed for the purpose of engaging in a transaction prohibited by this part is hereby prohibited.

Subpart C—General Definitions

§ 597.301 Agent.

(a) The term *agent* means:

(1) Any person owned or controlled by a foreign terrorist organization; or

(2) Any person to the extent that such person is, or has been, or to the extent that there is reasonable cause to believe that such person is, or has been, since the effective date, acting or purporting to act directly or indirectly on behalf of a foreign terrorist organization.

(b) The term *agent* includes, but is not limited to, any person determined by the Director of the Office of Foreign Assets Control to be an agent as defined in paragraph (a) of this section.

Note to § 597.301: Please refer to the appendices at the end of this chapter for listings of persons designated as foreign terrorist organizations or their agents. Section 501.807 of this chapter sets forth the procedures to be followed by a person seeking administrative reconsideration of a designation as an agent, or who wishes to assert that the circumstances resulting in the designation as an agent are no longer applicable.

§ 597.302 Assets.

The term *assets* includes, but is not limited to, money, checks, drafts, bullion, bank deposits, savings accounts, debts, indebtedness, obligations, notes, guarantees, debentures, stocks, bonds, coupons, any other financial instruments, bankers acceptances, mortgages, pledges, liens or other rights in the nature of security, warehouse receipts, bills of lading, trust receipts, bills of sale, any other evidences of title, ownership or indebtedness, letters of credit and any documents relating to any rights or obligations thereunder, powers of attorney, goods, wares, merchandise, chattels, stocks on hand, ships, goods on ships, real estate mortgages, deeds of trust, vendors' sales agreements, land contracts, leaseholds, ground rents, real estate and any other interest therein, options, negotiable instruments, trade acceptances, royalties, book accounts, accounts payable, judgments, patents, trademarks or copyrights, insurance policies, safe deposit boxes and their contents, annuities, pooling agreements, services of any nature whatsoever, contracts of any nature whatsoever, and any other property, real, personal, or mixed, tangible or intangible, or interest or interests therein, present, future or contingent.

§ 597.303 Blocked account; blocked funds.

The terms *blocked account* and *blocked funds* shall mean any account or funds subject to the prohibitions in § 597.201 held in the name of a foreign terrorist organization or its agent or in which a foreign terrorist organization or its agent has an interest, and with respect to which payments, transfers, exportations, withdrawals, or other dealings may not be made or effected except pursuant to an authorization or license from the Office of Foreign Assets Control authorizing such action.

§ 597.304 Designation.

The term *designation* includes both the designation and redesignation of a foreign terrorist organization pursuant to 8 U.S.C. 1189.

§ 597.305 Effective date.

Except as that term is used in § 597.201(d), the term *effective date* refers to the effective date of the applicable prohibitions and directives contained in this part which is October 6, 1997, or, in the case of foreign terrorist organizations designated after that date and their agents, the earlier of the date on which a financial institution receives actual or constructive notice of such designation or of the Secretary of Treasury's exercise of his authority to block financial transactions pursuant to 8 U.S.C. 1189(a)(2)(C) and § 597.201(a).

§ 597.306 Entity.

The term *entity* includes a partnership, association, corporation, or other organization, group, or subgroup.

§ 597.307 Financial institution.

The term *financial institution* shall have the definition given that term in 31 U.S.C. 5312(a)(2) as from time to time amended, notwithstanding the definition of that term in 31 CFR part 103.

Note: The breadth of the statutory definition of *financial institution* precludes its reproduction in this section. Among the types of businesses covered are insured banks (as defined in 12 U.S.C. 1813(h)), commercial banks or trust companies, private bankers, agencies or branches of a foreign bank in the United States, insured institutions (as defined in 12 U.S.C. 1724(a)), thrift institutions, brokers or dealers registered with the Securities and Exchange Commission under 15 U.S.C. 78a *et seq.*, securities or commodities brokers and dealers, investment bankers or investment companies, currency exchanges, issuers, redeemers, or cashiers of traveler's checks, checks, money orders, or similar instruments, credit card system operators, insurance companies, dealers in precious metals, stones or jewels, pawnbrokers, loan or finance companies, travel agencies, licensed senders of money, telegraph companies, businesses engaged in vehicle sales, including automobile, airplane or boat sales, persons involved in real estate closings and settlements, the United States Postal Service, a casino, gambling casino, or gaming establishment with an annual gaming revenue of more than $1,000,000 as further described in 31 U.S.C. 5312(a)(2), or agencies of the United States Government or of a State or local government carrying out a duty or power of any of the businesses described in 31 U.S.C. 5312(a)(2).

§ 597.308 Financial transaction.

The term *financial transaction* means a transactioninvolving the transfer or movement of funds, whether by wire or other means.

§ 597.309 Foreign terrorist organization.

The term *foreign terrorist organization* means an organization designated or redesignated as a foreign terrorist organization, or with respect to which the Secretary of State has notified Congress of the intention to designate as a foreign terrorist organization, under 8 U.S.C. 1189(a).

§ 597.310 Funds.

The term *funds* includes coin or currency of the United States or any other country, traveler's checks, personal checks, bank checks, money orders, stocks, bonds, debentures, drafts, letters of credit, any other negotiable instrument, and any electronic representation of any of the foregoing. An electronic representation of any of the foregoing includes any form of digital or electronic cash, coin, or currency in use currently or placed in use in the future.

§ 597.311 General license.

The term *general license* means any license or authorization the terms of which are set forth in this part.

§ 597.312 Interest.

Except as otherwise provided in this part, the term *interest* when used with respect to funds or assets (*e.g.*, ''an interest in funds'') means an interest of any nature whatsoever, direct or indirect.

§ 597.313 License.

Except as otherwise specified, the term *license* means any license or authorization contained in or issued pursuant to this part.

§ 597.314 Person.

The term *person* means an individual or entity.

§ 597.315 Specific license.

The term *specific license* means any license or authorization not set forth in this part but issued pursuant to this part.

§ 597.316 Transaction.

The term *transaction* shall have the meaning set forth in 18 U.S.C. 1956(c)(3), as from time to time amended. As of the effective date, this term includes a purchase, sale, loan, pledge, gift, transfer, delivery, or other disposition of any asset, and with respect to a financial institution includes a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of any stock, bond, certificate of deposit, or other monetary instrument, use of a safe deposit box, or any other payment, transfer, or delivery by, through, or to a financial institution, by whatever means effected.

§ 597.317 Transfer.

The term *transfer* means any actual or purported act or transaction, whether or not evidenced by writing, and whether or not done or performed within the United States, the purpose, intent, or effect of which is to create, surrender, release, convey, transfer, or alter, directly or indirectly, any right, remedy, power, privilege, or interest with respect to any property and, without limitation upon the foregoing, shall include the making, execution, or delivery of any assignment, power, conveyance, check, declaration, deed, deed of trust, power of attorney, power of appointment, bill of sale, mortgage, receipt, agreement, contract, certificate, gift, sale, affidavit, or statement; the making of any payment; the setting off of any obligation or credit; the appointment of any agent, trustee, or fiduciary; the creation or transfer of any lien; the issuance, docketing, filing, or levy of or under any judgment, decree, attachment, injunction, execution, or other judicial or administrative process or order, or the service of any garnishment; the acquisition of any interest of any nature whatsoever by reason of a judgment or decree of any foreign country; the fulfillment of any condition; the exercise of any power of appointment, power of attorney, or other power; or the acquisition, disposition, transportation, importation, exportation, or withdrawal of any security.

§ 597.318 United States.

The term *United States* means the United States, its territories, states, commonwealths, districts, and possessions, and all areas under the jurisdiction or authority thereof.

§ 597.319 U.S. financial institution.

The term *U.S. financial institution* means:

(a) Any financial institution organized under the laws of the United States, including such financial institution's foreign branches;

(b) Any financial institution operating or doing business in the United States; or

(c) Those branches, offices and agencies of foreign financial institutions which are located in the United States, but not such foreign financial institutions' other foreign branches, offices, or agencies.

Subpart D—Interpretations

§ 597.401 Reference to amended sections.

Except as otherwise specified, reference to any section of this part or to any regulation, ruling, order, instruction, direction, or license issued pursuant to this part shall be deemed to refer to the same as currently amended.

§ 597.402 Effect of amendment.

Any amendment, modification, or revocation of any section of this part or of any order, regulation, ruling, instruction, or license issued by or under the direction of the Director of the Office of Foreign Assets Control shall not, unless otherwise specifically provided, be deemed to affect any act done or omitted to be done, or any civil or criminal suit or proceeding commenced or pending prior to such amendment, modification, or revocation. All penalties, forfeitures, and liabilities under any such order, regulation, ruling, instruction, or license shall continue and may be enforced as if such amendment, modification, or revocation had not been made.

§ 597.403 Termination and acquisition of an interest in blocked funds.

(a) Whenever a transaction licensed or authorized by or pursuant to this part results in the transfer of funds (including any interest in funds) away from a foreign terrorist organization or its agent, such funds shall no longer be deemed to be funds in which the foreign terrorist organization or its agent has or has had an interest, or which are held in the name of a foreign terrorist organization or its agent, unless there exists in the funds another interest of a foreign terrorist organization or its agent, the transfer of which has not been effected pursuant to license or other authorization.

(b) Unless otherwise specifically provided in a license or authorization issued pursuant to this part, if funds (including any interest in funds) are or at any time since the effective date have been held by a foreign terrorist organization or its agent, or at any time thereafter are transferred or attempted to be transferred to a foreign terrorist organization or its agent, including by the making of any contribution to or for the benefit of a foreign terrorist organization or its agent, such funds shall be deemed to be funds in which there exists an interest of the foreign terrorist organization or its agent.

§ 597.404 Setoffs prohibited.

A setoff against blocked funds (including a blocked account) by a U.S. financial institution is a prohibited transaction under § 597.201 if effected after the effective date.

§ 597.405 Transactions incidental to a licensed transaction.

Any transaction ordinarily incident to a licensed transaction and necessary to give effect thereto is also authorized, except a transaction by an unlicensed, foreign terrorist organization or its agent or involving a debit to a blocked account or a transfer of blocked funds not explicitly authorized within the terms of the license.

§ 597.406 Offshore transactions.

The prohibitions contained in § 597.201 apply to transactions by U.S. financial institutions in locations outside the United States with respect to funds or assets which the U.S. financial institution knows, or becomes aware, are held in the name of a foreign terrorist organization or its agent, or in which the U.S. financial institution knows, or becomes aware that, a foreign terrorist organization or its agent has or has had an interest since the effective date.

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

§ 597.501 Effect of license or authorization.

(a) No license or other authorization contained in this part, or otherwise issued by or under the direction of the Director of the Office of Foreign Assets Control, shall be deemed to authorize or validate any transaction effected prior to

the issuance of the license, unless specifically provided in such license or authorization.

(b) No regulation, ruling, instruction, or license authorizes any transaction prohibited under this part unless the regulation, ruling, instruction, or license is issued by the Office of Foreign Assets Control and specifically refers to this part. No regulation, ruling, instruction, or license referring to this part shall be deemed to authorize any transaction prohibited by any provision of this chapter unless the regulation, ruling, instruction or license specifically refers to such provision.

(c) Any regulation, ruling, instruction, or license authorizing any transaction otherwise prohibited under this part has the effect of removing a prohibition or prohibitions contained in this part from the transaction, but only to the extent specifically stated by its terms. Unless the regulation, ruling, instruction, or license otherwise specifies, such an authorization does not create any right, duty, obligation, claim, or interest in, or with respect to, any property which would not otherwise exist under ordinary principles of law.

§ 597.502 Exclusion from licenses and authorizations.

The Director of the Office of Foreign Assets Control reserves the right to exclude any person, property, or transaction from the operation of any license, or from the privileges therein conferred, or to restrict the applicability thereof with respect to particular persons, property, transactions, or classes thereof. Such action shall be binding upon all persons receiving actual or constructive notice of such exclusion or restriction.

§ 597.503 Payments and transfers to blocked accounts in U.S. financial institutions.

(a) Any payment of funds or transfer of credit or other financial or economic resources or assets by a financial institution into a blocked account in a U.S. financial institution is authorized, provided that a transfer from a blocked account pursuant to this authorization may only be made to another blocked account held in the same name on the books of the same U.S. financial institution.

(b) This section does not authorize any transfer from a blocked account within the United States to an account held outside the United States.

Note to § 597.503: Please refer to §§ 501.603 and 597.601 of this chapter for mandatory reporting requirements regarding financial transfers.

§ 597.504 Entries in certain accounts for normal service charges authorized.

(a) U.S. financial institutions are hereby authorized to debit any blocked account with such U.S. financial institution in payment or reimbursement for normal service charges owed to such U.S. financial institution by the owner of such blocked account.

(b) As used in this section, the term normal service charge shall include charges in payment or reimbursement for interest due; cable, telegraph, or telephone charges; postage costs; custody fees; small adjustment charges to correct bookkeeping errors; and, but not by way of limitation, minimum balance charges, notary and protest fees, and charges for reference books, photostats, credit reports, transcripts of statements, registered mail insurance, stationery and supplies, check books, and other similar items.

§ 597.505 Payment for certain legal services.

Specific licenses may be issued, on a case–by–case basis, authorizing receipt of payment of professional fees and reimbursement of incurred expenses through a U.S. financial institution for the following legal services by U.S. persons:

(a) Provision of legal advice and counseling to a foreign terrorist organization or an agent thereof on the requirements of and compliance with the laws of any jurisdiction within the United States, provided that such advice and counseling is not provided to facilitate transactions in violation of any of the prohibitions of this part;

(b) Representation of a foreign terrorist organization or an agent thereof when named as a defendant in or otherwise made a party to domestic U.S. legal, arbitration, or administrative proceedings;

(c) Initiation and conduct of domestic U.S. legal, arbitration, or administrative proceedings on behalf of a foreign terrorist organization or an agent thereof;

(d) Representation of a foreign terrorist organization or an agent thereof before any federal or state agency with respect to the imposition, administration, or enforcement of U.S. sanctions against a foreign terrorist organization or an agent thereof;

(e) Provision of legal services to a foreign terrorist organization or an agent thereof in any other context in which prevailing U.S. law requires access to legal counsel at public expense; and

(f) Representation of a foreign terrorist organization seeking judicial review of a designation before the United States Court of Appeals for the District of Columbia Circuit pursuant to 8 U.S.C. 1189(b)(1).

Subpart F—Reports

§ 597.601 Records and reports.

For provisions relating to records and reports, see subpart C of part 501 of this chapter; provided, however, that all of the powers afforded the Director pursuant to the first 3 sentences of § 501.602 of this chapter may also be exercised by the Attorney General in conducting administrative investigations pursuant to 18 U.S.C. 2339B(e); provided further, that the investigative authority of the Director pursuant to § 501.602 of this chapter shall be exercised in accordance with 18 U.S.C. 2339B(e); and provided further, that for purposes of this part no person other than a U.S. financial institution and its directors, officers, employees, and agents shall be required to maintain records or to file any reports or furnish any information under §§ 501.601, 501.602, or 501.603 of this chapter.

Subpart G—Penalties

§ 597.701 Penalties.

(a) Attention is directed to 18 U.S.C. 2339B(a)(1), as added by Public Law 104–132, 110 Stat. 1250–1253, section 303, which provides that whoever, within the United States or subject to the jurisdiction of the United States, knowingly provides material support or resources to a foreign terrorist organization, or attempts or conspires to do so, shall be fined under title 18, United States Code, or imprisoned for not more than 10 years, or both.

(b) Attention is directed to 18 U.S.C. 2339B(b), as added by Public Law 104–132, 110 Stat. 1250–1253, section 303, which provides that, except as authorized by the Secretary of the Treasury, any financial institution that knowingly fails to retain possession of or maintain control over funds in which a foreign terrorist organization or its agent has an interest, or to report the existence of such funds in accordance with these regulations, shall be subject to a civil penalty in an amount that is the greater of $50,000 per violation, or twice the amount of which the financial institution was required to retain possession or control.

(c) Attention is directed to 18 U.S.C. 1001, which provides that whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or

makes any materially false, fictitious or fraudulent statement or representation, or makes or uses any false writing or document knowing the same to contain any materially false, fictitious or fraudulent statement or entry, shall be fined under title 18, United States Code, or imprisoned not more than 5 years, or both.

(d) Conduct covered by this part may also be subject to relevant provisions of other applicable laws.

§ 597.702 Prepenalty notice.

(a) *When required.* If the Director of the Office of Foreign Assets Control has reasonable cause to believe that there has occurred a violation of any provision of this part or a violation of the provisions of any license, ruling, regulation, order, direction or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part, and the Director, acting in coordination with the Attorney General, determines that civil penalty proceedings are warranted, the Director shall issue to the person concerned a notice of intent to impose a monetary penalty. The prepenalty notice shall be issued whether or not another agency has taken any action with respect to this matter.

(b) *Contents.*—(1) *Facts of violation.* The prepenalty notice shall describe the violation, specify the laws and regulations allegedly violated, and state the amount of the proposed monetary penalty.

(2) *Right to respond.* The prepenalty notice also shall inform the respondent of respondent's right to respond within 30 days of mailing of the notice as to why a monetary penalty should not be imposed, or, if imposed, why it should be in a lesser amount than proposed.

§ 597.703 Response to prepenalty notice.

(a) *Time within which to respond.* The respondent shall have 30 days from the date of mailing of the prepenalty notice to respond in writing to the Director of the Office of Foreign Assets Control.

(b) *Form and contents of written response.* The written response need not be in any particular form, but shall contain information sufficient to indicate that it is in response to the prepenalty notice. It should respond to the allegations in the prepenalty notice and set forth the reasons why the respondent believes the penalty should not be imposed or, if imposed, why it should be in a lesser amount than proposed.

(c) *Informal settlement.* In addition or as an alternative to a written response to a prepenalty notice pursuant to this section, the respondent or respondent's representative may contact the Office of Foreign Assets Control as advised in the prepenalty notice to propose the settlement of allegations contained in the prepenalty notice and related matters. In the event of settlement at the prepenalty stage, the prepenalty notice will be withdrawn, the respondent is not required to take a written position on allegations contained in the prepenalty notice, and the Office of Foreign Assets Control will make no final determination as to whether a violation occurred. The amount accepted in settlement of allegations in a prepenalty notice may vary from the civil penalty that might finally be imposed in the event of a formal determination of violation. In the event no settlement is reached, the 30–day period specified in paragraph (a) of this section for written response to the prepenalty notice remains in effect unless additional time is granted by the Office of Foreign Assets Control.

§ 597.704 Penalty notice.

(a) *No violation.* If, after considering any written response to the prepenalty notice and any relevant facts, the Director of the Office of Foreign Assets Control determines that there was no violation by the respondent, the Director promptly shall notify the respondent in writing of that determination and that no monetary penalty will be imposed.

(b) *Violation.* (1) If, after considering any written response to the prepenalty notice and any relevant facts, the Director of the Office of Foreign Assets Control determines that there was a violation by the respondent, the Director promptly shall issue a written notice of the imposition of the monetary penalty on the respondent. The issuance of a written notice of the imposition of a monetary penalty shall constitute final agency action.

(2) The penalty notice shall inform the respondent that payment of the assessed penalty must be made within 30 days of the mailing of the penalty notice.

(3) The penalty notice shall inform the respondent of the requirement to furnish respondent's taxpayer identification number pursuant to 31 U.S.C. 7701 and that the Department intends to use such number for the purposes of collecting and reporting on any delinquent penalty amount in the event of a failure to pay the penalty imposed.

§ 597.705 Administrative collection; referral to United States Department of Justice.

In the event that the respondent does not pay the penalty imposed pursuant to this part or make payment arrangements acceptable to the Director of the Office of Foreign Assets Control within 30 days of the mailing of the written notice of the imposition of the penalty, the matter may be referred for administrative collection measures by the Department of the Treasury or to the United States Department of Justice for appropriate action to recover the penalty in a civil suit in a Federal district court.

Subpart H—Procedures

§ 597.801 Procedures.

For license application procedures and procedures relating to amendments, modifications, or revocations of licenses; administrative decisions; rulemaking; and requests for documents pursuant to the Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a), see subpart D of part 501 of this chapter.

§ 597.802 Delegation by the Secretary of the Treasury.

Any action which the Secretary of the Treasury is authorized to take pursuant to 8 U.S.C. 1189 or 18 U.S.C. 2339B, as added by Public Law 104–132, 110 Stat. 1248–1253, sections 302 and 303, may be taken by the Director of the Office of Foreign Assets Control, or by any other person to whom the Secretary of the Treasury has delegated authority so to act.

Part I—Paperwork Reduction Act

§ 597.901 Paperwork Reduction Act notice.

For approval by the Office of Management and Budget (''OMB'') under the Paperwork Reduction Act of information collections relating to recordkeeping and reporting requirements, to licensing procedures (including those pursuant to statements of licensing policy), and to other procedures, see § 501.901 of this chapter. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

Dated: September 26, 1997.

Loren L. Dohm,

Acting Director, Office of Foreign Assets Control.

Approved: September 30, 1997.

James E. Johnson,

Assistant Secretary (Enforcement).

[FR Doc. 97–26787 Filed 10–6–97; 2:22 pm]

BILLING CODE 4810–25–F

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 05–97–074]

RIN 2115–AE46

Special Local Regulations for Marine Events; Thunder on the Lake Powerboat Races, Sunset Lake, Wildwood Crest, NJ

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: Special local regulations are being adopted for the Thunder on the Lake Powerboat Races to be held in Sunset Lake, Wildwood Crest, New Jersey. These special local regulations are necessary to control vessel traffic in the immediate vicinity of this event. The effect will be to restrict general navigation in the regulated area for the safety of the event participants and transiting vessels.

EFFECTIVE DATE: This regulation is effective from 9:30 a.m. to 6:30 p.m. on October 11 and 12, 1997.

FOR FURTHER INFORMATION CONTACT: Chief Petty Officer Tom Peck, Marine Events Coordinator, Commander, Coast Guard Group Cape May, Cape May, NJ 08204–5082. Telephone number (609) 898–6981.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been impractical. The request to hold the event was not received until September 5, 1997. Publishing a notice of proposed rulemaking and delaying its effective date would be contrary to safety interests, since immediate action is needed to minimize potential danger to the public posed by the large number of racing vessels participating in this event.

Discussion of Regulations

On October 11 and 12, 1997, the New Jersey Hot Rod Association will sponsor the Thunder on the Lake Powerboat Races on Sunset Lake, Wildwood Crest, New Jersey. The event will consist of Hydroplanes, Jersey Speed Skiffs and Pro-Stock boats racing at high speeds along a one mile oval course. These regulations are necessary to provide for the safety of life and property on navigable waters during the event.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory procedures of DOT is unnecessary. Entry into the regulated area will only be prohibited while the race boats are actually competing. Since vessels will be allowed to transit the event area between races, the impacts on routine navigation are expected to be minimal.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this rule will have a significant economic impact on a substantial number of small entities. ''Small entities'' include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as ''small business concerns'' under section 3 of the Small Business Act (15 U.S.C. 632). The Coast Guard expects the economic impact of this temporary rule to be minimal, and certifies under Section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this temporary final rule will not have a significant economic impact on a substantial number of small entities, because the regulations will only be in effect for a short duration in a limited area.

Collection of Information

These regulations contain no collection of information requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Federalism

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

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under section 2.b.2.e(34)(h) of Commandant Instruction M16475.1b (as amended, 61 FR 13564; March 27, 1996), this rule is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

Temporary Regulations

In consideration of the foregoing, part 100 of title 33, Code of Federal Regulations is amended as follows:

PART 100—[AMENDED]

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. A temporary § 100.35T–05–074 is added to read as follows:

§ 100.35T–05–074 Sunset Lake, Wildwood Crest, NJ.

(a) *Definitions:*

(1) *Regulated area:* The waters of Sunset Lake, including the waters of the Intracoastal Waterway between NJICW Daybeacon 469 (LLNR 36690) located at latitude 38°59′07″ North, longitude 074°50′41″ West, and NJICW Light 471 (LLNR 36700) located at latitude 38°58′41″ North, longitude 074°51′01″ West. All coordinates reference Datum: NAD 1983.

(2) *Coast Guard Patrol Commander:* The Coast Guard Patrol Commander is a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Group Cape May.

(b) *Special Local Regulations:*

(1) The regulated area will be intermittently closed to all vessel traffic during the effective period. No person or vessel shall enter or remain in the regulated area while it is closed unless authorized by the Coast Guard Patrol Commander.

(2) The Patrol Commander will allow vessel traffic to transit the event area between races. Transiting vessels shall proceed at no-wake speeds and remain

clear of the race course area as marked by the sponsor provided buoys.

(3) The operator of any vessel in the regulated area shall:

(i) Stop the vessel immediately when directed to do so by any commissioned, warrant, or petty officer on board a vessel displaying a Coast Guard ensign.

(ii) Proceed as directed by any commissioned, warrant or petty officer on board a vessel displaying a Coast Guard ensign.

(c) *Effective dates:* This regulation is effective from 9:30 a.m. to 6:30 p.m. on October 11 and 12, 1997.

Dated: September 23, 1997.

J. Carmichael,

Acting Captain, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 97–26696 Filed 10–7–97; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD8–97–037]

RIN 2115–AE47

Drawbridge Operation Regulation; Red River, LA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule removes the regulation for the S 8 bridge across the Red River, mile 105.0 at Boyce, Rapides Parish, Louisiana. The swing span was removed and the regulation governing its operation is no longer necessary.

DATES: This regulation becomes effective on October 8, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. David M. Frank, Bridge Administration Branch. (504) 589–2965.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice for proposed rulemaking for this regulation has not been published, and good cause exists for making it effective in less than 30 days from the date of publication. Following normal rulemaking procedures would be unnecessary. The draw to which this rule applies was removed in 1985 and replaced by a fixed span bridge.

The S 8 bridge across the Red River, mile 105.0, at Boyce, Louisiana, was removed and replaced in 1985 by a fixed span bridge. The elimination of this drawbridge necessitates the removal of the drawbridge operation regulation that pertained to this draw. This rule removes the regulation for this bridge in § 117.491.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential cost and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) FR 11040; February 26, 1979).

The Coast Guard expects no economic impact from this rule and a full Regulatory Evaluation is unnecessary. This rule will have no economic impact because it removes a regulation that applies to a bridge that no longer exists.

Small Entities

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

This rule will have no impact on either vehicular or navigational traffic because the regulation being removed applies to a bridge that has been removed. Because it will have no impact, the Coast Guard certifies under 5 U.S.C. 605(b) that it will not have any economic impact on a substantial number of small entities.

Collection of Information

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

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The authority to issue permits for the construction, reconstruction, or alteration of bridges across navigable waters of the United States belongs to the Coast Guard by Federal statutes.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under section 2.B.2.(g)(5) of Commandant Instruction M16475 1B, this rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, part 117 of title 33, Code of Federal Regulations, is amended as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

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

§ 117.491 [Amended]

2. In section 117.491, paragraph (a)(3) is removed.

Dated: September 18, 1997.

T.W. Josiah,

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

[FR Doc. 97–26698 Filed 10–7–97; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 19

RIN 2900–AI50

Appeals Regulations: Remand for Further Development

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document adopts as a final rule amendments to the appeals regulations of the Board of Veterans' Appeals (Board) of the Department of Veterans Affairs (VA). The amendments change the circumstances in which the Board must remand a case to the VA field facility with original jurisdiction in the case. The changes help avoid unnecessary remands.

EFFECTIVE DATE: October 8, 1997.

FOR FURTHER INFORMATION CONTACT: Steven L. Keller, Chief Counsel, Board of Veterans' Appeals, Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202–565–5978).

SUPPLEMENTARY INFORMATION: On July 3, 1997, VA published in the **Federal Register** (62 FR 36038) a proposed rule which would require the Board to remand a case to the agency of original jurisdiction (''AOJ'') (usually one of VA's 58 regional offices) when

additional evidence or clarification of the evidence or correction of a procedural defect is essential for a proper appellate decision, but would specify that the Board need not remand a case to clarify procedural matters before the Board, such as the choice of representative, the issues on appeal, or requests for hearings before the Board. The proposed rule would not apply to requests for medical or legal opinions under 38 CFR 20.901, nor to matters in which the Board has original jurisdiction under 38 CFR 20.609 (relating to representatives' fees) and § 20.610 (relating to representatives' expenses), since those cases, by their terms, do not involve adjudications by AOJs.

The public was given 30 days to submit comments. VA received no comments.

Accordingly, based on the rationale set forth in the proposed rule document, we are adopting without change the provisions of the proposed rule as a final rule.

Good cause is found for making this final rule effective on publication. This final rule will help avoid unnecessary remands without causing adverse effects to claimants.

List of Subjects in 38 CFR Part 19

Administrative practice and procedure, Claims, Veterans.

Approved: September 26, 1997.

Hershel W. Gober,

Acting Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 19 is amended as set forth below:

PART 19—BOARD OF VETERANS' APPEALS: APPEALS REGULATIONS

1. The authority citation for part 19 continues to read as follows:

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

2. In subpart A, § 19.9 is revised to read as follows:

§ 19.9 Remand for further development.

(a) *General.* If further evidence or clarification of the evidence or correction of a procedural defect is essential for a proper appellate decision, a Member or panel of Members of the Board shall remand the case to the agency of original jurisdiction, specifying the action to be undertaken. A remand is not required to clarify procedural matters before the Board, including appellant's choice of representative before the Board, the issues on appeal, and requests for hearings before the Board.

(b) *Scope.* This section does not apply to:

(1) The Board's requests for opinions under Rule 901 (§ 20.901 of this chapter);

(2) The Board's supplementation of the record with recognized medical treatises; and

(3) Matters over which the Board has original jurisdiction described in Rules 609 and 610 (sections 20.609 and 20.610 of this chapter).

(Authority: 38 U.S.C. 7102, 7103(c), 7104(a))

[FR Doc. 97–26613 Filed 10–7–97; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 36

RIN 2900–AI92

Loan Guaranty: Requirements for Interest Rate Reduction Refinancing Loans

AGENCY: Department of Veterans Affairs.

ACTION: Interim final rule.

SUMMARY: This document amends the Department of Veterans Affairs (VA) loan guaranty regulations concerning the requirements for Interest Rate Reduction Refinancing Loans (IRRRLs) by generally limiting these loans to instances where the veteran's monthly mortgage payment will decrease, and by generally requiring that the loans being refinanced be current in their payments. This action is necessary to ensure that these loans are made only when they provide a real benefit to the veteran, and to protect the financial interest of the Government.

DATES: Effective Date: This rule is effective October 8, 1997. Comments must be received on or before December 8, 1997.

ADDRESSES: Mail or hand deliver written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Avenue, NW, Room 1154, Washington, DC 20420. Comments should indicate that they are submitted in response to ''RIN 2900–AI92.'' All written comments received will be available for public inspection at the above address, Room 1158, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT: Ms. Judith Caden, Assistant Director for Loan Policy (264), Loan Guaranty Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–7368.

SUPPLEMENTARY INFORMATION: Under the authority of 38 U.S.C. Chapter 37, VA guarantees loans made by lenders to eligible veterans to purchase, construct, improve, or refinance their homes (the term veteran as used in this document includes any individual defined as a veteran under 38 U.S.C. 101 and 3701 for the purpose of housing loans). This document amends VA's loan guaranty regulations by revising the requirements for VA-guaranteed Interest Rate Reduction Refinancing Loans (IRRRLs).

IRRRLs are designed to assist veterans by allowing them to refinance an outstanding VA-guaranteed loan with a new loan at a lower rate. The provisions of 38 U.S.C. 3703(c)(3) and 3710(e)(1)(C) allow the veteran to do so without having to pay any out-of-pocket expenses. The veteran may include in the new loan the outstanding balance of the old loan plus reasonable closing costs, including up to two discount points. Over the years, IRRRLs have provided nearly one million veterans an opportunity to reduce the interest rates and, thus, the monthly payments on their home mortgages.

We have recently learned that a small number of lenders have been urging veterans to apply for loans under conditions that increase the risk of loss to both the veteran and the Government, and do not provide the benefit that IRRRLs were enacted to give. In some cases, these loans involve exorbitant costs in relation to the small reduction in the interest rate. Thus, veterans actually experience an increase in their monthly payment notwithstanding the lower rate. In other cases, lenders are urging veterans to default on their current loan, then refinance the delinquent loan with a new loan including the past due interest and late charges.

In one case, a veteran obtained a 30-year loan for a new home in Florida in October 1991. The fixed-rate mortgage was for $95,800 (including funding fee) at the State bond program interest rate of 7.99 percent with a principal and interest payment of $702.28. In March 1995 he obtained an adjustable rate mortgage (ARM) IRRRL with an initial interest rate of 7.5 percent. This loan was for $103,950 and had an initial payment amount of $726.83. It included $8,912.54 in closing costs, including 5.5 discount points. In January 1997, the ARM interest rate had been adjusted to 8.25 percent, and he obtained another IRRRL for $111,090 at a fixed interest rate of 8.00 percent and a monthly payment of $815.14. Thus, in a little

over 5 years he increased his mortgage by $15,190 and his payment by $112.84 '' both increased by approximately 16 percent '' and he still has 30 years to pay.

In order to assist veterans who were delinquent on their original loan to refinance to a lower rate, VA permitted them to include their past due payments in the new loan. Because loan instruments normally provide that any past due interest and late charges are capitalized and added to the loan balance, VA considered such past-due charges to be part of ''the balance of the loan being refinanced'', and, therefore, eligible to be refinanced under the provisions of 38 U.S.C. 3710(e)(1). Some lenders have abused this interpretation by actually encouraging veterans to skip a few payments on the old loan and use the cash saved by not making a timely payment for other purposes. One lender went so far as to suggest to prospective borrowers that they skip a few payments and use the money for a summer vacation.

These types of abusive loan practices do not serve the best interests of the veterans involved. They also have an adverse effect on the financial interests of the Government. Since IRRRLs can already result in loans in excess of the value of the property, additional unwarranted increases in the amount by which the loan balance exceeds the market value of the property could further increase VA's loss in the event of default and payment of a claim under the guaranty. Also, an excessive increase in the loan amount could cause a veteran to be unable to sell the home for an amount sufficient to pay off the loan balance.

In order to insure that IRRRLs continue to provide a true benefit to the veteran, and to protect the financial interest of the Government, we are making the following changes to the IRRRL program by revising the provisions of 38 CFR 36.4306a and 36.4337(a).

Monthly Payment Reduction

We generally will require that the monthly payment (principal and interest) on the new loan must be lower than the monthly payment on the loan being refinanced. This will prevent cases in which the veteran's monthly payment actually increases, even though the interest rate is lowered slightly, because extensive closing costs are included in the loan. This requirement does not apply to four situations where VA believes that other factors offset the risk of loss from an increase in monthly payment. These four situations are cases in which an ARM is being refinanced with a fixed-rate loan; cases in which the term of the new loan is shorter than the term of the loan being refinanced; cases in which the increase in monthly payment is attributable to the inclusion of energy efficient improvements, as provided in § 36.4336(a)(4); and cases in which the Secretary approves the new loan, on a case-by-case basis, in order to prevent an imminent foreclosure. With regard to ARMs, there is already a possibility that the monthly payment will increase in future years. The certainty that the payment on the new loan will not increase in future years offsets the increased risk associated with the immediate increase over the veteran's current payment. VA may establish limits on the amount of such increase in future rule making. Although the monthly payments on shorter term loans are higher, they amortize faster, thus reducing the risk of loss to both the veteran and the Government. In future rule making, VA may address minimum term reduction. Current law allows veterans to include additional costs of energy efficient improvements in IRRRLs; thus, this exception merely continues current law. Finally, with regard to imminent foreclosure, the risk of loss to the Government and veteran from such foreclosure could be greater than permitting a new loan at a higher monthly payment. VA would have to approve each such loan on a case-by-case basis under existing credit underwriting standards set forth at 38 CFR 36.4337 to ensure that it is in the best interest of the Government and that the veteran is able to afford the new payment.

The Loan Must Be Current

To prevent the lender from encouraging borrowers to ''skip'' mortgage payments and include them in the new loan, we are requiring that in any case where the loan being refinanced is delinquent, the new loan must be submitted to VA for prior approval. VA must determine that the veteran qualifies for the new loan under existing credit standards contained in 38 CFR 36.4337. Under these standards, a veteran must, among other things, demonstrate a proper regard for obligations. If it is found that the veteran purposely failed to make timely payment on the loan in order to use the cash for a vacation or similar discretionary spending, the new loan is unlikely to be approved.

We are clarifying existing VA interpretation that delinquent interest and late charges are considered part of the balance of the loan being refinanced.

Credit Underwriting Standards

We are also making a conforming amendment to 38 CFR 36.4337. That section contains the current credit underwriting standards. Currently, paragraph (a) of that section provides that the standards do not apply to IRRRLs. We are amending this to state the standards do not apply to IRRRLs unless under 38 CFR 36.4306a the loan must be submitted to VA for prior approval. As discussed above, loans to prevent imminent foreclosure where the monthly payment on the new loan exceeds the payments on the loan being refinanced, and cases where the loan being refinanced is delinquent, will now be required to be approved in advance.

Administrative Procedure Act

Pursuant to 5 U.S.C. 553, we have found good cause to dispense with notice and comment on this interim final rule and to dispense with a 30-day delay of its effective date. These findings are based on the critical need to help ensure that veterans are treated fairly by lenders and to protect the financial interests of the Government as guarantor of these loans. Comments are being solicited for 60 days after publication of this document. VA may modify this rule in response to comments if appropriate.

Executive Order 12866

This proposed rule has been reviewed by OMB under Executive Order 12866.

Regulatory Flexibility Act

Because no notice of proposed rule making was required in connection with the adoption of this interim final rule, no regulatory flexibility analysis is required under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

(The Catalog of Federal Domestic Assistance Program number is 64.114)

List of Subjects in 38 CFR Part 36

Condominiums, Handicapped, Housing, Indians, Individuals with disabilities, Loan programs—housing and community development, Loan programs-Indians, Loan programs—veterans, Manufactured homes, Mortgage insurance, Reporting and recordkeeping requirements, Veterans.

Approved: August 25, 1997.

Hershel W. Gober,

Acting Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 36 is amended as set forth below.

PART 36—LOAN GUARANTY

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

Authority: 38 U.S.C. 501, 3701–3704, 3707, 3710–3714, 3719, 3720, 3729, 3762, unless otherwise noted.

2. In § 36.4306a, paragraphs (a)(3) through (a)(5) are revised and paragraphs (a)(6) and (a)(7) are added, to read as follows:

§ 36.4306a Interest rate reduction refinancing loan.

(a) * * *

(3) The monthly principal and interest payment on the new loan must be lower than the payment on the loan being refinanced, except when the term of the new loan is shorter than the term of the loan being refinanced; or the new loan is a fixed-rate loan that refinances a VA-guaranteed adjustable rate mortgage; or the increase in the monthly payments on the loan results from the inclusion of energy efficient improvements, as provided by § 36.4336(a)(4); or the loan is approved by the Secretary in advance after determining that the new loan is necessary to prevent imminent foreclosure and the veteran qualifies for the new loan under the credit standards contained in § 36.4337.

(4) The amount of the refinancing loan may not exceed:

(i) An amount equal to the balance of the loan being refinanced, which must be current, except in cases described in paragraph (a)(5) of this section, and such closing costs as authorized by § 36.4312(d) and a discount not to exceed 2 percent of the loan amount; or

(ii) In the case of a loan to refinance an existing VA-guaranteed or direct loan and to improve the dwelling securing such loan through energy efficient improvements, the amount referred to with respect to the loan under paragraph (a)(4)(i) of this section, plus the amount authorized by § 36.4336(a)(4).

(Authority: 38 U.S.C. 3703, 3710)

(5) In any case where the loan being refinanced is delinquent, the new loan will be guaranteed only if it is approved by the Secretary in advance after determining that the veteran qualifies for the loan under the credit standards contained in § 36.4337. In such cases, the term ''balance of the loan being refinanced'' shall include any past due installments, plus allowable late charges.

(6) The dollar amount of guaranty on the 38 U.S.C. 3710(a)(8) or (a)(9)(B)(i) loan may not exceed the original dollar amount of guaranty applicable to the loan being refinanced, less any dollar amount of guaranty previously paid as a claim on the loan being refinanced; and

(7) The term of the refinancing loan (38 U.S.C. 3710(a)(8)) may not exceed the original term of the loan being refinanced plus ten years, or the maximum loan term allowed under 38 U.S.C. 3703(d)(1), whichever is less. For manufactured home loans that were previously guaranteed under 38 U.S.C. 3712, the loan term, if being refinanced under 38 U.S.C. 3710(a)(9)(B)(i), may exceed the original term of the loan but may not exceed the maximum loan term allowed under 38 U.S.C. 3703(d)(1).

(Authority: 38 U.S.C. 3703(c)(1), 3710(e)(1))

* * * * *

3. In § 36.4337, paragraph (a) is revised to read as follows:

§ 36.4337 Underwriting standards, processing procedures, lender responsibility and lender certification.

(a) *Use of standards.* The standards contained in paragraphs (c) through (j) of this section will be used to determine that the veteran's present and anticipated income and expenses, and credit history are satisfactory. These standards do not apply to loans guaranteed pursuant to 38 U.S.C. 3710(a)(8) except for cases where the Secretary is required to approve the loan in advance under § 36.4306a.

(Authority: 38 U.S.C. 3703, 3710)

* * * * *

[FR Doc. 97–26614 Filed 10–7–97; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300552; FRL–5745–2]

RIN 2070–AB78

Glyphosate Oxidoreductase and the Genetic Material Necessary for Its Production in All Plants; Exemption From Tolerance Requirement On All Raw Agricultural Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document establishes an exemption from the requirement of a tolerance for residues of the plant-pesticide inert ingredients glyphosate oxidoreductase (GOX) and the genetic material necessary for its production in all plants when used as plant-pesticides in or on all raw agricultural commodities (RACs). Monsanto Company submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA) as amended by the Food Quality Protection Act of l996 (FQPA) requesting the exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of this plant-pesticides in or on all RACS.

DATES: This regulation is effective on October 8, 1997. Written objections and requests for hearings must be received by EPA on or before December 8, 1997.

ADDRESSES: Written objections and hearing requests, identified by the docket control number OPP–300552, may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the docket control number OPP–300552 and 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, Crystal Mall #2, 1921 Jefferson Davis Highway, 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 in 5.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket control number OPP–300552. No Confidential Business Information (CBI) should be submitted through e-mail. Additional information on CBI can be found in VII. of this document. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found in Unit VIII. of this document.

FOR FURTHER INFORMATION CONTACT: By mail: Mike Mendelsohn, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and

e-mail address: 5th Floor Crystal Station, 2800 Crystal Drive, Arlington, VA , (703) 308–8715); e-mail: mendelsohn.mike@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 24, 1997 (62 FR 3682) (FRL–5380–2), EPA issued a notice pursuant to section 408(d) of FFDCA, 21 U.S.C. 346a(d) announcing the filing of a pesticide petition for an exemption from the requirement for a tolerance by Monsanto Company, 700 Chesterfield Parkway, North St. Louis, MO 63198. The notice contained a summary of the petition prepared by the petitioner and this summary contained conclusions and arguments to support its conclusion that the petition complied with the FQPA (Pub. L. 104–170). The petition requested that an exemption from the requirement of a tolerance be established for the plant-pesticides GOX and the genetic material necessary for its production in plants in or on all RACS. There were no comments or requests for referral to an advisory committee received in response to the notice of filing. The data submitted in the petition and other relevant material have been evaluated. The toxicology and other data listed below were considered in support of this exemption from the requirement of a tolerance.

I. Risk Assessment and Statutory Findings

New section 408(c)(2)(A)(I) of FFDCA allows EPA to establish an exemption from the requirement of a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''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(c)(2)(B) of FFDCA 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...'' EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. First, EPA determines the toxicity of pesticides. Second, EPA examines exposure to the pesticide through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings.

II. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness, and reliablitiy and the relationship of this information to human risk. EPA has sufficient data to assess the hazards of glyphosate oxidoreductase (GOX), and to make a determination on aggregate exposure, consistent with section 408(c)(2) of FFDCA, for an exemption from the requirement of a tolerance for residues GOX in or on all RACS. EPA's assessment of the dietary exposures and risks associated with establishing the exemption follows.

A. Toxicological Profile

Glyphosate oxidoreductase (GOX) catalyzes the conversion of glyphosate to aminomethylphosphonic acid (AMPA) and glyoxylate in a 1:1 stoichiometry while consuming ½ mole of oxygen as a cosubstrate. GOX requires flavin adenine dinucleotide (FAD) and magnesium for activity; therefore, it is more appropriately designated an apoenzyme.

The gene for Gox was originally isolated from Achromobacter sp. Strain LBAA. The GOX protein was then sequenced and the gene was synthesized with an added signal sequence and the codons modified in the guanine and cytosine nucleic acid (GC) content to yield higher plant expression. Two modified GOX proteins are specified in this rule. They are designated GOX and GOXv247. Both versions have an identifier of ''(M4–C1)'' in the data submissions which indicates that the protein was expressed in *E. coli* for testing purposes. The GOX protein retains the same amino acid sequence as the native protein and has additional four amino acid sequence *N*-terminus (reminanats of an added signal sequence). In GOXv247, the gene sequence of the native protein was altered resulting in changes to three amino acids in the sequence of the resulting protein along with the remains of the added signal sequence mentioned previously. These changes did not negatively affect the enzymatic activity of either protein.

The GOX variants GOX and GOXv247, expressed in *E. coli* and originating from the synthetic GOX gene optimized for protein expression in plants, showed similarity to the native GOX protein when expressed in *E. coli*. These similarities are seen as comparable molecular weights, immunoreactivity, amino acid sequence and enzymatic activity.

The data submitted regarding potential health effects of GOX and GOXv247 includes information on the characterization of the expression of GOX in corn, the acute oral toxicity of GOX and GOXv247, and *in vitro* digestibility studies of the proteins. The applicability of the results of these studies to evaluate human risk and the validity, completeness, and reliability of the available data from the studies were considered.

Both variants of the GOX protein (GOX and GOXv247) are rapidly degraded in simulated gastric fluid (GF) and simulated intestinal fluid (IF). After a fifteen-second incubation in GF, both variants have less than 90% of their initial protein epitopes by western blot analysis. Enzyme activity loss is also greater than 90% in both GOX variants when assayed after a 1-minute incubation in GF. Similar results are seen in simulated IF. Western blot assays show that both variants are greater than 90% degraded by 30-second incubation in IF. However, the enzyme activity assays show that the GOX activity lasts longer in IF than variant GOXv247. After a 10-minute IF incubation, the activity decreased to about 48% of initial for GOX whereas GOXv247 was already greater than 90% inactive.

Two findings, found in the *in vitro* digestibility studies, that are remarkable are: GOXv247 displays a more rapid degradation in the IF compared to unaltered GOX, apparently due to the single amino acid substitutions; and antibody recognition is lost prior to a significant loss of enzyme activity indicating that western blots may not always accurately track functional protein degradation.

None of the amino acid sequences of known allergens or proteins involved in coeliac disease were shown to have similarity to the GOX protein as defined by eight identical and contiguous amino acids in a sequence. However, the assertion that a lack of allergenicity can be established by comparison of sequences to known allergens is questionable. While this is the best approximation at present, there is no scientific basis to assume that the presence of eight contiguous and homologous amino acids in a protein will predict its allergenicity. The assumption is based on the finding that the presence of an eight amino acid sequence in one allergen was associated with the epitope responsible for IgE recognition. Alteration of this sequence

reduced IgE binding and hence allergenicity. The converse experiment, to introduce the sequence into a non-allergenic protein and create an allergen, has not been attempted experimentally.

The acute oral toxicity test of bacterially-derived GOX and GOXv247 proteins showed no test substance related deaths at doses of 91.3 milligrams per kilogram (mg/kg) and 104 µg/kg respectively. Expression data on the GOX protein expressed in corn grains ranges from undetectable levels to a high of 11.70 micro grams per gram (mg/g) freshweight. This indicates that it would require 8,547 kg corn grain per kg bodyweight to receive the 100 mg/kg dose that was administered to the mice.

However, residue chemistry data were not required for a human health effects assessment of the subject plant-pesticide inert ingredients because of the lack of mammalian toxicity. Both available information concerning the dietary consumption patterns of consumers (and major identifiable subgroups of consumers including infants and children) and safety factors which, in the opinion of experts qualified by scientific training and experience to evaluate the safety of food additives, are generally recognized as appropriate for the use of animal experimentation data were not evaluated because the lack of mammalian toxicity at high levels of exposure demonstrate the safety of the product at levels above possible maximum exposure levels. This is similar to the Agency position regarding toxicity and the requirement of residue data for the microbial Bacillus thuringiensis. [See 40 CFR 158.740(b).] For microbial products, further toxicity testing to verify the observed effects and clarify the source of the effects (Tiers II and III) and residue data are triggered by significant acute effects in studies such as the mouse oral toxicity study.

The acute oral toxicity data submitted support the prediction that the GOX proteins would be non-toxic to humans. When proteins are toxic, they are known to act via acute mechanisms and at very low dose levels [Sjoblad, Roy D., *et al.* ''Toxicological Considerations for Protein Components of Biological Pesticide Products,'' Regulatory Toxicology and Pharmacology 15, 3-9 (1992)]. Therefore, since no effects were shown to be caused by the plant-pesticides, even at relatively high dose levels, the GOX protein is not considered toxic.

Adequate information was submitted to show that the GOX test materials derived from microbial cultures was biochemically and, functionally similar to the proteins produced by the plant-pesticide inert ingredient in corn. Production of microbially produced protein was chosen in order to obtain sufficient material for testing. In addition, the i*n vitro* digestibility studies indicate the proteins would be rapidly degraded following ingestion.

The genetic material necessary for the production of the plant-pesticides active and inert ingredients are the nucleic acids (DNA) which comprise genetic material encoding these proteins and) their regulatory regions. ''Regulatory regions'' are the genetic material that control the expression of the genetic material encoding the proteins, such as promoters, terminators, and enhancers. DNA is common to all forms of plant and animal life and the Agency knows of no instance where these nucleic acids have been associated with toxic effects related to their consumption as a component of food. These ubiquitous nucleic acids as they appear in the subject plant-pesticide inert ingredient have been adequately characterized by the applicant. Therefore, no mammalian toxicity is anticipated from dietary exposure to the genetic material necessary for the production of the subject active and inert plant pesticidal ingredients.

B. Sensitivity of Subgroups

The Agency has considered available information on the variability of the sensitivities of major identifiable subgroups of consumers including infants and children and the physiological differences between infants and children and adults and effects of in utero exposure to the plant-pesticides. Since GOX is a protein, allergenic sensitivities were considered. Current scientific knowledge suggests that common food allergens tend to be resistant to degradation by heat, acid, and proteases, are glycosylated and are present at high concentrations in the food. Data has been submitted which demonstrate that the GOX proteins are rapidly degraded by gastric fluid *in vitro* and are non-glycosylated. Thus, the potential for the GOX proteins to be a food allergens is minimal.

C. Cumulative Effects

The Agency has considered available information on the cumulative effects of such residues and other substances that have a common mode toxicity. These considerations included the cumulative effects on infants and children of such residues and other substances with a common mechanism of toxicity. Because there is no indication of mammalian toxicity to these plant-pesticides, there are no cumulative effects.

D. Aggregate Exposures

The Agency has considered available information on the aggregate exposure levels of consumers (and major identifiable subgroups of consumers) to the pesticide chemical residue and to other related substances. These considerations include dietary exposure under the tolerance exemption and all other tolerances or exemptions in effect for the plant-pesticides chemical residue, and exposure from non-occupational sources. Exposure via the skin or inhalation is not likely since the plant-pesticides are contained within plant cells which essentially eliminates these exposure routes or reduces these exposure routes to negligible. Oral exposure, at very low levels, may occur from ingestion of processed food products and drinking water. However a lack of mammalian toxicity and the digestibility of the plant-pesticides has been demonstrated. Regarding exposure via residential or lawn use to infants and children, the Agency concludes that such exposure would present no risk due to the lack of toxicity.

Section 408 of FFDCA provides that EPA shall apply an additional 10-fold margin of exposure (MOE) (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 MOE (safety) will be safe for infants and children. In this instance EPA believes there is reliable data to support the conclusion that the plant-pesticides are not toxic to mammals, including infants and children, and thus there are no threshold effects of concern. As a result, the provision requiring an additional MOE does not apply.

III. Endocrine Effects

EPA does not have any information regarding endocrine effects for these kinds of pesticides at this time. The Agency is not requiring information on the endocrine effects of these plant-pesticides at this time; and Congress allowed 3 years after August 3, 1996, for the Agency to implement a screening and testing program with respect to endocrine effects.

IV. Analytical Method

The Agency is establishing an exemption from the requirement of a tolerance without numerical limitation; therefore, it has concluded that an analytical method is not required for enforcement purposes for GOX and the genetic material necessary for their production.

V. Conclusion

There is a reasonable certainty that no harm will result from aggregate exposure to the U.S. population, including infants and children, to the GOX protein and the genetic material necessary for that production. This includes all anticipated dietary exposures and all other exposures for which there is reliable information. The Agency has arrived at this conclusion because, as discussed above, no toxicity to mammals has been observed for the plant-pesticides. As a result, EPA establishes an exemption from tolerance requirements pursuant to section 408(j)(3) of FFDCA for GOX and the genetic material necessary for their production in all plants.

Glyphosate Oxidoreductase [GOX or GOXv247] and the genetic material necessary for its production in all plants are exempt from the requirement of a tolerance when used as plant-pesticide inert ingredients in all plant RACs. ''Genetic material necessary for its production'' means the genetic material which comprise genetic material encoding the GOX proteins and their regulatory regions. ''Regulatory regions'' are the genetic material that control the expression of the genetic material encoding the GOX proteins, such as promoters, terminators, and enhancers.

VI. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to ''object'' to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d) of FFDCA as was provided in the old section 408 and in section 409 of FFDCA. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural regulations which governs 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 December 8, 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 under the ''ADDRESSES'' section (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

VII. Confidential Business Information

Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy 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 Record and Electronic Submissions

EPA has established a record for this rulemaking under docket control number OPP–300552 (including any comments and data submitted electronically). A public version of this record, including printed, paperversions of electronic comments, which does not in 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 Highway, Arlington, VA.

Electronic comments may be sent directly to EPA at:

opp-docket@epamail.epa.gov.

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

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

IX. Regulatory Assessment

This final rule establishes an exemption from the tolerance requirement under FFDCA section 408(d) in response to a petition submitted to the Agency. 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), 44U.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) (P.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 tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the exemption 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 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 actions 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: September 25, 1997.

Stephen L. Johnson,

Acting Director, 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. Section 180.1190 is added to subpart D to read as follows:

§ 180.1190 Glyphosate Oxidoreductase [GOX or GOXv247] and the genetic material necessary for its production in all plants; exemption from the requirement of a tolerance.

Glyphosate Oxidoreductase [GOX or GOXv247] and the genetic material necessary for its production in all plants are exempt from the requirement of a tolerance when used as plant-pesticide inert ingredients in all plant RACs. *Genetic material necessary for its production* means the genetic material which comprise genetic material encoding the GOX proteins and their regulatory regions. *Regulatory regions* are the genetic material that control the expression of the genetic material encoding the GOX proteins, such as promoters, terminators, and enhancers.

[FR Doc. 97–26190 Filed 10–7–97; 8:45 am]

BILLING CODE 6560–50–F

DEPARTMENT OF THE INTERIOR

Office of the Secretary

43 CFR Part 36

RIN 1093–AA07

Transportation and Utility Systems In and Across, and Access Into, Conservation System Units in Alaska

AGENCY: Office of the Secretary, Interior.

ACTION: Final rule.

SUMMARY: The Department of the Interior is implementing this final rule to revise and simplify the regulatory definition of the term ''economically feasible and prudent alternative route'' as used in the review of proposed transportation and utility systems in Alaska under Title XI of the Alaska National Interest Lands Conservation Act (ANILCA).

DATES: *Effective date:* This rule becomes effective November 7, 1997.

Compliance date: This rule will apply to agency decisionmaking under ANILCA Title XI beginning November 7, 1997.

FOR FURTHER INFORMATION CONTACT: David A. Funk, Alaska Field Office, National Park Service, 2525 Gambell Street, Room 107, Anchorage, AK 99503–2892. Phone: (907) 257–2589.

SUPPLEMENTARY INFORMATION:

Background

On December 2, 1980, the Alaska National Interest Lands Conservation Act (ANILCA) was signed into law as Public Law 96–487 (94 Stat. 2371, 16 U.S.C. 3101, *et seq.*). Title XI of ANILCA, which is entitled ''Transportation and Utility Systems In and Across, and Access Into, Conservation System Units,'' established guidelines and procedures for submitting and processing applications for transportation and utility systems (TUS) in Alaska when any portion of the route or the system will be within any conservation system unit, national recreation area, or national conservation area. In addition, Title XI authorizes special access, temporary access, and access to inholdings.

On July 15, 1983, the Department of the Interior (Department) proposed comprehensive regulations to implement ANILCA Title XI on lands in Alaska under the jurisdiction of the National Park Service (NPS), the U.S. Fish and Wildlife Service (FWS), and the Bureau of Land Management (BLM) (48 FR 32506). On September 4, 1986, the Department published final Title XI regulations (51 FR 31619).

In early 1987, the Trustees for Alaska and other groups (Trustees) sued the Department to challenge the Title XI regulations as exceeding the authority granted to the Department by ANILCA. Parties intervening in the case included Arctic Slope Regional Corporation, the Alaska Miners Association, the Alaska Forest Association, and the Resource Development Council for Alaska, Inc. In orders dated April 29, 1991, and March 16, 1993, the U.S. District Court for the District of Alaska granted summary judgment to the Department. The Trustees appealed the lower court's decision to the U.S. Court of Appeals for the Ninth Circuit, which assigned the case to a mediator to explore whether review and possible revision of the Title XI regulations might provide a basis for settlement.

On September 17, 1996, the Department proposed (61 FR 48873) one revision to the 1986 regulations in order to improve the regulations' workability and reduce the opportunities for delays in decisionmaking. The proposal followed substantial review and consultation with interested parties both within and outside the Department. The proposal provided an additional advantage of offering a focus for the consensus necessary to settle the longstanding litigation. The litigation was dismissed on August 30, 1996, subject to reinstatement if the final regulations differed from the proposal.

The Department did not propose any other revisions of the Title XI regulations. Thus, for example, the 1986 regulations implementing the Title XI provisions concerning access to inholdings, special access, and temporary access will remain intact. Also, the Department did not propose any changes to the regulatory provisions governing access to subsistence resources under Title VIII of ANILCA (*see* 36 CFR 13.46 (NPS) and 50 CFR 36.12 (FWS)). Finally, neither the proposed nor this final rule concerns recognition or management of R.S. 2477 rights-of-way.

Summary of Public Comments

Six comments were received in response to publication of the proposed rule. None of the responses objected to the proposed revision of 43 CFR 36.2(h).

The Alaska Department of Law stated that the revision would be consistent with the August 30, 1996, Order issued by the United States Court of Appeals for the Ninth Circuit in *Trustees for Alaska* v. *United States Department of the Interior,* No. 93–35493 (Trustees). The Department of Law added, however, that the State does not necessarily concur with the facts and

interpretations presented in the proposed rule.

The Pacific Legal Foundation, commenting on behalf of several intervenors in Trustees, stated that the revision is neither necessary nor useful. However, the Foundation supports the change in order to settle the litigation.

The comments submitted by the Trustees for Alaska (on behalf of the appellants in the litigation), the Wilderness Society, and the Sierra Club, all support the revision. The Wilderness Society and the Sierra Club also provided comments on other provisions of 43 CFR Part 36 that they believe should be revised. The Department considered these issues while preparing the proposed rule and concluded that no other provisions of part 36 require modification at this time.

Finally, the United States Small Business Administration commented on the lack of support in the proposed rule for the Department's certification that the proposed revision will not have a significant economic effect on a substantial number of small entities. The factual basis for this conclusion is in the nature of the proposed revision. As stated in the background to the proposed rule, the purpose of the revision is to ''improve the regulations' workability and reduce the opportunities for delays in decision-making.'' In essence, the revision will replace an elaborate formula with a simpler and more straightforward definition. Because the revision is for purposes of clarification and its effect is primarily procedural and beneficial, the rule would have no significant economic effect or change on a substantial number of small entities. It follows that the final rule does not require preparation of a regulatory analysis.

Section-by-Section Analysis

Section 36.2 Definitions

As a general matter, ANILCA Title XI established the following criteria for approval of a transportation or utility system across a conservation system unit, national conservation area, or national recreation area in Alaska: (1) The proposed transportation or utility system must be ''compatible with the purposes for which the unit was established,'' and (2) there must be no ''economically feasible and prudent alternative route for the system.'' This rulemaking revises the regulatory definition of the term ''economically feasible and prudent alternative route'' in the second criterion by replacing the complex definition promulgated in 1986 with the simpler definition originally proposed in the 1983 rulemaking.

The revised definition which the Department is adopting is the same as the definition originally proposed in 1983 (48 FR 32506) as follows:

''*Economically feasible and prudent alternative route*'' means a route either within or outside an area that is based on sound engineering practices and is economically practicable but does not necessarily mean the least costly alternative route.

This definition in the opinion of the Department is simpler and more straightforward than the elaborate formula which was added in the final 1986 regulations. The revised definition includes the economic considerations mentioned in the legislative history, but avoids the complex and potentially misleading quantitative analysis required by the 1986 definition. The revised definition also avoids the opportunities for delay and controversy inherent in the 1986 definition. Finally, the revised definition will facilitate decisions consistent with the statutory preference for routing a TUS outside a conservation system unit, national recreation area, or national conservation area expressed in ANILCA section 1104(g)(2)(B). A technical correction to this definition replaces the term ''alternate route'' with the analogous, statutorily used term, ''alternative route.''

Drafting Information

The primary authors of this rule are David A. Watts of the Solicitor's Office, Department of the Interior, David A. Funk of the Alaska Regional Office, National Park Service, and Molly N. Ross, Office of the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, Washington, DC.

Paperwork Reduction Act

This rule does not contain collections of information that require approval by the Office of Management and Budget under the Paperwork Reduction Act of 1995.

Compliance With Other Laws

This rule was reviewed by the Office of Management and Budget under Executive Order 12866. The Department of the Interior determined that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

The Department has determined and certifies pursuant to the Unfunded Mandates Reform Act (2 U.S.C. 1502 *et seq.*), that this rule will not impose a cost of $100 million or more in any given year on local, State or tribal governments or private entities.

The Department has determined that this rule meets the applicable standards provided in section 3(a) and 3(b)(2) of Executive Order 12988.

This rule is not a major rule under the Congressional review provisions of the Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 8–4(2)).

The Department has determined this rule is categorically excluded from the procedural requirements of the National Environmental Policy Act pursuant to 516 DM 2, Appendix 1.5. The action was previously covered by an Environmental Assessment and a Finding of No Significant Impact. None of the exceptions to the categorical exclusions in 516 DM 2, Appendix 2, applies.

List of Subjects in 43 CFR Part 36

Access, Alaska, Conservation system units, National parks, Rights-of-way, Traffic regulation, Transportation, Utilities, Wildlife refuges.

In consideration of the foregoing, 43 CFR Part 36 is amended as follows:

PART 36—TRANSPORTATION AND UTILITY SYSTEMS IN AND ACROSS, AND ACCESS INTO, CONSERVATION SYSTEM UNITS IN ALASKA

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

Authority: 16 U.S.C. 1, 3, 668dd *et seq.*, and 3101 *et seq.*; 43 U.S.C. 1201.

2. Section 36.2 is amended by revising paragraph (h) to read as follows:

§ 36.2 Definitions.

* * * * *

(h) *Economically feasible and prudent alternative route* means a route either within or outside an area that is based on sound engineering practices and is economically practicable, but does not necessarily mean the least costly alternative route.

* * * * *

Dated: September 22, 1997.

Donald J. Barry,

Acting Assistant Secretary for Fish and Wildlife and Parks.

Dated: September 23, 1997.

Sylvia V. Baca,

Deputy Assistant Secretary for Land and Minerals Management.

[FR Doc. 97–26625 Filed 10–7–97; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 195

[Docket No. PS–117; Amdt. 195–57A]

RIN 2137–AC87

Low-Stress Hazardous Liquid Pipelines Serving Plants and Terminals

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Withdrawal of direct final rule.

SUMMARY: This action withdraws the direct final rule that excluded from RSPA's safety standards for hazardous liquid pipelines low-stress pipelines regulated by the U.S. Coast Guard and low-stress pipelines less than 1 mile long that serve certain plants and transportation terminals without crossing an offshore area or a waterway currently used for commercial navigation. (62 FR 31364, June 9, 1997.) Applicable procedural rules require withdrawal because an interested person submitted an adverse comment on the direct final rule. RSPA's stay of enforcement of the safety standards against these pipelines will remain in effect until the matter is resolved through further rulemaking.

DATES: The direct final rule published at 62 FR 31364 is withdrawn on October 7, 1997.

FOR FURTHER INFORMATION CONTACT: L. M. Furrow, (202)366–4559, regarding the subject matter of this notice. Contact the Dockets Unit, (202) 366–5046, for copies of this document or other material in the docket.

SUPPLEMENTARY INFORMATION: In response to increased environmental awareness, critical accidents involving low-stress pipelines, and Congressional direction, RSPA extended its hazardous liquid pipeline safety standards (49 CFR Part 195) to cover certain low-stress pipelines of higher risk (Docket No. PS–117; 59 FR 35465; July 12, 1994). The term ''low-stress pipeline'' means a hazardous liquid pipeline that is operated in its entirety at a stress level of 20 percent or less of the specified minimum yield strength of the line pipe (§ 195.2). Except for onshore rural gathering lines and gravity-powered lines, the following categories of low-stress pipelines were brought under the regulations: pipelines that transport highly volatile liquids, pipelines located onshore and outside rural areas, pipelines located offshore, and pipelines located in waterways that are currently used for commercial navigation (§ 195.1(b)(3)). Because the rulemaking record showed that many low-stress pipelines probably were not operated and maintained consistent with Part 195 requirements, operators were allowed to delay compliance of their existing lines until July 12, 1996, (§ 195.1(c)).

The largest proportion of low-stress pipelines brought under Part 195 consisted of interfacility transfer lines (about two-thirds of the pipelines and one-third of the overall mileage). The remainder included trunk lines and certain urban gathering lines. Interfacility transfer lines move hazardous liquids locally between facilities such as truck, rail, and vessel transportation terminals, manufacturing plants, petrochemical plants, and oil refineries, or between these facilities and associated storage or long-distance pipeline transportation. The lines usually are short, averaging about a mile in length.

Interfacility transfer lines are also impacted by the Process Safety Management regulations of the Occupational Safety and Health Administration (OSHA) (29 CFR 1910.119). These regulations, which involve hazard analysis and control, operating and maintenance procedures, and personnel training, are intended to reduce the risk of fires and explosions caused by the escape of hazardous chemicals from facility processes. In addition, transfer lines between vessels and marine transportation-related facilities are subject to safety regulations of the U.S. Coast Guard (33 CFR Parts 154 and 156).

We considered the costs and potential confusion of this regulatory overlap with Part 195 as well as information that showed that bringing interfacility transfer lines into full compliance with Part 195 would be difficult for many operators. Weighing these problems against the need for risk reduction, we decided that the potential benefits of complying with Part 195 do not justify the effort if the line is short and does not cross an offshore area or a commercially navigable waterway, or if the line is regulated by the Coast Guard.

Consequently, we announced a stay of enforcement of Part 195 against certain interfacility transfer lines (61 FR 24245; May 14, 1996). The stay applies to low-stress pipelines that are regulated by the Coast Guard or that extend less than 1 mile outside plant or terminal grounds without crossing an offshore area or any waterway currently used for commercial navigation. We intend to keep the stay in effect until modified or until we finally revise the Part 195 regulations to eliminate the need for the stay.

Following publication of the stay of enforcement, we issued a direct final rule to amend Part 195 to comport with the stay (62 FR 31364; June 9, 1997). This direct final rule revised § 195.1(b)(3) to exclude from Part 195 those low-stress interfacility transfer lines that were covered by the stay, while continuing to exclude other low-stress pipelines that were previously excluded.

The procedures governing issuance of direct final rules are in 49 CFR 190.339. These procedures provide for public notice and opportunity for comment subsequent to publication of a direct final rule. They also provide that if an adverse comment or notice of intent to file an adverse comment is received, RSPA will issue a timely notice in the **Federal Register** to confirm that fact and withdraw the direct final rule in whole or in part. Under the procedures, RSPA may then incorporate the adverse comment into a subsequent direct final rule or may publish a notice of proposed rulemaking.

Four persons submitted comments on the direct final rule: American Petroleum Institute (API), California Department of Fish and Game (CDF&G), California Independent Petroleum Association (CIPA), and Western States Petroleum Association (WSPA). API made an editorial comment, while CIPA and WSPA argued that the direct final rule should be expanded to also exclude from Part 195 short low-stress pipelines serving production/shipping facilities in urban areas.

However, CDF&G opposed the direct final rule. It argued, first, that the Coast Guard's regulations are not an adequate substitute for RSPA's because of weak pressure testing requirements and the absence of cathodic protection requirements to guard against corrosion. Secondly, it said the exclusion of short plant and terminal transfer lines should apply only if a discharge would not impact marine waters of the United States. In contrast, the direct final rule excluded these lines if they did not cross offshore or a commercially navigable waterway.

Because of the adverse comment from CDF&G, we are withdrawing the direct final rule. We intend to follow up this action with a notice of proposed rulemaking that will propose to amend the application of Part 195 in a way similar to the direct final rule, but by taking into account the comments we received on it.

Issued in Washington, DC, on October 3, 1997.

Kelley S. Coyner,

Acting Administrator.

[FR Doc. 97–26694 Filed 10–7–97; 8:45 am]

BILLING CODE 4910–60–P

Proposed Rules

Federal Register
Vol. 62, No. 195
Wednesday, October 8, 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.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 35

Medical Use of Byproduct Material; Workshop

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of workshop.

SUMMARY: The Nuclear Regulatory Commission has initiated a rulemaking for a comprehensive revision to its regulations governing the medical use of byproduct material in 10 CFR part 35. As part of this rulemaking, the Commission intends to solicit the active input of the various interests that may be affected by the rulemaking early in the rulemaking process. One of the mechanisms that will be used to obtain the comments and recommendations from affected interests will be the convening of workshops to discuss the fundamental approaches and issues that must be addressed in the revision of 10 CFR part 35. A workshop on NRC's medical rulemaking initiative will be held during the Organization of Agreement States' All Agreement States Meeting in Los Angeles, California.

DATE: The workshop will be held on October 18, 1997, from 8:30 a.m. to 2:15 p.m.

ADDRESS: The Westin LAX Hotel, 5400 W. Century Blvd., Los Angeles, CA 90045.

FOR FURTHER INFORMATION CONTACT: Cathy Haney, U.S. Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, telephone (301) 415–6825, e-mail cxh@nrc.gov.

SUPPLEMENTARY INFORMATION: The NRC has examined the issues surrounding its medical use program in great detail during the last four years. This process started with NRC's 1993 internal senior management review report; continued with the 1996 independent external review report by the National Academy of Sciences, Institute of Medicine; and culminated in NRC's Strategic Assessment and Rebaselining Project (SA). In particular, medical oversight was addressed in the SA Direction-Setting Issue Paper Number 7 (DSI 7) (released September 16, 1996). In its ''Staff Requirements Memorandum (SRM)—COMSECY–96–057, Materials/Medical Oversight (DSI 7),'' dated March 20, 1997, the Commission directed the NRC staff to revise Part 35, associated guidance documents, and, if necessary, the Commission's 1979 ''Medical Policy Statement.'' The Commission SRM specifically directed the restructuring of part 35 into a risk-informed, more performance-based regulation.

A June 30, 1997, SRM informed the NRC staff of the Commission's approval, with comments, of the NRC staff's proposed program in SECY–97–131, Supplemental Information on SECY–97–115, Program for Revision of 10 CFR part 35, ''Medical Uses of Byproduct Material,'' and Associated **Federal Register** Notice,'' dated June 20, 1997.

After Commission approval of the NRC staff's program to revise 10 CFR part 35 and associated guidance documents, the NRC staff initiated the rulemaking process, as announced in 62 FR 42219 (August 6, 1997). The rulemaking is being conducted using a group approach. A Working Group and Steering Group consisting of representatives of NRC, Organization of Agreement States(OAS), and Conference of Radiation Control Program Directors have been established to develop rule text alternatives, rule language, and associated guidance documents. State participation in the process is intended to enhance development of corresponding rules in State regulations, to provide an opportunity for early State input, and to allow State staff to assess potential impacts of NRC draft language on the regulation of non-Atomic Energy Act materials used in medical diagnosis, treatment, or research, in the States.

As directed by the Commission, the NRC staff has developed alternatives, with draft regulatory text, for the more significant issues associated with the regulation of the medical use of byproduct material. These alternatives to regulation in specific areas are intended to help focus the discussion during workshops and meetings during the Fall of 1997 and to assist the NRC staff in developing the text of the proposed rule. Alternative regulatory text has been developed for: (a) The quality management program; (b) training and experience for authorized users, radiation safety officers, and medical physicists; (c) radiation safety committee; (d) patient notification of reportable events; and (e) the threshold for reportable events. The alternatives represent a broad range of possibilities and are being provided to stimulate input from members of the public in an effort to encourage all interested parties to provide input into the development of the revised regulation. The staff has not selected any alternatives at this time and is open to additional alternatives that might be proposed, which are consistent with the guidance provided by the Commission.

The OAS workshop will be open to the public, on a space available basis. The agenda for the workshop will focus on discussion of the above regulatory issues, but will also provide enough flexibility for the public to have an opportunity to comment on related rulemaking issues. Members of the public who are unable to attend the workshop can obtain copies of the papers developed by the staff through NRC's Public Document Room (U.S. Nuclear Regulatory Commission, Attention: NRC Public Document Room, Washington, DC 20555–0001) or on the Internet via NRC's Technical Conference Forum (http://techconf.llnl.gov/noframe.html).

Dated at Rockville, Maryland this 2nd day of October, 1997.

For the Nuclear Regulatory Commission.

Donald A. Cool,

Director, Division of Industrial and Medical Nuclear Safety, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 97–26641 Filed 10–7–97; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Ch. VII

[Docket No. 970925233–7233–01]

Request for Comments on Effects of Foreign Policy-Based Export Controls

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Request for comments on foreign policy-based export controls.

SUMMARY: The Bureau of Export Administration (BXA) is reviewing the foreign policy-based export controls in the Export Administration Regulations to determine whether they should be modified, rescinded or extended. To help make these determinations, BXA is seeking comments on how existing foreign policy-based export controls have affected exporters and the general public.

Under the provisions of section 6 of the Export Administration Act of 1979, as amended (EAA), foreign policy controls expire one year after imposition unless they are extended. The EAA requires a report to Congress whenever foreign policy-based export controls are extended. Although the EAA expired on August 20, 1994, the President, invoking the International Emergency Powers Act (IEEPA), continued in effect the export control system in place under the provisions of the Act and the Export Administration Regulations, to the extent permitted by law (Executive Order 12924 of August 19, 1994 and Notices of August 15, 1995, August 14, 1996 and August 13, 1997). The Department of Commerce, insofar as appropriate, is following the provisions of section 6 in reviewing foreign policy-based export controls and requesting comments on such controls. Foreign Policy controls need to be extended in January 1998.

DATES: Comments must be received by November 7, 1997, to assure full consideration in the formulation of export control policies as they relate to foreign policy-based controls.

ADDRESSES: Written comments (three copies) should be sent to Sharron Cook, Regulatory Policy Division (Room 2096), Office of Exporter Services, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044. If sending comments by courier, send to: Department of Commerce, Bureau of Export Administration, Attn: Sharron Cook, 14th Street and Pennsyvania Avenue, Room 2705, N.W., Washington, D.C. 20230

FOR FURTHER INFORMATION CONTACT: Anita McNamee, Foreign Policy Division, Office of Strategic Trade and Foreign Policy Controls, Bureau of Export Administration, Telephone: (202) 482–4252. Copies of the current Annual Foreign Policy Report to the Congress can also be requested.

SUPPLEMENTARY INFORMATION: The current foreign policy controls maintained by the Bureau of Export Administration (BXA) are set forth in the Export Administration Regulations (EAR), parts 742(CCL Based Controls), 744 (End-user and End-use Based Controls), and 746 (Embargoes and Special Country Controls). These controls apply to: High performance computers (§ 742.12); significant items (SI): Commercial communications satellites and Hot section technology for the development, production or overhaul of commercial aircraft engines, components, and systems (§ 742.14); encryption items (EI) (§ 742.15); crime control and detection commodities (§ 742.7); specially designed implements of torture (§ 742.11); regional stability commodities and equipment (§ 742.6); equipment and related technical data used in the design, development, production, or use of missiles (§ 742.5 and § 744.3); chemical precursors and biological agents, associated equipment, technical data, and software related to the production of chemical and biological agents (§ 742.2 and § 744.4); activities of U.S. persons in transactions related to missile technology or chemical or biological weapons proliferation in named countries (§ 744.6); embargoed countries (part 746); countries designated as supporters of acts of international terrorism (§§ 742.8, 742.9, 742.10, 746.2, 746.3, 746.5, and 746.7); and, Libya (§§ 744.8, and 746.4). Attention is also given in this context to the controls on nuclear-related commodities, software, and technology (§ 742.3 and § 744.2) which are, in part, implemented under section 309(c) of the Nuclear Non Proliferation Act.

Effective January 21, 1997, the Secretary of Commerce, on the recommendation of the Secretary of State, extended for one year all foreign policy controls then in effect.

To assure maximum public participation in the review process, comments are solicited on the extension or revision of the existing foreign policy controls for another year. Among the criteria the Departments of Commerce and State consider in determining whether to continue or revise U.S. foreign policy controls are the following:

1. The likelihood that such controls will achieve the intended foreign policy purpose, in light of other factors, including the availability from other countries of the goods or technology proposed for such controls;

2. Whether the foreign policy purpose of such controls can be achieved through negotiations or other alternative means;

3. The compatibility of the controls with the foreign policy objectives of the United States and with overall United States policy toward the country subject to the controls;

4. The reaction of other countries to the extension of such controls by the United States is not likely to render the controls ineffective in achieving the intended foreign policy purpose or be counterproductive to United States foreign policy interests;

5. The effect of the controls on the export performance of the United States, the competitive position of the United States in the international economy, the international reputation of the United States as a supplier of goods and technology, or the economic well-being of individual United States companies and their employees and communities does not exceed the benefit to United States foreign policy objectives; and

6. The ability of the United States to enforce the controls effectively.

BXA is particularly interested in the experience of individual exporters in complying with the proliferation controls, with emphasis on economic impact and specific instances of business lost to foreign competitors. BXA is also interested in comments relating to the effects of foreign policy controls on exports of replacement and other parts.

Parties submitting comments are asked to be as specific as possible. All comments received before the close of the comment period will be considered by BXA in reviewing the controls and developing the report to Congress.

BXA will consider requests for confidential treatment. The information for which confidential treatment is requested should be submitted to BXA separate from any non-confidential information submitted. The top of each page should be marked with the term ''Confidential Information.'' BXA will either accept the submission in confidence, or if the submission fails to meet the standards for confidential treatment, will return it. A non-confidential summary must accompany such submissions of confidential information. The summary will be made available for public inspection.

Information accepted by BXA as confidential will be protected from public disclosure to the extent permitted by law. Communications between agencies of the United States Government or with foreign governments will not be made available for public inspection.

All other information relating to the notice will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, BXA requires written comments. Oral comments must be followed by written memoranda, which will also be a matter of public record and will be available for public review and copying.

The public record concerning these comments will be maintained in the Freedom of Information Records Inspection Facility, Room 4525, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue, NW, Washington, D.C. 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in part 4 of title 15 of the Code of Federal Regulations. Information about inspection and copying of records at this facility may be obtained from Margaret Cornejo, BXA Freedom of Information Officer, at the above address or by calling (202) 482–2593.

Dated: October 3, 1997.

William V. Skidmore,

Acting Assistant Secretary for Export Administration.

[FR Doc. 97–26695 Filed 10–7–97; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

15 CFR Part 806

[Docket No. 970918231–7231–01]

RIN 0691–AA08

Direct Investment Surveys: BE–12, Benchmark Survey of Foreign Direct Investment in the United States—1997

AGENCY: Bureau of Economic Analysis, Commerce.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document sets forth proposed rules to revise 15 CFR 806.17 to present the reporting requirements for the BE–12, Benchmark Survey of Foreign Direct Investment in the United States—1997 and to delete the rules now in 15 CFR 806.17, which were for the last benchmark survey covering 1992.

The BE–12 benchmark survey is conducted by the Bureau of Economic Analysis (BEA), U.S. Department of Commerce, under Section 3103(b) of the International Investment and Trade in Services Survey Act, which requires that a benchmark survey of foreign direct investment in the United States be conducted every five years. The last benchmark survey was conducted for 1992, and the proposed survey will be conducted for 1997. The benchmark survey will obtain universe data on the financial and operating characteristics of, and on positions and transactions between, U.S. affiliates and their foreign parents. The data from the quinquennial survey will provide benchmarks for deriving current universe estimates of foreign direct investment from sample data collected in other BEA surveys in nonbenchmark years. The data are needed to measure the economic significance of foreign direct investment in the United States, measure changes in such investment, assess its impact on the U.S. economy, and based upon this assessment, make informed policy decisions regarding foreign direct investment in the United States. They are also required for compiling the balance of payments, international investment position, and national income and product accounts of the United States.

Key changes proposed by BEA from the previous benchmark survey include reducing respondent burden, particularly for small companies, by: Increasing the exemption level for reporting on the survey to $3 million (measured by the company's total assets, sales, or net income) from $1 million in the 1992 survey; increasing the exemption level at which reporting on the long form version of the survey is required from $50 million to $100 million; and requiring reporting companies with assets, sales, or net income between $3 million and $30 million to report only selected data items on the short form version. In addition, BEA proposes to base industry coding of reporting companies on the new North American Industry Classification System (NAICS) in place of the current system which is based on the U.S. Standard Industrial Classification system; to collect new information on affiliated services transactions by type of service; and to modify the detail collected on the composition of external financing of the reporting enterprise, on exports and imports of goods by product, and on the operations of foreign-owned businesses in individual States.

DATES: Comments on the proposed rules will receive consideration if submitted in writing on or before November 24, 1997.

ADDRESSES: Comments may be mailed to the Office of the Chief, International Investment Division (BE–50), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230, or hand delivered to Room M–100, 1441 L Street NW, Washington, DC 20005. Comments received will be available for public inspection in Room 7005, 1441 L Street NW, between 8:30 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: R. David Belli, Chief, International Investment Division (BE–50), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230; phone (202) 606–9800.

SUPPLEMENTARY INFORMATION: These proposed rules set forth the reporting requirements for the BE–12, Benchmark Survey of Foreign Direct Investment in the United States—1997. This survey is to be conducted by the Bureau of Economic Analysis, U.S. Department of Commerce, under the International Investment and Trade in Services Survey Act (Pub. L. 94–472, 90 Stat. 2059, 22 U.S.C. 3101–3108, as amended by Pub. L. 98–573 and Pub. L. 101–533), hereinafter, ''the Act.'' Section 3103(b) of the Act, as amended, requires that ''With respect to foreign direct investment in the United States, the President shall conduct a benchmark survey covering year 1980, a benchmark survey covering year 1987, and benchmark surveys covering every fifth year thereafter . . . In conducting surveys pursuant to this subsection, the President shall, among other things and to the extent he determines necessary and feasible—

(1) Identify the location, nature, and magnitude of, and changes in the total investment by any parent in each of its affiliates and the financial transactions between any parent and each of its affiliates;

(2) Obtain (A) information on the balance sheet of parents and affiliates and related financial data, (B) income statements, including the gross sales by primary line of business (with as much product line detail as necessary and feasible) of parents and affiliates in each country in which they have significant operations, and (C) related information regarding trade, including trade in both goods and services, between a parent and each of its affiliates and between each parent or affiliate and any other person;

(3) Collect employment data showing both the number of United States and foreign employees of each parent and affiliate and the levels of compensation, by country, industry, and skill level;

(4) Obtain information on tax payments by parents and affiliates by country; and

(5) Determine, by industry and country, the total dollar amount of research and development expenditures by each parent and affiliate, payments or other compensation for the transfer of technology between parents and their affiliates, and payments or other compensation received by parents or affiliates from the transfer of technology to other persons.''

The responsibility for conducting benchmark surveys of foreign direct investment in the United States has been delegated to the Secretary of Commerce, who as redelegated it to BEA.

The benchmark surveys are BEA's censuses, intended to cover the universe of foreign direct investment in the United States in value terms. Foreign direct investment in the United States is defined as the ownership or control, directly or indirectly, by one foreign person of 10 percent or more of the voting securities of an incorporated U.S. business enterprise or an equivalent interest in an unincorporated U.S. business enterprise, including a branch.

The purpose of the benchmark survey is to obtain data on the amount, types, and financial and operating characteristics of foreign direct investment in the United States.

The data from the survey will be used to measure the economic significance of such investment and to analyze its effects on the U.S. economy. They will also be used in formulating, and assessing the impact of, U.S. policy on foreign direct investment.

They will provide benchmarks for deriving current universe estimates of direct investment from sample data collected in other BEA surveys. In particular, they will serve as benchmarks for the quarterly direct investment estimates included in the U.S. international transactions and national income and product accounts, and for annual estimates of the foreign direct investment position in the United States at book value and of the operations of the U.S. affiliates of foreign companies.

The benchmark surveys are also the most comprehensive of BEA's surveys in terms of subject matter in order that they obtain the detailed information on foreign direct investment needed for policy purposes. As specified in the Act, policy areas of particular interest include, among other things, trade in both goods and services, employment and employee compensation, taxes, and technology.

As proposed, the survey will consist of an instruction booklet, an industry coding booklet, a claim for not filing the BE–12, and the following report forms:

1. Form BE–12(LF) (Long Form) for reporting by nonbank U.S. affiliates with assets, sales, or net income of more than $100 million;

2. Form BE–12(SF) (Short Form) for reporting by nonbank U.S. affiliates with assets, sales, or net income of more than $3 million, but not more than $100 million;

3. Form BE–12 Bank for reporting by U.S. affiliates that are banks with assets, sales, or net income of more than $3 million.

Although the proposed survey is intended to cover the universe of foreign direct investment in the United States, in order to minimize the reporting burden, U.S. affiliates with assets, sales, and net income each equal to or less than $3 million are exempt from reporting on Forms BE–12(LF), BE–12(SF), and BE–12 Bank, but are required to file, on Form BE–12(X), a claim for exemption from filing in the benchmark survey.

In designing this survey, BEA solicited comments from an extensive number of representatives of both data users and survey respondents. BEA held a meeting with interagency data users on May 2, 1997 to solicit views on the proposed benchmark survey. It solicited and received input from several nongovernment data users. BEA also solicited comments from respondents by sending a packet with forms and proposed changes to 13 large companies that are current respondents to BEA surveys. The proposed draft incorporates BEA's responses to comments received from users and respondents. In reaching decisions on what questions to include in the survey, BEA considered the Government's need for the data, the burden imposed on respondents, the quality of the likely responses (e.g., whether the data are readily available on the respondents' books), and its experience in previous benchmark surveys.

Key changes proposed by BEA from the previous benchmark survey include reducing respondent burden, particularly for small companies, by: (1) Increasing the exemption level for reporting on the survey to $3 million (measured by the company's total assets, sales, or net income) from $1 million in the 1992 survey; (2) increasing the exemption level at which reporting on Form BE–12(LF) (Long Form) is required from $50 million to $100 million; and (3) requiring reporting companies with assets, sales, or net income between $3 million and $30 million to report only selected data items on Form BE–12(SF) (Short Form). In addition, BEA proposes to base industry coding of reporting companies on the new North American Industry Classification System (NAICS) in place of the current system which is based on the U.S. Standard Industrial Classification system; to collect new information on affiliated services transactions by type of service; and to modify the detail collected on the composition of external financing of the reporting enterprise, on exports and imports of goods by product, and on the operations of foreign-owned businesses in individual States.

A copy of the proposed survey forms may be obtained from the Direct Investment in the United States Branch, International Investment Division, BE–49(A), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230; phone (202) 606–5577.

Executive Order 12612

These proposed rules do not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under E.O. 12612.

Executive Order 12866

These proposed rules have been determined to be not significant for purposes of E.O. 12866.

Paperwork Reduction Act

These proposed rules contain a collection of information requirement subject to the Paperwork Reduction Act. The collection of information requirement contained in the proposed rule has been submitted to the Office of Management and Budget for review under section 3507 of the Paperwork Reduction Act.

Notwithstanding any other provisions of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection-of-information subject to the requirements of the Paperwork Reduction Act unless that collection displays a currently valid Office of Management and Budget Control Number, such a Control Number (0608–0042) has been displayed.

Public reporting burden for this collection of information is estimated to vary from 1 to 715 hours per response, with an average of 22 hours per response, including time for reviewing instructions, searching existing data

sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the agency, including whether the information will have practical utility; (b) the accuracy of the burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. Comments should be addressed to: Director, Bureau of Economic Analysis (BE–1), U.S. Department of Commerce, Washington, DC 20230; and the Office of Management and Budget, O.I.R.A., Paperwork Reduction Project 0608–0042, Washington, DC 20503.

Regulatory Flexibility Act

The Assistant General Counsel for Legislation and Regulation, Department of Commerce, has certified to the Chief Counsel for Advocacy, Small Business Administration, under provisions of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this proposed rulemaking, if adopted, will not have a significant economic impact on a substantial number of small entities. Most small businesses are not foreign owned, and many that are will not be required to report in the benchmark survey because their assets, sales, and net income are each equal to or less than the $3 million exemption level below which reporting is not required. Also, under these proposed rules, companies with assets, sales, or net income above $3 million, but not above $100 million, would report on the abbreviated BE–12 short form, rather than on the BE–12 long form. In addition companies with assets, sales, or net income between $3 million and $30 million will report only selected data items on the BE–12 short form. These provisions are intended to significantly reduce the reporting burden on smaller companies.

List of Subjects in 15 CFR Part 806

Balance of payments, Economic statistics, Foreign investments in the United States, Reporting and recordkeeping requirements.

J. Steven Landefeld,

Director, Bureau of Economic Analysis.

For the reasons set forth in the preamble, BEA proposes to amend 15 CFR Part 806 as follows:

PART 806—DIRECT INVESTMENT SURVEYS

1. The authority citation for 15 CFR Part 806 continues to read as follows:

Authority: 5 U.S.C. 301; 22 U.S.C. 3101–3108; and E.O. 11961 (3 CFR, 1977 Comp., p. 86), as amended by E.O. 12013 (3 CFR, 1977 Comp., p. 147), E.O. 12318 (3 CFR, 1981 Comp., p. 173), and E.O. 12518 (3 CFR, 1985 Comp., p. 348).

2. Section 806.17 is revised to read as follows:

§ 806.17 Rules and regulations for BE–12, Benchmark Survey of Foreign Direct Investment in the United States—1997

A BE–12, Benchmark Survey of Foreign Direct Investment in the United States will be conducted covering 1997. All legal authorities, provisions, definitions, and requirements contained in §§ 806.1 through 806.13 and § 806.15 (a) through (g) are applicable to this survey. Specific additional rules and regulations for the BE–12 survey are given in the this section.

(a) *Response required.* A response is required from persons subject to the reporting requirements of the BE–12, Benchmark Survey of Foreign Direct Investment in the United States—1997, contained in this section, whether or not they are contacted by BEA. Also, a person, or their agent, contacted by BEA concerning their being subject to reporting, either by sending them a report form or by written inquiry, must respond in writing pursuant to § 806.4. This may be accomplished by completing and returning either Form BE–12(X) within 30 days of its receipt if Form BE–12(LF), Form BE–12(SF), or Form BE–12 Bank do not apply, or by completing and returning Form BE–12(LF), Form BE–12(SF), or Form BE–12 Bank, whichever is applicable, by may 31, 1998.

(b) *Who must report.* A BE–12 report is required for each U.S. affiliate, i.e., for each U.S. business enterprise in which a foreign person owned or controlled, directly or indirectly, 10 percent or more of the voting securities if an incorporated U.S. business enterprise, or an equivalent interest if an unincorporated U.S. business enterprise, at the end of the business enterprise's 1997 fiscal year. A report is required even though the foreign person's ownership interest in the U.S. business enterprise may have been established or acquired during the reporting period. Beneficial, not record, ownership is the basis of the reporting criteria.

(c) *Forms to be filed.* (2) Form BE–12(LF)—Benchmark Survey of Foreign Direct Investment in the United States—1997 (Long Form) must be completed and filed by May 31, 1998, by each U.S. business enterprise that was a U.S. affiliate of a foreign person at the end of its 1997 fiscal year; if:

(i) It is not a bank, and

(ii) On a fully consolidated, or, in the case of real estate investment, an aggregated basis, one or more of the following three items for the U.S. affiliate (not just the foreign parent's share) exceeded $100 million (positive or negative) at the end of, or for, its 1997 fiscal year:

(A) Total assets (do not net out liabilities);

(B) Sales or gross operating revenues, excluding sales taxes; or

(C) Net income after provision for U.S. income taxes.

(2) Form BE–12(SF)—Benchmark Survey of Foreign Direct Investment in the United States—1997 (Short Form) must be completed and filed by May 31, 1998, by each U.S. business enterprise that was a U.S. affiliate of a foreign person at the end of its 1997 fiscal year, if:

(i) It is not a bank, and

(ii) On a fully consolidated, or, in the case of real estate investments, an aggregated basis, one or more of the following three items for the U.S. affiliate (not just the foreign parent's share) exceeded $3 million, but no one item exceeded $100 million (positive or negative) at the end of, or for, its 1997 fiscal year.

(A) Total assets (do not net out liabilities);

(B) Sales or gross operating revenues, excluding sales taxes; or

(C) Net income after provision for U.S. income taxes.

(3) Form BE–12 Bank—Benchmark Survey of Foreign Direct Investment in the United States—1997 BANK must be completed and filed by May 31, 1998, by each U.S. business enterprise that was a U.S. affiliate of a foreign person at the end of its 1997 fiscal year, if:

(i) The U.S. affiliate is in ''banking'', which, for purposes of the BE–12 survey, covers businesses enterprises engaged in deposit banking or closely related functions, including commercial banks, Edge Act corporations engaged in international or foreign banking, U.S. branches and agencies of foreign banks whether or not they accept domestic deposits, savings and loans, savings banks, and bank holding companies, i.e., holding companies for which over 50 percent of their total income is from banks which they hold, and

(ii) On a fully consolidated basis, one or more of the following three items for the U.S. affiliate (not the foreign parent's share) exceeded $3 million

(positive or negative) at the end of, or for, its 1997 fiscal year:

(A) Total assets (do not net out liabilities);

(B) Sales or gross operating revenues, excluding sales taxes; or

(C) Net income after provision for U.S. income taxes.

(4) Form BE–12(X)—Benchmark Survey of Foreign Direct Investment in the United States—1997, Claim for Exemption from Filing BE–12(LF), BE–12(SF), and BE–12 Bank must be completed and filed within 30 days of the date it was received, or by May 31, 1998, whichever is sooner, by:

(i) Each U.S. business enterprise that was a U.S. affiliate of a foreign person at the end of its 1997 fiscal year (whether or not the U.S. affiliate, or its agent, is contacted by BEA concerning its being subject to reporting in the 1997 benchmark survey), but is exempt from filing Form BE–12(LF), Form BE–12 (SF), and Form BE–12 Bank; and

(ii) Each U.S. business enterprise, or its agent, that is contacted, in writing, by BEA concerning its being subject to reporting in the 1997 benchmark survey but that is not otherwise required to file the Form BE–12(LF), Form BE–12(SF), or Form BE–12 Bank.

(d) *Aggregation of real estate investments.* All real estate investments of a foreign person must be aggregated for the purpose of applying the reporting criteria. A single report form must be filed to report the aggregate holdings, unless written permission has been received from BEA to do otherwise. Those holdings not aggregated must be reported separately.

(e) *Exemption.* (1) A U.S. affiliate as consolidated, or aggregated in the case of real estate investments, is not required to file a Form BE–12(LF), BE–12(SF), or Form BE–12 Bank if each of the following three items for the U.S. affiliate (not just the foreign parent's share) did not exceed $3 million (positive or negative) at the end of, or for, its 1997 fiscal year:

(i) Total assets (do not net out liabilities);

(ii) Sales or gross operating revenues, excluding sales taxes; and

(iii) Net income after provision for U.S. income taxes.

(2) If a U.S. business enterprise was a U.S. affiliate at the end of its 1997 fiscal year but is exempt from filing a completed Form BE–12(LF), BE–12(SF), or Form BE–12 Bank, it must nevertheless file a completed and certified Form BE–12(X).

(f) *Due date.* A fully completed and certified Form BE–12(LF), Form BE–12(SF), or BE–12 Bank is due to be filed with BEA not later than May 31, 1998. A fully completed and certified Form BE–12(X) is due to be filed with BEA within 30 days of the date it was received, or by May 31, 1998, whichever is sooner.

[FR Doc. 97–26658 Filed 10–07–97; 8:45 am]
BILLING CODE 3510–06–M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 206

RIN 1010–AC09

Workshops on Proposed Rule—Establishing Oil Value for Royalty Due on Federal Leases

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of workshops.

SUMMARY: The Minerals Management Service (MMS) has reopened the public comment period under a proposed rule published in the **Federal Register** on January 24, 1997 (62 FR 3742), amending the royalty valuation regulations for crude oil produced from Federal leases. In the July 3, 1997, **Federal Register** (62 FR 36030), we published a supplementary notice of proposed rulemaking. We received a variety of comments on the proposed and supplementary proposed rules. In the September 22, 1997, **Federal Register** (62 FR 49460) we published a summary of these comments, outlined alternatives for proceeding with further rulemaking, and requested public comment on those or other suggested alternatives. In the September 26, 1997, **Federal Register** (62 FR 50544) we announced three workshops to discuss alternatives for proceeding with the rulemaking.

MMS will now hold three additional workshops to discuss alternatives for proceeding with the rulemaking. The main purpose of these workshops is to provide small producers an opportunity to learn more about the proposed rule and to obtain their comments on the alternatives described in the September 22, 1997, **Federal Register** notice (62 FR 49460), or any new alternatives or modifications to the proposed alternatives for MMS's consideration. We are not requesting comments on the original proposed rule or the supplemental proposed rule, nor on the summary of comments outlined in the September 22, 1997, **Federal Register** notice (62 FR 49460). Interested parties are invited to attend and participate in these workshops.

DATES: Comments on the notice reopening the comment period must be submitted to MMS by October 22, 1997.

The workshops will be held as follows:

Workshop 1: Bakersfield, CA, October 16, 1997, from 1 p.m. to 4:30 p.m., Pacific time.

Workshop 2: Casper, WY, October 16, 1997, from 1 p.m. to 4:30 p.m., Mountain time.

Workshop 3: Roswell, NM, October 21, 1997, from 1:30 p.m. to 5:00 p.m., Mountain time.

ADDRESSES: Workshop 1 will be held in the Bakersfield District Office, Bureau of Land Management, 3801 Pegasus Drive, Bakersfield, CA 93308–6837, telephone (805) 391–6000.

Workshop 2 will be held in the Casper District Office, Bureau of Land Management, 1701 East ''E'' Street, Casper, WY 82601, telephone (307) 261–7600.

Workshop 3 will be held in the Roswell District Office, Bureau of Land Management, 2909 West 2nd Street, Roswell, NM 88201, telephone (505) 627–0272.

FOR FURTHER INFORMATION CONTACT: Peter Christnacht or Sheila Dean, Royalty Valuation Division, Royalty Management Program, Minerals Management Service, P.O. Box 25165, MS 3151, Denver, CO 80225–0165, telephone numbers (303) 275–7252 and (303) 275–7201, respectively; or David S. Guzy, Chief, Rules and Publications Staff, Royalty Management Program, Minerals Management Service, P.O. Box 25165, MS 3021, Denver, CO 80225–0165; telephone (303) 231–3432; fax number (303) 231–3385; e-Mail David__Guzy@mms.gov.

SUPPLEMENTARY INFORMATION: These three workshops will be open to the public in order to discuss the alternatives described in the September 22, 1997, Notice (62 FR 49460).

While MMS is hosting other workshops involving industry organizations and States, the intent of the Bakersfield, Casper, and Roswell workshops is to provide information to, and receive comments from, small oil producers at locations near their operations to minimize their travel. However, other interested parties are welcome. We encourage a workshop atmosphere where members of the public participate in a discussion of the alternatives. Space is limited. However, attendees should reserve slots with Peter Christnacht or Shelia Dean at the telephone numbers in the **FOR FUTURE INFORMATION CONTACT** section of this notice no later than October 15, 1997. For building security measures, each

person will be required to sign in and may be required to present a picture identification to gain entry to the workshops.

Dated: October 2, 1997.

R. Dale Fazio,

Acting Associate Director for Royalty Management.

[FR Doc. 97–26570 Filed 10–7–97; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 47

RIN 2900–AI78

Reporting Health Care Professionals to State Licensing Boards

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: It continues to be the policy of the Department of Veterans Affairs (VA) to report to State Licensing Boards any separated physician, dentist, or other licensed health care professional (one who no longer is on VA rolls) whose clinical practice so significantly failed to meet generally accepted standards of clinical practice as to raise reasonable concern for the safety of patients. This document proposes that, in addition, VA would report to State Licensing Boards any currently employed physician, dentist, or other licensed health care professional (one who is on VA rolls) whose clinical practice so significantly failed to meet generally accepted standards of clinical practice during VA employment as to raise reasonable concern for the safety of patients. Some health care professionals who are VA employees also provide health care outside VA's jurisdiction. Accordingly, the reporting of currently employed licensed health care professionals who meet the standard for reporting appears to be necessary so that State Licensing Boards can take action as appropriate to protect the public. Examples of actions that meet the criteria for reporting are set forth in the text portion of this rulemaking. Also, this document proposes to clarify that to be ''on VA rolls'' means on VA rolls regardless of the status of the health care professional, including full-time, part-time, contract service, fee-basis, or without compensation. This would identify more clearly those health care professionals who would be subject to the reporting policy. Further, nonsubstantive changes are made for purposes of clarity.

DATES: Comments must be received on or before December 8, 1997.

ADDRESSES: Mail or hand deliver written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Avenue, NW, Room 1154, Washington, DC 20420. Comments should indicate that they are submitted in response to ''RIN 2900-AI16.'' All written comments received will be available for public inspection at the above address in the Office of Regulations Management, Room 1158, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT: Ruth-Ann Phelps, Ph.D., Veterans Health Administration, Patient Care Services (11B), 810 Vermont Ave., NW., Washington, DC 20420, at (202) 273–8473 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This proposed rule has been reviewed by OMB under Executive Order 12866.

Regulatory Flexibility Act

The Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. The rule will affect only individuals and will not directly affect any small entities. Therefore, pursuant to 5 U.S.C. 605(b), this rule is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

There are no applicable Catalog of Federal Domestic Assistance program numbers.

List of Subjects in 38 CFR Part 47

Health professions.

Approved: September 5, 1997.

Hershel W. Gober,

Acting Secretary of Veterans Affairs.

For the reasons set forth in the preamble, 38 CFR part 47 is proposed to be amended as follows:

PART 47—POLICY REGARDING REPORTING HEALTH CARE PROFESSIONALS TO STATE LICENSING BOARDS

1. The authority citation for part 47 continues to read as follows:

Authority: Pub. L. 99–166, 99 Stat. 941; 38 U.S.C. 501.

2. The part heading for part 47 is revised to read as shown above.

3. In part 47, subpart A and subpart B headings are removed.

4. In § 47.1, paragraph (a) is removed; paragraphs (b) through (h) are redesignated as paragraphs (a) through (g), respectively; new paragraphs (h) and (i) are added, and the authority citation is revised, to read as follows:

§ 47.1 Definitions.

* * * * *

(h) *Currently employed licensed health care professional* means a licensed health care professional who is on VA rolls.

(i) *On VA rolls* means on VA rolls, regardless of the status of the professional, such as full-time, part-time, contract service, fee-basis, or without compensation.

(Authority: 38 U.S.C. 501, 7401–7405; Section 204(b) of Pub. L. 99–166, 99 Stat. 952–953; Pub. L. 99–660, 100 Stat. 3743)

§ 47.2 [Removed]

5. Section 47.2 is removed.

§ 47.3 [Redesignated as § 47.2]

6. Section 47.3 is redesignated as § 47.2.

7. The newly redesignated § 47.2 is revised to read as follows:

§ 47.2 Reporting to State licensing boards.

It is the policy of VA to report to State Licensing Boards any currently employed licensed health care professional or separated licensed health care professional whose clinical practice during VA employment so significantly failed to meet generally accepted standards of clinical practice as to raise reasonable concern for the safety of patients. The following are examples of actions that meet the criteria for reporting:

(a) Significant deficiencies in clinical practice such as lack of diagnostic or treatment capability; errors in transcribing, administering or documenting medication; inability to perform clinical procedures considered basic to the performance of one's occupation; performing procedures not included in one's clinical privileges in other than emergency situations;

(b) Patient neglect or abandonment;

(c) Mental health impairment sufficient to cause the individual to behave inappropriately in the patient care environment;

(d) Physical health impairment sufficient to cause the individual to provide unsafe patient care;

(e) Substance abuse when it affects the individual's ability to perform appropriately as a health care provider or in the patient care environment;

(f) Falsification of credentials;

(g) Falsification of medical records or prescriptions;

(h) Theft of drugs;

(i) Inappropriate dispensing of drugs;

(j) Unethical behavior or moral turpitude;

(k) Mental, physical, sexual, or verbal abuse of a patient (examples of patient abuse include intentional omission of care, willful violation of a patient's privacy, willful physical injury, intimidation, harassment, or ridicule); and

(l) Violation of research ethics.

(Authority: 38 U.S.C. 501, 7401–7405; Section 204(b) of Pub. L. 99–166, 99 Stat. 952–953; Pub. L. 99–660, 100 Stat. 3743)

[FR Doc. 97–26612 Filed 10–7–97; 8:45 am]

BILLING CODE 8320–01–P

Notices

Federal Register

Vol. 62, No. 195

Wednesday, October 8, 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

Pinkham Timber Sales and Associated Activities; Kootenai National Forest, Lincoln County, Montana

AGENCY: Forest Service, USDA.

ACTION: Notice of Intent to prepare an environmental impact statement.

SUMMARY: The USDA, Forest Service, will prepare an Environmental Impact Statement (EIS) to disclose the environmental effects of timber harvest, prescribed fire, road closures, road rehabilitation, and construction of temporary and specified roads in the Pinkham Creek drainage. The Pinkham Creek drainage is located approximately 5 air miles southwest of Eureka, Montana.

The proposed actions to harvest and reforest timber stands, construct, reconstruct and rehabilitate roads, prescribe burning, and restrict roads are being considered together because they represent either connected or cumulative actions as defined by the Council on Environmental Quality (40 CFR 1508.25). The purposes of the project are to restore ecological processes in order to achieve sustainable conditions, reduce the risk of large-scale, severe wildlife in an urban/wildland interface area, and provide for human needs and desires.

The EIS will tier to the Kootenai National Forest Land and Resource Management Plan and Final EIS of September, 1987, which provides overall guidance for forest management of the area. All activities associated with the proposal will be designed to maintain high quality wildlife, fisheries, and watershed objectives.

DATES: Written comments and suggestions should be received by December 8, 1997.

ADDRESSES: The Responsible Official is Robert Schrenk, Forest Supervisor, Kootenai National Forest. Written comments and suggestions concerning the scope of the analysis may be sent to: Robert Thompson, District Ranger, Rexford Ranger District, 1299 Highway 93 North, Eureka, Montana 59917.

FOR FURTHER INFORMATION: Terry Chute, Planning Coordinator, Rexford Ranger District, Phone: (406) 296–2536.

SUPPLEMENTARY INFORMATION: The decision area contains approximately 65,100 acres within the Kootenai National Forest in Lincoln County, Montana. All of the proposed projects would occur on National Forest lands in the Pinkham Creek drainage near Eureka, Montana. The legal location of the decision area is as follows: all or portions of Township 36 North, Range 28 West; Township 36 North, Range 27 West; Township 35 North, Range 28 West; Township 35 North, Range 27 West; Township 34 North, Range 28 West; Township 34 North, Range 27 West; Township 33 North, Range 28 West; Township 33 North, Range 27 West; Principal Montana Meridian.

All proposed activities are outside the boundaries of any inventoried roadless area or any areas considered for inclusion to the National Wilderness System as recommended by the Kootenai National Forest Plan or by any past or present legislative wilderness proposals.

The Forest Service proposes to commercially thin and prescribed burn about 5,050 acres; regeneration harvest and prescribe burn about 1,425 acres; salvage harvest about 290 acres; and slash and prescribe burn (with no associated harvest) about 1,750 acres over the next 10 years. An estimated harvest volume of approximately 59,530 hundred cubic feet of commercial timber products would be produced. An estimated 1.1 mile of specified road construction would be needed to access timber harvest areas. An estimated 38 miles of road reconstruction would also be needed to improve drainage and safety on roads needed to access timber harvest areas. An unspecified amount of road no longer in use would be rehabilitated by various methods which include recontouring, ripping and seeding, rehabilitated by various methods which include recontouring, ripping and seeding, rehabilitation of stream crossings, and installment of barriers resulting in abandonment.

Three management strategies have been developed in response to the following conditions:

1. Reduce the risk of catastrophic fire by treating areas of high or accumulating fuel concentrations. The treatments proposed under this strategy include commercial timber harvest, slashing and prescribed burning. Timber harvest would include salvage, commercial thinning and regeneration methods. Methods used would depend on the composition of stands proposed for treatment and available options for achieving desired conditions and trends.

2. Minimize the risk of epidemic bark beetle attack by developing desirable tree species composition and reducing stand density. This strategy is related to Strategy 1, as epidemic bark beetle activity causes tree mortality that can greatly increase fuel accumulations. The treatments proposed under this strategy include commercial thinning, slashing and prescribed burning.

3. Minimize the effect of high levels of root rot by regenerating areas of high root rot activity to less susceptible tree species. This strategy is related to Strategies 1 and 2 as root rot weakens and predisposes trees to bark beetle attack. The subsequent increase in tree mortality can greatly increase fuel accumulations. The treatment proposed with this strategy would use regeneration harvest methods to reestablish stands of tree species less susceptible to root rot. In the Decision Area, Douglas-fir is the tree species that is most susceptible to root rot. Western larch and western white pine are less susceptible, and are well suited to the portions of the Decision Area affected by root rot.

The Kootenai National Forest Land and Resource Management Plan provides overall management objectives in individual delineated management areas (MA's). The proposed projects encompass five predominant MA's; 6, 10, 11, 12 and 15. Briefly described, MA 6 is managed to provide for opportunities for developed recreation activities. MA 10 is managed to maintain or enhance the winter range habitat effectiveness for big game species. MA 11 is managed to maintain or enhance the winter range habitat effectiveness for big game species and produce a programmed yield of timber. MA 12 is managed to maintain or

enhance non-winter big game habitat and produce a programmed yield of timber. MA 15 focuses upon timber production using various silvicultural practices while providing for other resource values such as soils, air, water, wildlife, recreation, and forage for domestic livestock. Timber harvest and prescribed burning is proposed in all MA's. This proposal includes replicating historic disturbance patterns. Fourteen forest openings greater than 40 acres in size would be created, ranging in size from 44 to 373 acres. A 60 day public review and approval of the Regional Forester for exceeding the 40 acre limitation for regeneration harvest would be required prior to the signing of the Record of Decision. The 60-day scoping period initiated with this Notice of Intent will serve as the public review period for openings over 40 acres.

The Proposed Action would include two amendments to the Kootenai Forest Plan. A programmatic amendment to the Forest Plan for managing open road density at a level above the MA 12 standard may be necessary. A project-specific amendment for harvesting in big game movement corridors in MA 12 may also be necessary.

The Forest Service will consider a range of alternatives. One of these will be the ''no action'' alternative in which none of the proposed activities would be implemented. Additional alternatives will examine varying levels and locations for the proposed activities to achieve the proposal's purposes, as well as to respond to the issues and other resource values.

Concerns: Several areas of concern were identified by the public as well as Forest Service personnel during preliminary assessment. These concerns are briefly described below:

- The Pinkham area is home to many people who care deeply about, and have multi-generational ties to the area. Public land in the valley is seen as an asset for recreation and people's quality of life.
- Clear-cutting: Many people said there has been too much clear-cutting in the area in the past, and they are ugly. Future harvest should be done selectively, leaving the large trees. On the other hand, some said that clear-cuts provide important habitat for deer, elk and grouse, and that clear-cutting should continue.
- Prescribed burning: People do not like the appearance. Many believe that trees that are burned up or killed could have provided firewood or wood products. A few said they understood the need for burning in some cases, but had reservations. Smoke in the valley from prescribed burning was also mentioned.
- Roads and road access: Comments varied. Many thought there were too many road closures, while others felt that more roads should be closed. Many people felt that there were enough or too many roads in the area, and that no new roads were needed. Several people identified the need to increase control of knapweed, which occurs along some roads in the area.
- Public use and recreation: There is a common sentiment that public recreational use has increased over the past several years. Hunting and snowmobiling were specifically mentioned as uses that have increased. Many people said that additional developed recreation sites were not desired or needed. Some desire increased maintenance of trails, especially historic pack trails. Others mentioned the decreasing availability of firewood. Off-road vehicle use was said to be increasing, which was not desired due to noise and ground disturbance. A majority of people said that maintaining traditional recreational opportunities was important.
- Wildlife: A variety of opinions and observations about wildlife were expressed. Some felt that populations of deer, elk and moose were increasing, while others said they were declining. Some said that management of the area should focus on recovery of threatened, endangered and sensitive wildlife species, while others believe that ''multiple-use'' management should continue. One mentioned that designated winter range is used almost totally in summer and fall months.
- Livestock grazing: Many comments were received expressing displeasure and frustration with livestock grazing in the area. Open-range cattle on private land, in streams, and in roadways were mentioned numerous times. Other comments expressed the desire to maintain or increase livestock grazing in the area.
- Timber management: Many people said that timber harvest is appropriate, and expressed a preference for selective harvests that retain both large and small trees, are adequately cleaned up following harvest, and provide opportunities for small operators. The appearance of recently logged areas is important to many people. Several stated that dead and dying trees should be harvested before they lose their value for timber products. Some people expressed their belief that the area has been over cut in the past and further timber harvest is inappropriate. Others said that timber should be managed as it has been in the past, and that the emphasis for the area should be for maximum timber production.
- Water quality, riparian areas: The need for water quality protection was mentioned by several people. Some thought the area near Pinkham Creek should not be harvested, but should be maintained for fishing and camping. One person mentioned that the Forest Service needed to pay more attention to wet areas within harvest units. Concern about effects to water quality from cattle in streams was voiced.
- What people would like the Pinkham Area to be like in the future: Many people expressed a desire that the area continue to provide the quality of experiences and benefits to people that it has over the past 90+ years. Many people mentioned maintaining the lower valley floor as a quality residential area, while providing opportunities for recreation, grazing and timber harvest. A common sentiment seemed to be that the area remain ''unchanged''—as remote as possible, a good place to raise a family and make a living. Others believe that the area should be managed for reforestation, wildlife habitat improvement, sensitive and endangered species recovery, water quality and fishery improvement. Still others feel that recreation should be the primary human use.
- Public involvement and scoping: In October, 1993 a ''Pinkham Project Area Planning Report'' was mailed to over 200 local landowners and residents, and people that had expressed interest in Forest Service activities in the area. Advertisements were also placed in the *Daily Interlake,* Kalispell, Montana and the *Tobacco Valley News,* Eureka, Montana, requesting public comment and information concerning the Pinkham Project Area. In addition, in June, 1997 a letter was mailed to approximately 230 individuals, groups and other agencies comprising the mailing list for the Pinkham Project Area requesting written comments. Taking into account the comments received and information gathered during preliminary analysis, it was decided to prepare an EIS for the Pinkham Timber Sales and Associated Activities. Comments received prior to this notice will be included in developing issues and identifying alternatives for the EIS.

This environmental analysis and decision making process will enable additional interested and affected people to participate and contribute to the final decision. The public is encouraged to take part in the process and is encouraged to visit with Forest Service officials at any time during the analysis and prior to the decision. The

Forest Service will be seeking information, comments, and assistance from Federal, State, local agencies and other individuals or organizations who may be interested in or affected by the proposed action. This input will be used in preparation of the draft and final EIS. The scoping process will include:

—Identifying preliminary issues.
—Identifying significant issues to be analyzed in depth.
—Identifying alternatives to the proposed action.
—Identifying potential environmental effects of this project and alternatives (i.e., direct, indirect, and cumulative effects and connected actions).

Estimated Dates for Filing: While public participation in this analysis is welcome at any time, comments received within 60 days of the publication of this notice will be especially useful in the preparation of the Draft EIS. The 60-day comment period will fulfill the public review requirement for creating openings over 40 acres in size. The Draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review by March, 1998. At that time, EPA will publish a Notice of Availability of the Draft EIS in the **Federal Register**. The comment period on the Draft EIS will be a minimum of 45 days from the date the EPA publishes the Notice of Availability in the **Federal Register**.

The Final EIS is scheduled to be completed by June, 1998. In the Final EIS, the Forest Service is required to respond to comments and responses received during the comment period that pertain to the environmental consequences discussed in the Draft EIS and applicable laws, regulations, and policies considered in making a decision regarding the proposal.

Reviewers Obligations: The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* versus *NRDC,* 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage may be waived or dismissed by the courts. *City of Angoon* versus *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* versus *Harris,* 490 F.Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45 day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider and respond to them in the Final EIS.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives discussed. Reviewers may wish to refer to the Council on Environmental Quality regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Responsible Official: Robert Schrenk, Forest Supervisor, Kootenai National Forest, is the Responsible Official. Authority for preparation of the EIS has been delegated to Robert Thompson, District Ranger, Rexford Ranger District, 1299 Highway 93 North, Eureka, Montana. The Responsible Official will decide which, if any, of the proposed projects will be implemented. The decision and reasons for the decision will be documented in the Record of Decision. That decision will be subject to Forest Service Appeal Regulations.

Dated: October 2, 1997.

Robert J. Thompson,

Acting Forest Supervisor.

[FR Doc. 97–26624 Filed 10–7–97; 8:45 am]

BILLING CODE 3410–11–M

BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION

Agency Information Collection Activities: Proposed Collection; Comment Request; Extension

AGENCY: Barry Goldwater Scholarship and Excellence in Education Foundation.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice annouces that the Goldwater Scholarship Foundation is planning to submit, for extension, the following Information Collection Request (ICR) to the Office of Management and Budget (OMB): Goldwater Scholarship Payment Request Form, OMB No. 3019–0001. Before submitting the ICR to OMB for review and approval for extension, The Goldwater Foundation is soliciting comments on the proposed ICR as described below.

DATES: Comments must be submitted on or before December 8, 1997.

ADDRESSES: Mail comments to Gerald J. Smith, President, Barry Goldwater Scholarship and Excellence in Education Foundation, 6225 Brandon Avenue, Suite 315, Springfield, VA 22150–2519.

FOR FURTHER INFORMATION CONTACT: Gerald J. Smith, (703) 756–6012; FAX: (703) 756–6015; E-mail: goldh2o@erols.com.

SUPPLEMENTARY INFORMATION:

Affected Entities: Entities affected by this action include approximately 400 Goldwater Scholars and their respective Academic and Financial Aid Officers.

Title: Goldwater Foundation payment Request Form.

Abstract: Public Law 99–166 authorizes The Goldwater Foundation to conduct an annual nationwide undergraduate scholarship competition for students pursuing careers in mathematics, the natural sciences and engineering. This Information Collection Form is used by the Foundation to verify a Goldwater Scholarship recipient's academic standing and to authorize the disbursement of funds to the Scholar each term.

The Foundation uses this form to ensure that only authorized expenses are requested and to avoid the duplication of other scholarship funding which is prohibited. Less frequent collection of this information would not allow the Foundation to verify a Scholar's academic and financial status as required each term. Further, less frequent collection would cause the Foundation to expend funds sooner than would be fiscally responsible, since all funds are interest bearing until expended. Under the Paperwork Reduction Act of 1995 (the PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3© and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party.

Section 3506(c)(2)(A) of the PRA (44 U.S.C. (c)(2)(A) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information before submitting the collection to OMB for approval. To comply with this requirement, The Goldwater Foundation is publishing notice of the proposed collection of information listed below.

With respect to the following collection of information, The Goldwater Foundation invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of the Foundation's functions, including whether the information will have practical utility; (2) the accuracy of the 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.

Data Collected Include: Current School and Home addresses; Current cost of tuition, fees, books, room and board and additional expenses: list of other scholarships and verification signatures of the Scholar, academic and financial aid officers.

Burden Statement: The estimated public reporting burden for this collection of information is 45 minutes per respondent semiannually. This estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining and reviewing the collection of information.

Respondents: Goldwater Scholarship recipients.

Estimated Number of Respondents: 400.

Responses: 2 per school year.

Total Burden Hours: 600 per year.

Recordkeepers: 2.

Total Burden Hours: 133.

Dated: September 26, 1997.

Gerald J. Smith,

President.

[FR Doc. 97–26622 Filed 10–7–97; 8:45 am]

BILLING CODE 6820–AK–M

DEPARTMENT OF COMMERCE

Office of the Secretary

Announcing Public Availability of the Report on Closed Meetings of Advisory Committees

SUMMARY: The Department of Commerce has prepared its report on the activities of closed or partially closed meetings of advisory committees as required by the Federal Advisory Committee Act.

ADDRESSES: Copies of the report have been filed and are available for public inspection at two locations:

Library of Congress, Newspaper and Current Periodicals Reading Room, Room LM133, Madison Building, 1st and Independence Avenues, S.E., Washington, D.C. 20540

Department of Commerce, Central Reference and Records Inspection Facility, Room 6020, Herbert C. Hoover Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230 Telephone (202) 482–4115.

SUPPLEMENTARY INFORMATION: The report covers meetings held in FY 96. Thirty-one committees and one subcommittee report having held closed or partially closed meetings. The names of these committees are listed below:

—Industry Sector Advisory Committee (ISAC) on Aerospace Equipment for Trade Policy Matters (TPM)
—ISAC on Building Products and Other Materials for TPM
—ISAC on Capital Goods for TPM
—ISAC on Chemicals and Allied Products for TPM
—ISAC on Consumer Goods for TPM
—ISAC on Electronics and Instrumentation for TPM
—ISAC on Energy for TPM
—ISAC on Ferrous Ores and Metals for TPM
—ISAC on Footwear, Leather, and Leather Products for TPM
—ISAC on Lumber and Wood Products for TPM
—ISAC on Nonferrous Ores and Metals for TPM
—ISAC on Paper and Paper Products for TPM
—ISAC on Services for TPM
—ISAC on Small and Minority Business for TPM
—ISAC on Textiles and Apparel for TPM
—ISAC on Wholesaling and Retailing for TPM
—Industry Functional Advisory Committee on Customs Matters for TPM
—Industry Functional Advisory Committee on Intellectual Property Rights for TPM
—Industry Functional Advisory Committee on Standards for TPM
—Industry Policy Advisory Committee for Trade Policy Matters
—Information Systems Technical Advisory Committee
—Judges Panel of the Malcolm Baldrige National Quality Award
—Materials Processing Equipment Technical Advisory Committee
—Materials Technical Advisory Committee
—National Medal of Technology Nomination Evaluation Committee
—National Technical Information Service Advisory Board
—President's Export Council
—Regulations and Procedures Technical Advisory Committee
—Sensors Technical Advisory Committee
—Subcommittee on Export Administration, President's Export Council
—Transportation and Related Equipment Technical Advisory Committee
—U.S. Automotive Parts Advisory Committee
—Visiting Committee on Advanced Technology

Twenty-one committees report not having held any closed or partially closed meetings.

FOR FURTHER INFORMATION CONTACT: Victoria A. Kruk, Committee Management Officer, Office of the Secretary, Department of Commerce, Washington, D.C. 20230, Telephone (202) 482–4115.

Dated: October 1, 1997.

Victoria A. Kruk,

Office of Executive Assistance Management.

[FR Doc. 97–26657 Filed 10–7–97; 8:45 am]

BILLING CODE 3510–FA–P

DEPARTMENT OF COMMERCE

Bureau of the Census

Census Advisory Committee of Professional Associations

AGENCY: Bureau of the Census, Commerce.

ACTION: Notice of public meeting.

Pursuant to the Federal Advisory Committee Act (P.L. 92–463 as amended by P.L. 94–409), we are giving notice of a meeting of the Census Advisory Committee of Professional Associations. The meeting will convene on October 23–24, 1997 at the Embassy Suites Hotel, 1250 22nd Street, NW., Washington, DC 20037.

The committee is composed of 36 members appointed by the Presidents of

the American Economic Association, the American Statistical Association, the Population Association of America, and the Chairperson of the Board of the American Marketing Association. The committee advises the Director, Bureau of the Census, on the full range of Census Bureau programs and activities in relation to their areas of expertise.

The agenda for the meeting on October 23 that will begin at 9:00 a.m. and end at 5:15 p.m. is as follows:

- Introductory Remarks by the Director, Bureau of the Census.
- Census Bureau Responses to Committee Recommendations.
- What are the Implications of Implementing the new North American Industry Classification System (NAICS) in our Current Economic Surveys?
- The Search for a Corporate Look and Feel: Next Steps.
- What Is the Role of the International Program Center in the Next Decade?
- Congressional Update.
- Current Issues in Construction Statistics.
- Is the Census Bureau's Approach to Marketing the American Community Survey and its Products on Track?
- How Should the Census Bureau Estimate Variances for Imputed Data?
- Discussion of Federal Agency Data Sharing.
- Census 2000 Sampling and Estimation Plans: Any Fatal Flaws?
- Report of the Chief Economist Including Activities of the Center for Economic Studies.
- What Standard Products Should the Census Bureau Develop from Census 2000?
- How Should the Census Bureau Recruit Demographers, Math Stats, and Economists?

The agenda for the meeting on October 24 that will begin at 9:00 a.m. and end at 12:15 p.m. is as follows:

- Discussion of New Initiatives of the Office of the Chief Economist: Expanding the Longitudinal Research Database (LRD) Beyond Manufacturing.
- What Future Enhancements are Needed to Make ''FedStat'' More Useable?
- Develop Recommendations and Special Interest Activities.
- Closing Session.

The meeting is open to the public, and a brief period is set aside, during the closing session, on October 24 for public comment and questions. Those persons with extensive questions or statements must submit them in writing to the Census Bureau Committee Liaison Officer, Ms. Maxine Anderson-Brown, Room 3039, Federal Building 3, Washington, DC 20233, at least three days before the meeting.

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation, or other auxiliary aids should also be directed to the Census Bureau Committee Liaison Officer.

Persons wishing additional information or minutes for this meeting, or who wish to submit written statements may contact the Committee Liaison Officer on 301–457–2308, TDD 301–457–2540.

Dated: October 2, 1997.

Martha Farnsworth Riche,

Director, Bureau of the Census.

[FR Doc. 97–26647 Filed 10–7–97; 8:45 am]

BILLING CODE 3510–07–P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Man-Made Fiber and Wool Textile Products Produced or Manufactured in Egypt

October 2, 1997.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: October 8, 1997.

FOR FURTHER INFORMATION CONTACT: Helen L. LeGrande, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Uruguay Round Agreements Act.

The current limit for Category 448 is being increased for swing, carryover and carryforward. The limit for the Fabric Group and the sublimit for Category 227 are being reduced to account for the swing being applied.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 61 FR 66263, published on December 17, 1996). Also see 61 FR 68242, published on December 27, 1996.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing, but are designed to assist only in the implementation of certain of their provisions.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 2, 1997.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 20, 1996, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in Egypt and exported during the twelve-month period which began on January 1, 1997 and extends through December 31, 1997.

Effective on October 8, 1997, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month level [1]
Fabric Group	
218–220, 224–227, 313–317 and 326, as a group.	97,288,791 square meters.
Sublevel within Fabric Group	
227	22,158,700 square meters.
Level not in a group	
448	21,840 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1996.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 97–26580 Filed 10–7–97; 8:45 am]

BILLING CODE 3510–DR–F

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meeting

AGENCY: U.S. Consumer Product Safety Commission, Washington, DC 20207.

TIME AND DATE: Wednesday, October 15, 1997; 10:00 a.m.

LOCATION: Room 420, East West Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Open to the Public.

MATTER TO BE CONSIDERED:

Fluoride

The staff will brief the Commission on a staff recommendation that the Commission propose a rule requiring child-resistant packaging under the Poison Prevention Packaging Act for household products containing the equivalent of more than 50 mg of elemental fluoride and more than the equivalent of 0.5 percent elemental fluoride. The staff also recommends that the Commission modify the current exemption for oral prescription drugs with sodium fluoride so that the exemption level would be consistent with the recommended level for household products.

For a recorded message containing the latest agenda information, call (301) 504-0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sadye E. Dunn, Office of the Secretary, 4330 East West Highway, Bethesda, MD 20207 (301) 504–0800.

Dated: October 6, 1997.

Sadye E. Dunn,

Secretary.

[FR Doc. 97–26879 Filed 10–6–97; 3:16 p.m.]

BILLING CODE 6355–01–M

DEPARTMENT OF DEFENSE

Department of the Army

Environmental Assessment (EA) and Finding of No Significant Impact (FNSI) for the Relocation of the Department of Defense Polygraph Institute (DoDPI) to Fort Jackson, South Carolina

AGENCY: Department of the Army, DoD.

ACTION: Notice of availability.

SUMMARY: In accordance with Pub. L. 101–510, the Defense Base Closure and Realignment Act of 1990, the Defense Base Closure and Realignment Commission recommended the closure of Fort McClellan, Alabama, and associated relocation of DoDPI to Fort Jackson, South Carolina. The relocation will increase the permanent party population of Fort Jackson by 67 and average daily student load by approximately 25. To accomplish the increased mission at Fort Jackson, construction of a DoDPI administrative and instructional facility is required.

The EA identifies, evaluates, and documents the relevant incremental and cumulative effects upon existing resources of receiving and stationing the DoDPI at Fort Jackson. It considers seven realignment alternatives: use of existing facilities with renovation, leasing of off-post facilities, construction at four alternative sites (Sites A–D), and the no-action alternative. The preferred alternative is construction at Site B. It was selected because it best meets all the selection criteria. The site is distinguished in that it has the lowest habitat value. It is covered with deteriorating asphalt, while the other three construction sites have surface soils supporting varying degrees of vegetation.

The Chief of Staff of the U.S. Army Training and Doctrine Command has concluded the relocation of DoDPI to Fort Jackson will not significantly impact human health or the environment. Proper mitigation measures are in place to minimize potential temporary impacts. The realignment action will not significantly increase the current intensity of training at Fort Jackson. Because there are no significant impacts resulting from the implementation of the proposed action, and Environmental Impact Statement is not required and will not be prepared. The Army will not proceed with any action until after the 30-day comment period has been completed.

DATES: Public comments will be accepted until November 7, 1997.

ADDRESSES: A copy of the EA/FNSI may be obtained by writing to, and any inquiries or comments concerning the same should be directed to, Commander, U.S. Army Corps of Engineers, Norfolk District, ATTN: CENAO–PL–R (Richard Muller), Norfolk, VA 23510–1096, or phone (757) 441–7767; fax (757) 441–7646. Copies of the EA will also be available for review at the Fort Jackson Library and Richland County Public Library, Columbia, South Carolina.

Dated: October 3, 1997.

Raymond J. Fatz,

Deputy Assistant Secretary of the Army, (Environment, Safety and Occupational Health) OASA (I, L&E).

[FR Doc. 97–26667 Filed 10–7–97; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Proposed collection; comment request.

SUMMARY: The Deputy Chief Information Officer, Office of the Chief Information Officer, 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 December 8, 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 Deputy Chief Information Officer, Office of the Chief Information Officer, 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: October 2, 1997.

Gloria Parker,

Deputy Chief Information Officer, Office of the Chief Information Officer.

Office of Special Education and Rehabilitative Services

Type of Review: Reinstatement.

Title: State Plan for Independent Living, Rehabilitation Act of 1973, as Amended (Act), Title VII, Chapter 1.

Frequency: Every three years.

Affected Public: State, local or Tribal Gov't, SEAs or LEAs.

Annual Reporting and Recordkeeping Hour Burden:

Responses: 56.

Burden Hours: 4,480.

Abstract: The purpose of Chapter 1 of Title VII of the Act (Ch. 1) is to promote a philosophy of independent living which includes control, peer support, self-help, self-determination, equal access and individual and system advocacy, in order to maximize the leadership, empowerment, independence, and productivity of individuals with disabilities, and the integration and full inclusion of individuals with disabilities into the mainstream of American society. To implement this purpose, Ch. 1 authorizes financial assistance to States for providing, expanding and improving the provisions of State independent living services (SILS), to develop and support statewide networks of centers for independent living (CILs), to improve working relationships among State IL services programs (SILS), CILs, Statewide Independent Living Councils (SILCs), programs funded under other titles of the Act, and other programs that address issues relevant to individuals with disabilities funded by Federal and non-Federal authorities.

Section 704 of the Act requires the designated State unit(s) (DSU), jointly with the SILC to develop and sign an approvable SPIL in each State to receive financial assistance under Ch. 1.

Office of Intergovernmental and Interagency Affairs

Type of Review: Reinstatement.

Title: Applications for the U.S. Presidential Scholars Program.

Frequency: Annually.

Affected Public: Individuals or households.

Reporting and Recordkeeping Burden:

Responses: 2,600.

Burden Hours: 41,600.

Abstract: The United States Scholars Program is a national recognition program to honor and recognize outstanding graduating high school seniors. Candidates are invited to apply to the program based on academic achievements on the SAT or ACT. This program was established under Executive Order of the President 11155.

[FR Doc. 97–26607 Filed 10–7–97; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

DOE Implementation Plan for Recommendation 97–1 of the Defense Nuclear Facilities Safety Board, Safe Storage of Uranium-233

AGENCY: Department of Energy.

ACTION: Notice.

SUMMARY: The Defense Nuclear Facilities Safety Board published Recommendation 97–1, concerning the safe storage of uranium-233, on March 11, 1997 (62 FR 11160). Under section 315(e) of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2286d(e), the Department of Energy must transmit an implementation plan on Recommendation 97–1 to the Defense Nuclear Facilities Safety Board after acceptance of the Recommendation by the Secretary. The Department's implementation plan was sent to the Safety Board on September 29, 1997, and is available for review in the Department of Energy Public Reading Rooms.

ADDRESSES: Send comments, data, views, or arguments concerning the implementation plan to: Department of Energy, 1000 Independence Avenue, SW, Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT: Mr. John Tseng, Director of the Nuclear Materials Stabilization Task Group in the Office of Environmental Management, Department of Energy, 1000 Independence Avenue, SW, Washington, D.C. 20585.

Issued in Washington, D.C., on October 2, 1997.

Mark B. Whitaker, Jr.,

Departmental Representative to the Defense Nuclear Facilities Safety Board.

September 29, 1997.

The Honorable John T. Conway,
Chairman, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, N.W., Suite 700, Washington, D.C. 20004

Dear Mr. Chairman: We are pleased to forward the Department's implementation plan for addressing the issues raised in the Defense Nuclear Facilities Safety Board's Recommendation 97–1 concerning the safe storage of uranium-233 material. The Department assessed the safety issues associated with the recommendation in terms of the history of uranium-233. The primary safety issue being addressed with the implementation plan is the lack of material characterization and uncertainty of storage conditions for uranium-233.

As noted in my April 25, 1997, letter to you, the Department is using a systems engineering approach to manage the implementation of this recommendation. Recognizing that it will take time to perform the systems engineering efforts, we are concurrently taking near-term actions as described in the implementation plan to further assess material characterization and storage conditions and make necessary changes to mitigate interim identified risks.

The implementation plan was prepared by a Task Team reporting to the Assistant Secretaries for Defense Programs and Environmental Management, in coordination with other affected Headquarters and Field offices. Mr. John Tseng, Director of the Nuclear Materials Stabilization Task Group in the Office of Environmental Management, is the responsible manager for implementation of the plan. He can be reached at (202) 586–0383.

Sincerely,

Federico Peña

[FR Doc. 97–26633 Filed 10–7–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[Docket Nos. EA–156 and EA–157]

Applications to Export Electric Energy; Inland Pacific Resources and Consolidated Edison

AGENCY: Office of Fossil Energy, DOE

AGENCY: Notice of applications.

SUMMARY: Inland Pacific Resources, Inc., a power marketer, and Consolidated Edison Company of New York, a public utility, have submitted applications to export electric energy to Canada pursuant to section 202(e) of the Federal Power Act.

DATES: Comments, protests or requests to intervene must be submitted on or before November 7, 1997.

ADDRESS: Comments, protests or requests to intervene should be addressed as follows: Office of Coal & Power Im/Ex (FE–27), Office of Fossil Energy, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585–0350 (FAX 202–287–5736).

FOR FURTHER INFORMATION CONTACT: Ellen Russell (Program Office) 202–586–5883 or Michael Skinker (Program Attorney) 202–586–6667.

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated and require authorization under section 202(e) of the Federal Power Act (FPA) (16 U.S.C. § 824a(e)).

The Office of Fossil Energy (FE) of the Department of Energy (DOE) has received applications from the following companies for authorization to export electric energy to Canada, pursuant to section 202(e) of the FPA:

Applicant	Application date	Docket No.
Inland Pacific Resources Inc. (IPRI).	9/16/97	EA–156
Consolidated Edison Company of New York, Inc. (Con Edison).	9/23/97	EA–157

IPRI, a power marketing company, does not own or control any facilities for the generation or transmission of electricity, nor does it have a franchised service area. IPRI proposes to transmit to Canada electric energy purchased from electric utilities and other suppliers within the U.S. Con Edison is a regulated public utility serving customers in the New York City metropolitan area. Con Edison proposes to transmit to Canada electric energy that is excess to its system or purchased from electric utilities or other suppliers within the U.S.

The applicants would arrange for the exported energy to be transmitted to Canada over the international facilities owned by Basin Electric, Bonneville Power Administration, Citizens Utilities, Detroit Edison Company, Eastern Maine Electric Cooperative, Joint Owners of the Highgate Project, Maine Electric Power Company, Maine Public Service Company, Minnesota Power and Light Company, Minnkota Power Cooperative, New York Power Authority, Niagara Mohawk Power Corporation, Northern States Power, and Vermont Electric Transmission Company. Each of the transmission facilities, as more fully described in these applications, has previously been authorized by a Presidential permit issued pursuant to Executive Order 10485, as amended.

Procedural Matters

Any persons desiring to become a party to these proceedings or to be heard by filing comments or protests to these applications should file a petition to intervene, comment or protest at the address provided above in accordance with §§ 385.211 or 385.214 of the FERC's Rules of Practice and Procedures (18 CFR 385.211, 385.214). Fifteen copies of such petitions and protests should be filed with the DOE on or before the date listed above. Comments on IPRI's request to export to Canada should be clearly marked with Docket EA–156. Additional copies are to be filed directly with Edward A. Finklea, Ball Janik LLP, 101 S.W. Main Street, Suite 1100, Portland, Oregon 97204 AND Inland Pacific Resources Inc., c/o Jan Marston, President, Inland Pacific Energy Services Ltd., 1600—1095 West Pender Street, Vancouver, B.C. V6E2M6, Canada. Comments on Con Edison's request to export to Canada should be clearly marked with Docket EA–157. Additional copies are to be filed directly with John F. Gallagher III, Esq., 4 Irving Pace—Rm. 1815 South, Manhattan, NY 10003.

A final decision will be made on these applications after the environmental impacts have been evaluated pursuant to the National Environmental Policy Act of 1969 (NEPA), and a determination is made by the DOE that the proposed actions will not adversely impact on the reliability of the U.S. electric power supply system.

Copies of these applications will be made available, upon request, for public inspection and copying at the address provided above.

Issued in Washington, DC on October 1, 1997.

Anthony J. Como,

Manager, Electric Power Regulation, Office of Coal & Power Im/Ex, Office of Coal & Power Systems, Office of Fossil Energy.

[FR Doc. 97–26634 Filed 10–7–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[Docket No. ETEC–012]

Certification of the Radiological Condition of Building T012 at the Energy Technology Engineering Center Near Chatsworth, California

AGENCY: U.S. Department of Energy, Office of Environmental Restoration.

ACTION: Notice of Certification.

SUMMARY: The Department of Energy (DOE) has completed radiological surveys and taken remedial action to decontaminate Building T012 located at the Energy Technology Engineering Center (ETEC) near Chatsworth, California. This property previously was found to contain radioactive materials from activities carried out for the Atomic Energy Commission and the Energy Research and Development Administration (AEC/ERDA), predecessor agencies to DOE. Although DOE owns the majority of the buildings and equipment, a subsidiary of Rockwell International, Rocketdyne, owned the land. Rocketdyne has recently been sold to Boeing North American Incorporated.

FOR FURTHER INFORMATION CONTACT: Mike Lopez, Program Manager, Environmental Restoration Division, Oakland Operations Office, U.S. Department of Energy, Oakland, CA 94612–5208.

SUPPLEMENTARY INFORMATION: DOE has implemented environmental restoration projects at ETEC (Ventura County, Map Book 3, Page 7, Miscellaneous Records) as part of DOE's Environmental Restoration Program. One objective of the program is to identify and clean up or otherwise control facilities where residual radioactive contamination remains from activities carried out under contract to AEC/ERDA during the early years of the Nation's atomic energy program.

ETEC is comprised of several facilities and structures located within Administrative Area IV of the Santa Susana Field Laboratory. The work performed for DOE at ETEC consisted primarily of testing equipment, materials, and components for nuclear and energy-related programs. These nuclear energy research and development programs, conducted by Atomics International under contract to AEC/ERDA, began in 1946. Several buildings and land areas became radiologically contaminated as a result of facility operations and site activities. Building T012 is one ETEC area that has been designated for cleanup under the DOE Environmental Restoration Program. Other areas undergoing decontamination will be released as they are completed and are verified to meet established cleanup criteria and standards for release without radiological restrictions as established in DOE Order 5400.5.

Building T012 is located in the north-central section of Area IV. It originally consisted of two sections connected with an enclosed passageway.

Building T012 consisted of a critical cell that was a sealed room with 4-ft. thick concrete walls, lined with a ¼-in. steel liner, used to test Systems for Nuclear Auxiliary Power (SNAP) critical assemblies. The cell floor is a mat-type concrete foundation. Sealed during operation, this room was designed to withstand the pressure release and to contain radioactive materials in the event of a burst condition from the assemblies.

The equipment room adjacent to the critical cell has 9-in. thick concrete walls and ceiling and a spread concrete foundation. A fuel storage area was located in the west section of the room consisting of a concrete shield wall containing 1 percent boron by weight. Embedded in the wall were 110 cadmium-plated tubes, 3½ in. inside diameter by 20 in. long. The tubes were located on 1-ft. centers, 5 tubes high, and 22 tubes wide.

Operations in Building T012 began with systems for SNAP critical assemblies in 1962. These experiments used three different critical assembly machines: SCA–4A, –4B, and SCA–5. Most tests were directed at determining criticality of various configurations and conditions, such as water immersion, and were performed well below the allowed high power limit of about 100 watts. No significant amounts of induced activity were produced by these operations.

Clad reactor fuel elements (U–ZrH) were stored as shipped in containers and in the fuel storage tubes located in room 109. The SNAP critical experiments continued intermittently through 1968, when the fuel was shipped to the SSN Storage Vault (Building T064), and the facility was placed in a standby mode.

To allow the release of building T012 for use without radiological restriction, all detectable radioactive material/contamination was removed from the facility. This decontamination and decommissioning was performed in two phases: (1) starting in 1986 with the removal of the operations control room and (2) the enclosed passageway connecting those structures to the equipment room and the critical cell.

The second and final stage of decontamination of Building T012 began in February 1995 and required slightly less than five months to complete.

Briefly, the decontamination steps involved in the second stage were to decontaminate and decommission the remaining concrete vault structure of Building T012 sufficiently to permit its use without radiological or chemical contamination restrictions.

The accomplishment of this objective included removal of asbestos containing floor tiles and pipe insulation; removal of eight contaminated fuel storage tubes; removal of light fixtures, conduit, and ventilation systems; paint sampling and removal, and scabbing of the floor, wall, ceiling surfaces; and completion of the ''Final Radiological and Chemical Contamination Assessment Survey.''

Rockwell/Rocketdyne performed a final radiological survey in 1996. The Environmental Survey and Site Assessment Program of the Oak Ridge Institute for Science and Education performed independent verification of the decontamination work performed by Rockwell/Rocketdyne in 1996. Post-decontamination surveys have demonstrated that Building T012 is in compliance with DOE decontamination criteria and standards for release without radiological restrictions. The State of California Department of Health Services has concurred that the proposed release guidelines provide adequate assurance for release without further radiological restrictions. In the event of property transfer, DOE intends to comply with applicable Federal, State, and local requirements.

None of the engineering or radiation and nuclear safety personnel assigned to the Building T012 decommissioning project received any measurable exposure to ionizing radiation.

Final costs for the decontamination of Building T012 were $389,632.

The certification docket will be available for review between 9:00 a.m. and 4:00 p.m., Monday through Friday (except Federal holidays), in the U.S. DOE Public Reading Room located in Room 1E–190 of the Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. Copies of the certification docket will also be available at the following locations: DOE Public Document Room, U.S. Department of Energy, Oakland Operations Office, the Federal Building, 1301 Clay Street, Oakland, California; California State University, Northridge, Urban Archives Center, Oviatt Library, Room 4, 18111 Nordhoff, Northridge, California; Simi Valley Library, 2629 Tapo Canyon Road, Simi Valley, California; and the Platt Branch, Los Angeles Public Library, 23600 Victory Boulevard, Woodland Hills, California.

DOE has issued the following statement of certification:

Statement of Certification—Energy Technology Engineering Center, Building T012

The U.S. Department of Energy (DOE), Oakland Operations Office, Environmental Restoration Division, has reviewed and analyzed the radiological data obtained following decontamination of Building T012 at the Energy Technology Engineering Center. Based on analysis of all data collected and the results of the independent verification, DOE certifies that the following property is in compliance with DOE radiological decontamination criteria and standards as established in DOE Order 5400.5. This certification of compliance provides assurance that future use of the property will result in no radiological exposure above applicable guidelines established to protect members of the general public or site occupants. Accordingly, the property specified below is released from DOE's Environmental Restoration Program.

Property owned by Boeing North American Incorporated:

Building T012, at the Energy Technology Center (situated within Area IV of the Santa Susana Field Laboratory), located in a portion of Tract ''A'' of Rancho Simi, in the County of Ventura, State of California, as per map recorded in Book 3, Page 7 of Miscellaneous Records of Ventura County.

Issued in Washington, D.C., on September 26, 1997.

James J. Fiore,

Acting Deputy Assistant Secretary for Environmental Restoration.

Statement of Certification: Energy Technology Engineering Center, Building 012

The U.S. Department of Energy, Oakland Operations Office, Environmental Restoration Division, has reviewed and analyzed the radiological data obtained following decontamination of the Energy Technology Engineering Center Building 012. Based on this analysis of all data collected, the Department of Energy (DOE) certifies that the following property is in compliance with DOE decontamination criteria and standards. This certification of compliance provides assurance that future use of the property will result in no radiological exposure above applicable guidelines established to protect members of the general public or site occupants. Accordingly, the property specified below is released from DOE's Environmental Restoration Program.

Property owned by Rockwell International Corporation:

Building 012, at the Energy Technology Engineering Center, located in a portion of Tract ''A'' of Rancho Simi, in the County of Ventura, State of California, as per map recorded in Book

3, Page 7 of Miscellaneous Records of Ventura County.

Certification:

Dated: August 29, 1997

Hannibal Joma,

ETEC Site Manager.

[FR Doc. 97–26635 Filed 10–7–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–5–000]

Algonquin Gas Transmission Company; Notice of Request for Extension of Waiver

October 2, 1997.

Take notice that on September 15, 1997, Algonquin Gas Transmission Company, (Algonquin) in compliance with the March 13, 1997 [1] and May 21, 1997 [2] orders of the Commission in the captioned docket tendered for filing a request for an extension of the six month waiver previously granted by the Commission with respect to compliance with the data elements and formatting as adopted by the Commission in Order No. 587.

Algonquin states that under the waiver, it was required to submit its requests for changes to the data elements to the Gas Industry Standards Board (GISB). Algonquin states that it has implemented the changes already approved by GISB, but requests an extension of the waiver until the Commission adopts the next version of the GISB standards. With respect to those requests still pending at GISB, Algonquin requests an additional six month extension of time.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Regulations. All such protests should comply with principles set forth in the Commission's May 21, 1997 order and must be filed by October 14, 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 proceedings. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–26592 Filed 10–7–97; 8:45 am]

BILLING CODE 6717–01–M

[1] Algonquin Gas Transmission Company, 78 FERC ¶ 61,281 (1997).

[2] Texas Eastern Transmission Corporation 79 FERC ¶ 61,223 (1997).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–171–010]

ANR Pipeline Company; Notice of Proposed Changes In FERC Gas Tariff

October 2, 1997.

Take notice that, on September 30, 1997, ANR Pipeline Company (ANR) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, tariff sheets in compliance with the Commission's June 26, 1997 order accepting subject to certain modifications to ANR's May 1, 1997 filing to comply with the GISB standards adopted in Order No. 587–C.

ANR states that copies of the filing have been mailed to all affected customers and state regulatory commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commissions Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–26598 Filed 10–7–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM97–2–48–000]

ANR Pipeline Company; Notice of Informal Technical Conference

October 2, 1997.

On February 28, 1997, ANR Pipeline Company (ANR) tendered revised tariff sheets reflecting its annual redetermination of the levels of its Transporter's Fuel Use (%) as required by ANR's currently effective tariff. By order issued March 26, 1997, [1] the Commission accepted and suspended the tariff sheets subject to refund, to be effective April 1, 1997, and requested that the parties file additional comments within 20 days of the order, with reply comments to follow 10 days later. By letter dated August 19, 1997, Staff requested additional data from ANR.

Upon review of the filing herein, the additional comments and data responses, staff has determined that it will hold an informal technical conference on this matter.

Take notice that the technical conference will therefore be held at 10:00 a.m., on Tuesday, October 14, 1997, and continuing the following day, Wednesday, October 15, if necessary, in a room to be designated at the offices of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington D.C. 20426.

All interested parties and Staff are permitted to attend. The parties should be prepared to support their conclusions with specific references to the work papers and information that has been provided to the Commission. Questions about this conference should be directed to Bob Keegan, (202) 208–0158, or Louis Lieb, (202) 208–0012.

Lois D. Cashell,

Secretary.

[FR Doc. 97–26604 Filed 10–7–97; 8:45 am]

BILLING CODE 6717–01–M

[1] 78 FERC ¶ 61,328 (1997).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project Nos. 1417 and 1835]

Central Nebraska Public Power and Irrigation District Nebraska Public Power District; Notice of Informal Settlement Conference, October 2, 1997

An informal settlement conference will be convened on Wednesday, November 5, 1997 at 8 a.m. at the Denver Federal Center, Third Floor Conference Room, located at 134 Union Blvd., Lakewood, Colorado. The purpose of this off-the-record meeting is to explore the possible settlement of any contested issue. Any person appearing at the conference in a representative capacity must be authorized to negotiate and, to the extent authorized by law, settle matters addressed at the conference.

Any party, as defined by 18 CFR 385.102(c), is invited to send a representative to the conference. Any party wishing to make a presentation or needing additional information should contact Merrill F. Hathaway at (202) 208–0825, or John A. Schnagl at (202) 219–2661.

Lois D. Cashell

Secretary.

[FR Doc. 97–26589 Filed 10–7–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–167–008]

Columbia Gas Transmission Corporation; Notice of Compliance Filing

October 2, 1997.

Take notice that on September 29, 1997, Columbia Gas Transmission Corporation (Columbia) tendered for filing the revised tariff sheets listed on Appendix A to its FERC Gas Tariff, Second Revised Volume No. 1, in compliance with the Commission's directive in its Letter Order dated June 11, 1997 and the Letter Order dated July 24, 1997 at RP97–167–005. These tariff sheets implement the Gas Industry Standards Board's standards adopted by the Commission in Order No. 587–C. Columbia proposes an effective date of November 1, 1997 for the tariff sheets.

Columbia states that tariff sheets 456 reflects the change directed by the Commission in its July 24, 1997 Letter Order regarding GISB Standard 4.3.6. Columbia had incorrectly sought to adopt version 1.1. The remaining tariff sheets were accepted by the Commission in its June 11, 1997 Letter Order.

Columbia states that copies of its filings have been mailed to all of its customers, affected State Regulatory commissions, and all parties to this proceeding.

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 projects must be made 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 such protests will not serve to make protestants parties to this 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. 97–26597 Filed 10–7–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–166–008]

Columbia Gulf Transmission Company; Notice of Compliance Filing

October 2, 1997.

Take notice that on September 29, 1997, Columbia Gulf Transmission Company (Columbia Gulf) tendered for filing the revised tariff sheets listed on Appendix A to the filing in compliance with the Commission's directive in its Letter Order dated June 11, 1997 at RP97–166–003 and Order dated May 14, 1997 at RP97–166–001, 002. These tariff sheets implement the Gas Industry Standards Board's standards adopted by the Commission in Order No. 587–C. Columbia Gulf proposes an effective date of November 1, 1997 for the tariff sheets.

Columbia Gulf states that copies of its filings have been mailed to all of its customers, affected State Regulatory commissions, and all parties to this proceeding.

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 made 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 such protests will not serve to make protestants parties to this 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. 97–26596 Filed 10–7–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT97–70–000]

Equitrans, L.P.; Notice of Proposed Changes In FERC Gas Tariff

October 2, 1997.

Take notice that on September 30, 1997, Equitrans, L.P. (Equitrans), tendered for filing the as part of its FERC Gas Tariff, First Division Volume No. 1, the following tariff sheets to become effective October 1, 1997.

Fifth Revised Sheet No. 400
Seventh Revised Sheet No. 401

Equitrans states that this filing is made to update Equitrans' index of customers. In Order No. 581 the Commission established a revised format for the Index of Customers to be included in the tariffs of interstate pipelines and required the pipelines to update the index on a quarterly basis to reflect changes in contract activity. Equitrans requests a waiver of the Commission's notice requirements to permit the tariff sheet to take effect on July 1, 1997, the second calendar quarter, in accordance with Order No. 158.

Equitrans states that a copy of its filing has been served upon its customers and interested state commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C., 20426, in accordance 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. 97–26587 Filed 10–7–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–784–000]

K N Interstate Gas Transmission Company; Notice of Request Under Blanket Authorization

October 2, 1997.

Take notice that on September 30, 1997, K N Interstate Gas Transmission Company (KNI), Post Office Box 281304, Lakewood, Colorado 80228–8304, filed a prior notice request with the Commission in Docket No. CP97–784–000 pursuant to Section 157.205 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to install and operate two new delivery taps and appurtenant facilities in Holt and Sheridan Counties, Nebraska, under KNI's blanket certificates issued in Docket Nos. CP83–140–000, CP83–140–001, and CP89–1043–000 pursuant to Section 7 of the NGA, all as more fully set forth in the request which is open to the public for inspection.

KNI proposes to install and operate both delivery taps under a transportation agreement with K N Energy, Inc. (K N Energy). KNI states that it would install one tap on its main transmission system in Holt County at a cost of $20,000 to deliver approximately 530 Mcf of natural gas on a peak day and 193,000 Mcf annually for a retail customer. KNI also states that it would install the other tap on its main transmission system in Sheridan County at a cost of $1,500 to deliver approximately 4 Mcf of natural gas on a peak day and 250 Mcf annually for a domestic customer. KNI further states that the addition of the proposed taps is not prohibited by its FERC Gas Tariff and that addition of the taps would not have any adverse impact on a daily or annual basis upon KNI's existing customers.

Any person or the Commission's staff may, within 45 days after the Commission has issued this notice, 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 Section 157.205 of the Regulations under the NGA (18 CFR 157.205) a protest to the request. If no protest is filed within the allowed time, 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 NGA.

Lois D. Cashell,

Secretary.

[FR Doc. 97–26583 Filed 10–7–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–497–001]

Koch Gateway Pipeline Company; Notice of Compliance Filing

October 2, 1997.

Take notice that on September 29, 1997, Koch Gateway Pipeline Company (Koch) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheet to be effective October 1, 1997:

Sub 2nd Rev 19th Revised Sheet No. 24

Koch is submitting the above-referenced tariff sheet pursuant to a Letter Order dated September 24, 1997, regarding Docket No. RP97–497–000. As directed, Koch has revised the tariff sheet to correct two errors made in its August 20, 1997, filing to remove the Sea Robin Pipeline Company Account No. 858 surcharges from its currently effective tariff sheets.

Koch also states that it has served copies of this filing upon person on the official service list compiled by the Secretary in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.211 of the Commission's Regulations. All such protest must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–26601 Filed 10–7–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–3887–000]

Long Island Lighting Company; Notice of Filing

October 2, 1997.

Take notice that on August 18, 1997, Long Island Lighting Company tendered for filing an amendment in the above-referenced docket.

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 October 10, 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. 97–26586 Filed 10–7–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM98–1–54–000]

Louisiana-Nevada Transit Company; Notice of Tariff Filing

October 2, 1997.

Take notice that on September 29, 1997, Louisiana-Nevada Transit Company (LNT), tendered for filing as part of its Third Revised FERC Gas Tariff, Second Revised Volume No. 1, the tariff sheet listed below, to be effective October 1, 1997:

Third Revised Sheet No. 56

Pursuant to Order No. 472, the Commission has authorized pipeline companies to track and pass through to their customers their annual charges under an Annual Charge Adjustment (ACA) clause. The 1997 ACA unit surcharge approved by the Commission is $.0022 per Dth.

Pursuant to Section 154.207 of the Commission's Regulations, LNT

requests that the Commission grant any waivers necessary to permit the tariff sheets contained herein to become effective October 1, 1997.

LNT states that a copy of its filing has been served upon its customers and interested state commissions.

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 Rules of Practice and Procedure. All such 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. Copies of this filing are on file and available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–26605 Filed 10–7–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–841–002]

NESI Power Marketing, Inc.; Notice of Filing

October 2, 1997.

Take notice that on July 29, 1997, NESI Power Marketing, Inc., tendered for filing their Transaction Reports for short-term transactions for the second quarter of 1997 pursuant to the Commission's order in *Northern Indiana Public Service Company* and *NIPSCO Energy Services, Inc.*, 75 FERC ¶ 61,213 (1996) and the Commission's March 13, 1997, letter order in *NESI Power Marketing, Inc.*, Docket No. ER97–841–000..

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 the 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 October 10, 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 proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–26584 Filed 10–7–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–61–009]

NorAm Gas Transmission Company; Notice of Proposed Changes in FERC GAS Tariff

October 2, 1997.

Take notice that on September 29, 1997, NorAm Gas Transmission Company (NGT) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following revised tariff sheets to be effective November 1, 1997:

Second Revised Sheet No. 168
Third Revised Sheet No. 192
Third Revised Sheet No. 204
Third Revised Sheet No. 217

NGT states that the purpose of this filing is to comply with the letter order issued in this docket on June 30, 1997.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with § 385.211 of the Commission's Rules of Practice and Procedure. All such protests must be filed as provided in § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. 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. 97–26594 Filed 10–7–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM98–1–138–000]

Norteno Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

October 2, 1997.

Take notice that on September 29, 1997, Norteno Pipeline Company (Norteno), tendered for filing proposed changes in its FERC Gas Tariff, First Volume No. 1. Norteno submitted First Revised Sheet No. 10 with a proposed effective date of October 1, 1997.

Norteno submitted the tariff sheet to comply with Order No. 472 in Docket No. RM87–3–000, establishing that cost responsibility for the Commission's budgetary expenses would be assessed against gas pipelines and others through annual charges. Order No. 472 permitted pipelines to pass through these annual charges by means of an Annual Charge Adjustment Provision. In accordance with Order No. 472 and Section 28 of the General Terms and Conditions of Norteno's FERC Gas Tariff, Norteno submits for filing First Revised Sheet No. 10 to track the Commission's approved ACA unit rate of $0.0022 per MMBtu on Norteno's system effective October 1, 1997.

Norteno requests waiver of Section 154.402(b)(3) of the Commission's rules in order to permit the proposed tariff sheet to become effective on October 1, 1997.

Norteno states that copies of the filing were served upon Norteno's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the 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. 97–26606 Filed 10–7–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–4–000]

Panhandle Eastern Pipe Line Company; Notice of Request for Extension of Waiver

Ocotber 2, 1997.

Take notice that on September 15, 1997, Panhandle Eastern Pipe Line Company, (Panhandle) in compliance with the March 13, 1997 [1] and May 21, 1997 [2] orders of the Commission in the captioned docket tendered for filing a request for an extension of the six month waiver previously granted by the Commission with respect to compliance with the data elements and formatting as adopted by the Commission in Order No. 587.

Panhandle states that under the waiver, it was required to submit its requests for changes to the data elements to the Gas Industry Standards Board (GISB). Panhandle states that it has implemented the changes already approved by GISB, but requests an extension of the waiver until the Commission adopts the next version of the GISB standards. With respect to those requests still pending at GISB, Panhandle requests an additional six months extension of time.

Any person desiring to protest said 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 should comply with principles set forth in the Commission's May 21, 1997 order and must be filed by October 14, 1997. Protests will be considered by the Commission in determining appropriate action to be taken, but will not serve to make protestants parties to this proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary

[FR Doc. 97–26591 Filed 10–7–97; 8:45 am]

BILLING CODE 6717–01–M

[1] Panhandle Eastern Pipe Line Company, 78 FERC ¶ 61,283 (1997).

[2] Texas Eastern Transmission Corporation, 79 FERC ¶ 61,223 (1997).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–3803–000]

San Diego Gas & Electric Company; Notice of Filing

October 2, 1997.

Take notice that on August 11, 1997, San Diego Gas & Electric Company tendered for filing an amendment in the above-referenced docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene of 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 October 9, 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. 97–26585 Filed 10–7–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–771–000]

Texas Eastern Transmission Corporation; Notice of Request Under Blanket Authorization

October 2, 1997.

Take notice that on September 25, 1997, Texas Eastern Transmission Corporation (Texas Eastern), 5400 Westheimer Court, Houston, Texas 77056–5310, filed in Docket No. CP97–771–000 a request pursuant to Sections 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 Delaware County, Pennsylvania, 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 value and an 8-inch check valve to serve Mobil Oil Corporation (Mobil). It is stated that Texas Eastern will also install or cause to be installed, interconnecting pipeline and electronic gas measurement equipment. It is further stated that Texas Eastern will be fully reimbursed for the $1,135,000 cost of installing the tap and appurtenant facilities by Mobil. It is asserted that Texas Eastern will use the facilities to deliver up to 27 Mmcf on a peak day. It is further asserted that the volume of gas delivered to Mobil 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 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 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. 97–26582 Filed 10–7–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–3–000]

Texas Eastern Transmission Corporation; Notice of Request for Extension of Waiver

October 2, 1997.

Take notice that on September 15, 1997, Texas Eastern Transmission Corporation, (Texas Eastern) in

compliance with the March 13, 1997 [1] and May 21, 1997 [2] orders of the Commission in the captioned docket tendered for filing a request for an extension of the six month waiver previously granted by the Commission with respect to compliance with the data elements and formatting as adopted by the Commission in Order No. 587.

Texas Eastern states that under the waiver, it was required to submit its requests for changes for the data elements to the Gas Industry Standards Board (GISB). Texas Eastern states that it has implemented the changes already approved by GISB, but requests an extension of the waiver until the Commission adopts the next version of the GISB standards. With respect to those requests still pending at GISB, Texas Eastern requests an additional six month extension of time.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Regulations. All such protests should comply with principles set forth in the Commission's May 21, 1997 Order and must be filed by October 14, 1997. Protests will be considered by the Commission in determining appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–26590 Filed 10–7–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM97–1–142–001]

Texas-Ohio Pipeline, Inc.; Notice of Filing of Refund Report

October 2, 1997.

Take notice that on September 29, 1997, Texas-Ohio Pipeline, Inc. (TOP) tendered for filing a refund report in Docket No. TM97–1–142–000 related to the correction of its Annual charge Adjustment (ACA) surcharge for the period since October 1, 1996.

TOP states that it is filing this report and has made a refund in compliance with the Letter Order issued August 19, 1997 in the above referenced docket, by Kevin P. Madden, Director, Office of Pipeline Regulation.

TOP states that copies of TOP's filing have been served on each of its jurisdictional customers.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests should be filed on or before October 9, 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. 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. 97–26603 Filed 10–7–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RO97–6–000]

Trunkline Gas Company; Notice of Request for Extension of Waiver

October 2, 1997.

Take notice that on September 15, 1997, Trunkline Gas Company, (Trunkline) in compliance with the March 13, 1997 [1] and May 21, 1997 [2] orders of the Commission in the captioned docket tendered for filing a request for an extension of the six month waiver previously granted by the Commission with respect to compliance with the data elements and formatting as adopted by the Commission in Order No. 587.

Trunkline states that under the waiver, it was required to submit its requests for changes to the data elements to the Gas Industry Standards Board (GISB). Trunkline states that it has implemented the changes already approved by GISB, but requests an extension of the waiver until the Commission adopts the next version of the GISB standards. With respect to those request still pending at GISB, Trunkline requests an additional six month extension of time.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Regulations. All such protests should comply with principles set forth in the Commission's May 21, 1997 order and must be filed by October 14, 1997. Protests will be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–26593 Filed 10–7–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–768–000]

Williams Natural Gas Company; Notice of Application To Abandon Facilities

October 2, 1997.

Take notice that on September 23, 1997, Williams Natural Gas Company (WNG) filed an application pursuant to Section 7(b) of the Natural Gas Act, requesting permission and approval to abandon by reclaim a 1,000 horsepower rental compressor unit and appurtenant facilities, all as more fully set forth in this request which is on file with the Commission and open to public inspection.

Specifically, WNG seeks authority to abandon by reclaim the 1,000 horsepower skid-mounted Waukesha rental compressor unit and appurtenances originally installed in the Elk City storage field in Montgomery County, Kansas, to recapture migrating storage gas produced by gas wells outside the storage field. WNG estimates the cost to reclaim the facilities to be $45,575.

Any person desiring to be heard or to make any protest with reference to said request should on or before October 23, 1997, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., 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 and 385.211) 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

[1] Texas Eastern Transmission Corporation, 78 FERC ¶ 61,282 (1997).

[2] Texas Eastern Transmission Corporation, 79 FERC ¶ 61,223 (1997).

[1] Trunkline Gas Company, 78 FERC ¶ 61,284 (1997).

[2] Texas Eastern Transmission Corporation, 79 FERC ¶ 61,223 (1997).

to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held 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 the request should be granted. If a motion for leave to intervene is timely filed, or if the Commission on its 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 WNG to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 97–26581 Filed 10–7–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–258–004]

Williams Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

October 2, 1997.

Take notice that on September 29, 1997, Williams Natural Gas Company (WNG) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, Second Substitute Fourth Revised Sheet No. 233, to be effective August 1, 1997.

WNG states that this filing is being made to comply with Commission Order issued September 19, 1997, in Docket No. RP97–454–000 and RP97–258–003. WNG was directed to refile Substitute Fourth Revised Sheet No. 233 to correct the pagination

WNG states that a copy of its filing was served on all participants listed on the service list maintained by the Commission in the docket referenced above and on all WNG's jurisdictional customers and interested state commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. 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. 97–26599 Filed 10–7–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–427–001]

Williams Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

October 2, 1997.

Take notice that on September 29, 1997, Williams Natural Gas Company (WNG) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, First Revised Sheet No. 256. The proposed effective date of this tariff sheet is October 29, 1997.

WNG states that it made a filing on July 23, 1997 to request a waiver of the reporting requirements in Article 14.2 (g) of its tariff. By order issued September 16, 1997, the Commission granted the waiver, but directed WNG to file a revised tariff sheet within 15 days of the issuance of the order to eliminate the inconsistency in the filing dates caused by its existing tariff. The instant filing is being made in compliance with the order.

WNG states that a copy of its filing was served on all participants listed on the service lists maintained by the Commission in the dockets referenced above and on all of WNG's jurisdictional customers and interested state commissions.

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 Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. 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. 97–26600 Filed 10–7–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT97–72–000]

Williston Basin Interstate Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

October 2, 1997.

Take notice that on September 30, 1997, Williston Basin Interstate Pipeline Company (Williston Basin), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the revised tariff sheets listed on the filing, to become effective September 11, 1997.

Williston Basin states that on September 11, 1997, the Commission issued its ''Order Granting Restatement of Maximum Capacity,'' in Docket No. CP97–639–000 which granted permission for an approval of the restatement of the maximum daily delivery and receipt point capacities as more fully described in Williston Basin's application filed on July 15, 1997 and as supplemented on August 7, 1997. Williston Basin therefore states it is including all of the proposed revisions to its Master Receipt/Delivery Point List as approved by the Commission's September 11, 1997 Order in the above noted tariff sheets.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed 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. 97–26588 Filed 10–7–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–148–006]

Williston Basin Interstate Pipeline Company; Notice of Compliance Filing

October 2, 1997.

Take notice that on September 30, 1997, Williston Basin Interstate Pipeline Company (Williston Basin), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, Third Revised Sheet No. 371, to become effective November 1, 1997.

Williston Basin states that the revised tariff sheet reflects modifications to Williston Basin's FERC Gas Tariff in compliance with the Commission's Letter Order issued July 24, 1997 in Docket No. RP97–148–004. The tariff sheet reflects the Gas Industry Standards Board (GISB) Standards adopted by the Commission in Order No. 587–C to become effective November 1, 1997.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules of Practice and Procedure. All such protests should 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 the protestants parties to the proceeding. Copies of the filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–26595 Filed 10–7–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–540–000]

Williston Basin Interstate Pipeline Company; Notice of Annual Report

October 2, 1997.

Take notice that on September 30, 1997, Williston Basin Interstate Pipeline Company (Williston Basin), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, Third Revised Sheet No. 358A pursuant to Section 39 of that Tariff. The proposed effective date of the above-referenced tariff sheet is September 30, 1997.

Williston Basin states that as of July 31, 1997 it had a zero balance in FERC Account No. 191. As a result, Williston Basin will neither refund nor bill its customers for any amounts under the conditions of Section No. 39.3.1 of its FERC Gas Tariff.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, D.C. 20426, in accordance with Rules 211 and 215 of the Commission's Rules of Practice and Procedure (18 CFR Sections 385.211 an 385.214). 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 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. 97–26602 Filed 10–7–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG97–85–000, et al.]

Entergy Power Generation Corp., et al.; Electric Rate and Corporate Regulation Filings

October 1, 1997.

Take notice that the following filings have been made with the Commission:

1. Entergy Power Generation Corporation

[Docket No. EG97–85–000]

On September 26, 1997, Entergy Power Generation Corporation, Jamboree Center, 4 Park Plaza, Suite 2000, Irvine, California 92614, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Section 32(a)(1) of the Public Utility Holding Company Act of 1935, as amended by Section 711 of the Energy Policy Act of 1992. The applicant is a corporation that is engaged directly or indirectly and exclusively in developing and ultimately owning and/or operating eligible facilities in the United States and selling electric energy at wholesale.

Comment date: October 22, 1997, in accordance with Standard Paragraph E at the end of this notice.

2. Northeast Utilities Service Company

[Docket No. ER96–2900–000]

Take notice that on September 22, 1997, Northeast Utilities Service Company tendered for filing an amendment in the above-referenced docket.

Comment date: October 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

3. Commonwealth Electric Company

[Docket No. ER97–687–000]

Take notice that on September 26, 1997, Commonwealth Electric Company tendered for filing a letter withdrawing the power sales and exchange tariff service agreement with Southern Energy Marketing, Inc.

Comment date: October 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

4. Public Service Company of New Mexico

[Docket No. ER97–2585–000]

Take notice that on September 9, 1997, Public Service Company of New Mexico tendered for filing an amendment in the above-referenced docket.

Comment date: October 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

5. Appalachian Power Company

[Docket No. ER97–3202–000]

Take notice that on September 24, 1997, Appalachian Power Company tendered for filing with the Commission additional information concerning its proposed modifications to its Rate Schedule FPC No. 23. The modifications are designed to provide off-peak excess

demand, surplus power and back-up service to Kingsport Power Company (KgPCo).

APCO proposes an effective date of August 1, 1997, and states that copies of its filing were served on KGPCo and the Tennessee Regulatory Authority.

Comment date: October 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

6. Virginia Electric and Power Company

[Docket No. ER97–3422–000]

Take notice that on September 5, 1997, Virginia Electric and Power Company tendered for filing an amendment in the above-referenced docket.

Comment date: October 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

7. Allegheny Power Service Corporation, on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power)

[Docket No. ER97–3770–000]

Take notice that on September 4, 1997, Allegheny Power Service Corporation, on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company tendered for filing an amendment in the above-referenced docket.

Comment date: October 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

8. Louisville Gas & Electric Company

[Docket No. ER97–3908–000]

Take notice that on September 18, 1997, Louisville Gas & Electric Company tendered for filing an amendment in the above-referenced docket.

Comment date: October 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

9. Wisconsin Electric Power Company

[Docket No. ER97–4198–000]

Take notice that on September 22, 1997, Wisconsin Electric Power Company tendered for filing an amendment in the above-referenced docket.

Comment date: October 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

10. Cleveland Electric Illuminating Company and The Toledo Edison Company

[Docket No. ER97–4206–000]

Take notice that on September 25, 1997, the Centerior Service Company as Agent for The Cleveland Electric Illuminating Company and The Toledo Edison Company filed amended Service Agreements, in the above referenced docket, to provide Non-Firm Point-to-Point Transmission Service for Dayton Power & Light Company, VTEC Energy, Incorporated, and Valero Power Services Company, the Transmission Customers. Services are being provided under the Centerior Open Access Transmission Tariff submitted for filing by the Federal Energy Regulatory Commission in Docket No. OA96–204–000. The proposed effective date under the Service Agreements are July 16, 1997.

Comment date: October 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

11. PG&E Power Services Company

[Docket No. ER97–4492–000]

Take notice that on September 2, 1997, PG&E Power Services Company (PG&E) filed a Notice of Succession with the Federal Energy Regulatory Commission indicating that the name of Valero Power Services Company, an indirect wholly-owned subsidiary of PG&E Corporation, has been changed to PG&E Power Services Company effective September 1, 1997. In accordance with 35.16 and 131.51 of the Commission's Regulations, 18 CFR 35.16, 131.51, PG&E adopted and ratified all applicable rate schedules filed with the FERC by Valero Power Services Company.

Comment date: October 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

12. Tampa Electric Company

[Docket No. ER97–4570–000]

Take notice that on September 10, 1997, Tampa Electric Company (Tampa Electric), tendered for filing a Contract for the Purchase and Sale of Power and Energy (Contract) between Tampa Electric and LG&E Energy Marketing Inc. (LG&E Energy). The Contract provides for the negotiation of individual transactions in which Tampa Electric will sell power and energy to LG&E Energy.

Tampa Electric proposes an effective date of September 15, 1997, for the Contract, or, if the Commission's notice requirement cannot be waived, the earlier of November 9, 1997, or the date the Contract is accepted for filing.

Copies of the filing have been served on LG&E Energy and the Florida Public Service Commission.

Comment date: October 16, 1997, in accordance with Standard Paragraph E at the end of this notice.

13. Tampa Electric Company

Docket No. ER97–4571–000

Take notice that on September 10, 1997, Tampa Electric Company (Tampa Electric), tendered for filing a Contract for the Purchase and Sale of Power and Energy (Contract) between Tampa Electric and PECO Energy Company—Power Team (PECO). The Contract provides for the negotiation of individual transactions in which Tampa Electric will sell power and energy to PECO.

Tampa Electric proposes an effective date of September 15, 1997, for the Contract, or, if the Commission's notice requirement cannot be waived, the earlier of November 9, 1997 or the date the Contract is accepted for filing.

Copies of the filing have been served on PECO and the Florida Public Service Commission.

Comment date: October 16, 1997, in accordance with Standard Paragraph E at the end of this notice.

14. Central Power and Light Company, West Texas Utilities Company, Public Service Company of Oklahoma, Southwestern Electric Power Co.

[Docket No. ER97–4572–000]

Take notice that on September 10, 1997, Central Power and Light Company (CPL), West Texas Utilities Company (WTU), Public Service Company of Oklahoma (PSO) and Southwestern Electric Power Company (SWEPCO) (collectively, the CSW Operating Companies) submitted for filing service agreements under which the CSW Operating Companies will provide transmission service to Aquila Power Corporation (Aquila), CPL, Delhi Energy Services (Delhi), Electric Clearinghouse, Inc. (ECI), Entergy Power Marketing Corp., (Entergy), and Southwestern Public Service Company (SPS) in accordance with the CSW Operating Companies' open access transmission service tariff. The CSW Operating Companies also filed notices of cancellation of those service agreements.

The CSW Operating Companies state that a copy of this filing has been served on Aquila, CPL, Delhi, ECI, Entergy, and SPS.

Comment date: October 16, 1997, in accordance with Standard Paragraph E at the end of this notice.

15. Arizona Public Service Company

[Docket No. ER97–4574–000]

Take notice that on September 11, 1997, Arizona Public Service Company (APS), tendered for filing Service Agreements under APS' FERC Electric Tariff, Original Volume No. 3 with

Snohomish County PUD #1, Valero Power Services Company, Western Resources, Inc., and MP Energy.

A copy of this filing has been served on the Arizona Corporation Commission, Snohomish County PUD #1, Valero Power Services Company, Western Resources, Inc., and MP Energy.

Comment date: October 16, 1997, in accordance with Standard Paragraph E at the end of this notice.

16. Arizona Public Service Company

[Docket No. ER97–4575–000]

Take notice that on September 11, 1997, Arizona Public Service Company (APS), tendered for filing a Service Agreement to provide Non-Firm Point-to-Point Transmission Service under APS' Open Access Transmission Tariff with MP Energy, Inc.

A copy of this filing has been served on MP Energy, Inc., and the Arizona Corporation Commission.

Comment date: October 16, 1997, in accordance with Standard Paragraph E at the end of this notice.

17. Arizona Public Service Company

[Docket No. ER97–4576–000]

Take notice that on September 11, 1997, Arizona Public Service Company (APS), tendered for filing a Service Agreement to provide umbrella short-term Firm Point-to-Point Transmission Service under APS' Open Access Transmission Tariff with Arizona Public Service Company—Merchant.

A copy of this filing has been served on Arizona Public Service Company—Merchant and the Arizona Corporation Commission.

Comment date: October 16, 1997, in accordance with Standard Paragraph E at the end of this notice.

18. Florida Power Corporation

[Docket No. ER97–4577–000]

Take notice that on September 11, 1997, Florida Power Corporation tendered for filing a service agreement providing for short-term service to Entergy Services, Inc., pursuant to Florida Power's Market-Based Wholesale Power Sales Tariff (MR–1) FERC Electric Tariff, Original Volume No. 8. Florida Power requests that the Commission waive its notice of filing requirements and allow the Service Agreement to become effective on September 12, 1997.

Comment date: October 16, 1997, in accordance with Standard Paragraph E at the end of this notice.

19. Florida Power Corporation

[Docket No. ER97–4578–000]

Take notice that on September 11, 1997, Florida Power Corporation, tendered for filing a service agreement providing for service to Municipal Electric Authority of Georgia pursuant to Florida Power's power sales tariff. Florida Power requests that the Commission waive its notice of filing requirements and allow the Service Agreement to become effective on September 12, 1997.

Comment date: October 16, 1997, in accordance with Standard Paragraph E at the end of this notice.

20. South Carolina Electric & Gas Company

[Docket No. ER97–4579–000]

Take notice that on September 11, 1997, South Carolina Electric & Gas Company (SCE&G), submitted service agreements establishing Stand Energy Corporation (STAND) and Entergy Power Marketing Corporation (EPMC) as customers under the terms of SCE&G's Negotiated Market Sales Tariff.

SCE&G requests an effective date of one day subsequent to the filing of the service agreements. Accordingly, SCE&G requests waiver of the Commission's notice requirements. Copies of this filing were served upon STAND, EPMC and the South Carolina Public Service Commission.

Comment date: October 16, 1997, in accordance with Standard Paragraph E at the end of this notice.

21. Wisconsin Electric Power Company

[Docket No. ER97–4580–000]

Take notice that on September 11, 1997, Wisconsin Electric Power Company (Wisconsin Electric), tendered for filing two Transmission Service Agreements between itself and Williams Energy Services Company (WESCO). The Transmission Service Agreement provides for non-firm and short term firm service under Wisconsin Electric's FERC Electric Tariff, Volume No. 7, which is pending Commission consideration in Docket No. OA97–578.

Wisconsin Electric requests an effective date of sixty days from date of filing. Copies of this filing have been served on WESCO, the Public Service Commission of Wisconsin and the Michigan Public Service Commission.

Comment date: October 16, 1997, in accordance with Standard Paragraph E at the end of this notice.

22. South Carolina Electric & Gas Company

[Docket No. ER97–4581–000]

Take notice that on September 11, 1997, South Carolina Electric & Gas Company (SCE&G) submitted a service agreement establishing Municipal Electric Authority of Georgia (MEAG) as a customer under the terms of SCE&G's Negotiated Market Sales Tariff.

SCE&G requests an effective date of one day subsequent to the filing of the service agreement. Accordingly, SCE&G requests waiver of the Commission's notice requirements. Copies of this filing were served upon MEAG and the South Carolina Public Service Commission.

Comment date: October 16, 1997, in accordance with Standard Paragraph E at the end of this notice.

23. Georgia Power Company

[Docket No. ER97–4582–000]

Take notice that on September 11, 1997, Georgia Power Company (Georgia Power) filed with the Commission six copies of a Revised and Restated Coordination Services Agreement (Revised CSA) dated September 8, 1997, between and among Georgia Power, Oglethorpe Power Corporation and Georgia System Operations Corporation (collectively, the Parties). Upon its effectiveness, the Revised CSA will supersede and replace in its entirety the existing Coordination Services Agreement between Georgia Power and Oglethorpe Power Corporation.

Georgia Power states that the Revised CSA reflects the outcome of more than a year of negotiations among Georgia Power, Oglethorpe Power Corporation and Georgia System Operations Corporation aimed at promoting the latters' independence and flexibility in the bulk power market while the same time preserving control area reliability and ensuring that the costs associated therewith are properly allocated among the Parties, all consistent with the principles of Order No. 888.

Comment date: October 16, 1997, in accordance with Standard Paragraph E at the end of this notice.

24. Idaho Power Company

[Docket No. ER97–4583–000]

Take notice that on September 11, 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 Cook Inlet Energy Supply and Idaho Power Company.

Comment date: October 16, 1997, in accordance with Standard Paragraph E at the end of this notice.

25. Commonwealth Electric Company, Cambridge Electric Light Company

[Docket No. ER97–4584–000]

Take notice that on September 11, 1997, Commonwealth Electric Company (Commonwealth) and Cambridge Electric Light Company (Cambridge), collectively referred to as the Companies, tendered for filing with the Federal Energy Regulatory Commission executed Service Agreements between the Companies and the following Market-Based Power Sales Customers (collectively referred to herein as the Customers):

Boston Edison Company
Delmarva Power & Light Company
Equitable Power Services Company
Sonat Power Marketing L.P.

These Service Agreements specify that the Customers have signed on to and have agreed to the terms and conditions of the Companies' Market-Based Power Sales Tariffs designated as Commonwealth's Market-Based Power Sales Tariff (FERC Electric Tariff Original Volume No. 7) and Cambridge's Market-Based Power Sales Tariff (FERC Electric Tariff Original Volume No. 9). These Tariffs, accepted by the FERC on February 27, 1997, and which have an effective date of February 28, 1997, will allow the Companies and the Customers to enter into separately scheduled short-term transactions under which the Companies will sell to the Customers capacity and/or energy as the parties may mutually agree.

The Companies, Boston Edison Company and Sonat Power Marketing L.P., have also filed Notices of Cancellation for service under the Companies' Power Sales and Exchange Tariffs (FERC Electric Tariff Original Volume Nos. 5 and 3), Boston Edison Company's and Sonat Power Marketing's respective FERC Rate Schedules.

The Companies request an effective date as specified on each Service Agreement and Notice of Cancellation.

Comment date: October 16, 1997, in accordance with Standard Paragraph E at the end of this notice.

26. Central Power and Light Company; West Texas Utilities Company; Public Service Company of Oklahoma; Southwestern Electric Power Co.

[Docket No. ER97–4585–000]

Take notice that on September 11, 1997, Central Power and Light Company (CPL), West Texas Utilities Company (WTU), Public Service Company of Oklahoma (PSO) and Southwestern Electric Power Company (SWEPCO) (collectively, the CSW Operating Companies) submitted for filing notices of cancellation of various short-term firm transmission service agreements under the CSW Operating Companies' open access transmission service tariff.

The CSW Operating Companies state that a copy of the filing has been served on all affected customers.

Comment date: October 16, 1997, in accordance with Standard Paragraph E at the end of this notice.

27. Williams Generation Company-Hazelton

[Docket No. ER97–4587–000]

Take notice that on September 12, 1997, Williams Generation Company-Hazelton (WGCH), which will own a natural gas-fired electric generating facility located in Hazelton, Pennsylvania, submitted for filing pursuant to § 205 of the Commission's Rules of Practice and Procedure, 18 CFR 385.205, an application for waivers and blanket approvals under various regulations of the Commission and for an order accepting its Electric Rate Schedule FERC No. 1.

Comment date: October 16, 1997, in accordance with Standard Paragraph E at the end of this notice.

28. Central Power and Light Company; Public Service Company of Oklahoma; Southwestern Electric Power Company; West Texas Utilities Company

[Docket No. ER97–4588–000]

Take notice that on September 12, 1997, Central Power and Light Company (CPL), Public Service Company of Oklahoma (PSO), Southwestern Electric Power Company (SWEPCO) and West Texas Utilities Company (WTU) (collectively, the Companies) tendered for filing one hundred ten Service Agreements establishing forty-six new customers under one or more of the four Companies' respective CSRT–1 Tariff.

The Companies request an effective date of September 1, 1997, for each of the service agreements and, accordingly, seek waiver of the Commission's notice requirements. Copies of this filing were served on the forty-six customers, the Arkansas Public Service Commission, the Louisiana Public Service Commission, the Oklahoma Corporation Commission and the Public Utility Commission of Texas.

Comment date: October 16, 1997, in accordance with Standard Paragraph E at the end of this notice.

29. Kansas City Power & Light Company

[Docket No. ER97–4589–000]

Take notice that on September 12, 1997, Kansas City Power & Light Company (KCPL), tendered for filing a Service Agreement dated August 14, 1997, between KCPL and AIG Trading Corporation. KCPL proposes an effective date of September 2, 1997, and requests waiver of the Commission's notice requirement. This Agreement provides for the rates and charges for Non-Firm Transmission Service.

In its filing, KCPL states that the rates included in the above-mentioned Service Agreement are KCPL's rates and charges in the compliance filing to FERC Order No. 888–A in Docket No. OA97–636.

Comment date: October 16, 1997, in accordance with Standard Paragraph E at the end of this notice.

30. Cleveland Electric Illuminating Company and The Toledo Edison Company

[Docket No. ER97–4590–000]

Take notice that on September 12, 1997, the Centerior Service Company as Agent for The Cleveland Electric Illuminating Company and The Toledo Edison Company filed a Service Agreement to provide Firm Point-to-Point Transmission Service for Southern Energy Marketing, the Transmission Customer. Services are being provided under the Centerior Open Access Transmission Tariff submitted for filing by the Federal Energy Regulatory Commission in Docket No. OA96–204–000. The proposed effective date under the Service Agreement is August 1, 1997.

Comment date: October 16, 1997, in accordance with Standard Paragraph E at the end of this notice.

31. UtiliCorp United Inc.

[Docket No. ES97–51–000]

Take notice that on September 18, 1997, UtiliCorp United Inc., filed an application with the Federal Energy Regulatory Commission under § 204 of the Federal Power Act seeking authorization to issue unsecured notes and other evidences of indebtedness, including financial guarantees of subsidiaries' or affiliates' securities, aggregating up to and including $350,000,000 principal amount outstanding at any one time, during the period from January 1, 1998 through December 31, 1999, with final maturities not later than December 31, 2000.

Comment date: October 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

32. James S. Potts

[Docket ID–3067–000]

Take notice that on September 2, 1997, James S. Potts (Applicant)

tendered for filing an application under Section 305(b) of the Federal Power Act to hold the following positions:

Officer—Potomac Electric Power Company

Director—Environmental Elements Company

Comment date: October 14, 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. 97–26666 Filed 10–7–97; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–4541–000, et al.]

Southern Indiana Gas and Electric Company, et al. Electric Rate and Corporate Regulation Filings

September 30, 1997.

Take notice that the following filings have been made with the Commission:

1. Southern Indiana Gas and Electric Company

[Docket No. ER97–4541–000]

Take notice that on September 8, 1997, Southern Indiana Gas and Electric Company (SIGECO), tendered for filing four (4) service agreements for non-firm transmission service under Part II of its Transmission Services Tariff with the following entities:

1. Western Resources
2. Public Service Electric and Gas Company
3. Virginia Electric and Power Company
4. Pennsylvania Power & Light Company

Copies of the filing were served upon each of the parties to the service agreements.

Comment date: October 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

2. MidAmerican Energy Company

[Docket No. ER97–4542–000]

Take notice that on September 8, 1997, MidAmerican Energy Company (MidAmerican), 666 Grand Avenue, Des Moines, Iowa 50309, submitted for filing a Non-Firm Transmission Service Agreement with Constellation Power Source, Inc. (Constellation), entered into pursuant to MidAmerican's Open Access Transmission Tariff.

MidAmerican requests an effective date of August 28, 1997, for the Agreement, and accordingly, seeks a waiver of the Commission's notice requirement. MidAmerican has served a copy of the filing on Constellation, the Iowa Utilities Board, the Illinois Commerce Commission and the South Dakota Public Utilities Commission.

Comment date: October 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

3. Louisville Gas and Electric Company

[Docket No. ER97–4543–000]

Take notice that on September 8, 1997, Louisville Gas and Electric Company tendered for filing copies of service agreements between Louisville Gas and Electric Company and Electric Clearinghouse, Inc., under Rate GSS.

Comment date: October 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

4. Union Electric Company

[Docket No. ER97–4544–000]

Take notice that on September 8, 1997, Union Electric Company (UE), tendered for filing Service Agreements for Market Based Rate Power Sales between UE and The Energy Authority, Entergy Services, Inc., and Southern Company Services, Inc. UE asserts that the purpose of the Agreements is to permit UE to make sales of capacity and energy at market based rates to the parties pursuant to UE's Market Based Rate Power Sales Tariff filed in Docket No. ER97–3664–000.

Comment date: October 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

5. New Century Services, Inc.

[Docket No. ER97–4545–000]

Take notice that on September 8, 1997, New Century Services, Inc., on behalf of Cheyenne Light, Fuel and Power Company, Public Service Company of Colorado, and Southwestern Public Service Company (collectively Companies) tendered for filing a Service Agreement under their Joint Open Access Transmission Service Tariff for Non-Firm Point-to-Point Transmission Service between the Companies and Southern Energy Trading & Marketing, Inc.

Comment date: October 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

6. New Century Services, Inc.

[Docket No. ER97–4546–000]

Take notice that on September 8, 1997, New Century Services, Inc., on behalf of Cheyenne Light, Fuel and Power Company, Public Service Company of Colorado, and Southwestern Public Service Company (collectively Companies) tendered for filing a Service Agreement under their Joint Open Access Transmission Service Tariff for Firm Point-to-Point Transmission Service between the Companies and Southern Energy Trading & Marketing, Inc.

Comment date: October 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

7. Central Illinois Light Company

[Docket No. ER97–4548–000]

Take notice that on September 9, 1997, Central Illinois Light Company (CILCO), 300 Liberty Street, Peoria, Illinois 61202, tendered for filing with the Commission a substitute Index of Customers under its Coordination Sales Tariff and service agreement for one new customer.

CILCO requested an effective date of September 2, 1997.

Copies of the filing were served on the affected customer and the Illinois Commerce Commission.

Comment date: October 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

8. Western Resources, Inc.

[Docket No. ER97–4549–000]

Take notice that on September 9, 1997, Western Resources, Inc., tendered for filing two firm transmission agreements between Western Resources and Western Resources Generation Services. Western Resources states that the purpose of the agreements is to permit non-discriminatory access to the transmission facilities owned or controlled by Western Resources in accordance with Western Resources' open access transmission tariff on file with the Commission. The agreements proposed to become effective September 20, 1997 and October 1, 1997.

Copies of the filing were served upon Western Resources Generation Services and the Kansas Corporation Commission.

Comment date: October 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

9. PacifiCorp

[Docket No. ER97–4550–000]

Take notice that on September 8, 1997, PacifiCorp, tendered for filing in accordance with 18 CFR Part 35 of the Commission's Rules and Regulations, a Service Agreement with the City of Hurricane, Utah under PacifiCorp's FERC Electric Tariff, Original Volume No. 12.

Copies of this filing were supplied to the City of Hurricane, the Public Utility Commission of Oregon and the Washington Utilities and Transportation Commission.

A copy of this filing may be obtained from PacifiCorp's Regulatory Administration Department's Bulletin Board System through a personal computer by calling (503) 464–6122 (9600 baud, 8 bits, no parity, 1 stop bit).

Comment date: October 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

10. PacifiCorp

[Docket No. ER97–4551–000]

Take notice that on September 4, 1997, PacifiCorp, tendered for filing in accordance with 18 CFR Part 35 of the Commission's Rules and Regulations, an amendment to its filing of an amended Service Agreement with Blanding City under PacifiCorp's FERC Electric Tariff, First Revised Volume No. 6.

Copies of this filing were supplied to the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

A copy of this filing may be obtained from PacifiCorp's Regulatory Administration Department's Bulletin Board System through a personal computer by calling (503) 464–6122 (9600 baud, 8 bits, no parity, 1 stop bit).

Comment date: October 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

11. Louisville Gas and Electric Company

[Docket No. ER97–4553–000]

Take notice that on September 9, 1997, Louisville Gas and Electric Company tendered for filing copies of service agreements between Louisville Gas and Electric Company and Southern Company Services under Rate GSS.

Comment date: October 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

12. Additional Signatories to PJM Interconnection, L.L.C. Operating Agreement

[Docket No. ER97–4554–000]

Take notice that on September 9, 1997, the PJM Interconnection, L.L.C., membership application of New York State Electric & Gas Corporation and Niagara Mohawk Power Corporation. PJM requests an effective date of September 9, 1997.

Comment date: October 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

13. Western Resources, Inc.

[Docket No. ER97–4556–000]

Take notice that on September 9, 1997, Western Resources, Inc., tendered for filing a non-firm transmission agreement between Western Resources and Williams Energy Services Company. Western Resources states that the purpose of the agreement is to permit non-discriminatory access to the transmission facilities owned or controlled by Western Resources in accordance with Western Resources' open access transmission tariff on file with the Commission. The agreement is proposed to become effective August 29, 1997.

Copies of the filing were served upon Williams Energy Services Company and the Kansas Corporation Commission.

Comment date: October 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

14. The United Illuminating Company

[Docket No. ER97–4557–000]

Take notice that on September 9, 1997, The United Illuminating Company (UI) tendered for filing a Notice of Cancellation of the System Energy Exchange Agreement (Agreement) among UI, The Connecticut Light & Power Company (CL&P), and Western Massachusetts Electric Company (WMECO). The Agreement is designated as CL&P Rate Schedule FERC No. 300 and Supplement No. 1, WMECO Rate Schedule FERC No. 238, and UI Rate Schedule FERC No. 40. UI has also filed a certificate of concurrence demonstrating that CL&P and WMECO assent to the cancellation of the Agreement.

UI requests an effective date for the cancellation of September 26, 1997. UI has served a copy of the filing upon Northeast Utilities Service Company, as authorized agent for CL&P and WMECO, and upon the Connecticut Department of Public Utility Control.

Comment date: October 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

15. New England Power Pool

[Docket No. ER97–4558–000]

Take notice that on September 10, 1997, the New England Power Pool Executive Committee filed a signature page to the NEPOOL Agreement dated September 1, 1971, as amended, signed by AllEnergy Marketing Company, L.L.C. (AllEnergy). The New England Power Pool Agreement, as amended, has been designated NEPOOL FPC No. 2.

The Executive Committee states that acceptance of the signature page would permit AllEnergy to join the over 110 Participants that already participate in the Pool. NEPOOL further states that the filed signature page does not change the NEPOOL Agreement in any manner, other than to make AllEnergy a Participant in the Pool. NEPOOL requests an effective date on or before October 1, 1997, or as soon as possible thereafter for commencement of participation in the Pool by AllEnergy.

Comment date: October 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

16. Southern California Edison Company

[Docket No. ER97–4559–000]

Take notice that on September 10, 1997, Southern California Edison Company (Edison), tendered for filing executed umbrella Service Agreements (Service Agreements) with Southern California Edison Company—Energy Supply & Marketing, and Federal Energy Sales, Inc., for Point-To-Point Transmission Service under Edison's Open Access Transmission Tariff (Tariff).

Edison filed the executed Service Agreements with the Commission in compliance with applicable Commission Regulations. Edison also submitted revised Sheet Nos. 165 and 166 (Attachment E) to the Tariff, which is an updated list of all current subscribers. Edison requests waiver of the Commission's notice requirement to permit an effective date of September 11, 1997, for Attachment E, and to allow the Service Agreements to become effective according to their terms.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: October 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

17. Duquesne Light Company

[Docket No. ER97–4560–000]

Take notice that on September 10, 1997, Duquesne Light Company (DLC) filed a Service Agreement dated August

29, 1997, with Pennsylvania Power & Light Company under DLC's FERC Coordination Sales Tariff (Tariff). The Service Agreement adds Pennsylvania Power & Light Company as a customer under the Tariff. DLC requests an effective date of January 1, 1997 for the Service Agreement.

Comment date: October 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

18. Houston Lighting & Power Company

[Docket No. ER97–4561–000]

Take notice that on September 10, 1997, Houston Lighting & Power Company (HL&P), tendered for filing an executed transmission service agreement (TSA) with Tenaska Power Services Company (Tenaska) for Non-Firm Transmission Service under HL&P's FERC Electric Tariff, Second Revised Volume No. 1, for Transmission Service To, From and Over Certain HVDC Interconnections. HL&P has requested an effective date of September 10, 1997.

Copies of the filing were served on Tenaska and the Public Utility Commission of Texas.

Comment date: October 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

19. Oklahoma Gas and Electric Company

[Docket No. ER97–4563–000]

Take notice that on September 10, 1997, Oklahoma Gas and Electric Company (OG&E), tendered for filing service agreements for parties to take service under its open access tariff. OG&E requests an effective date of September 1, 1997 for Constellation Power Source, Inc., Oklahoma Municipal Power Authority, Tenaska Power Services Company, Western Farmers Electric Cooperative and Williams Energy Services Company and a July 9, 1996, effective date for OG&E.

Copies of this filing have been served on the affected parties, the Oklahoma Corporation Commission and the Arkansas Public Service Commission.

Comment date: October 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

20. Baltimore Gas and Electric Company

[Docket No. ER97–4564–000]

Take notice that on September 10, 1997, Baltimore Gas and Electric Company (BGE) filed a Service Agreement with Potomac Electric Power Company, September 1, 1997, and under BGE's FERC Electric Tariff Original Volume No. 3 (Tariff). Under the tendered Service Agreement, BGE agrees to provide services to Potomac Electric Power Company under the provisions of the Tariff. BGE requests an effective date of September 1, 1997 for the Service Agreement. BGE states that a copy of the filing was served upon the Public Service Commission of Maryland.

Comment date: October 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

21. Illinois Power Company

[Docket No. ER97–4565–000]

Take notice that on September 10, 1997, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing a Power Sales Tariff, Service Agreement under which Prime, Inc. will take service under Illinois Power Company's Power Sales Tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of September 1, 1997.

Comment date: October 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

22. Illinois Power Company

[Docket No. ER97–4566–000]

Take notice that on September 10, 1997, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing a Power Sales Tariff, Service Agreement under which Amoco Energy Trading Corporation will take service under Illinois Power Company's Power Sales Tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of September 1, 1997.

Comment date: October 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

23. Illinois Power Company

[Docket No. ER97–4567–000]

Take notice that on September 10, 1997, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing a Power Sales Tariff, Service Agreement under which Avista Energy Company will take service under Illinois Power Company's Power Sales Tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of September 1, 1997.

Comment date: October 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

24. Tampa Electric Company

[Docket No. ER97–4569–000]

Take notice that on September 10, 1997, Tampa Electric Company (Tampa Electric), tendered for filing service agreements with Southern Energy Trading and Marketing, Inc., and Reedy Creek Improvement District for non-firm point-to-point transmission service under Tampa Electric's open access transmission tariff.

Tampa Electric proposes an effective date of August 21, 1997, for the service agreements, and therefore requests waiver of the Commission's notice requirement.

Copies of the filing have been served on the other parties to the service agreements and the Florida Public Service Commission.

Comment date: October 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

25. Panther Creek Partners

[Docket No. QF87–59–010]

On September 19, 1997, Panther Creek Partners (Applicant) of 1001 Industrial Road, Nesquehoning, Pennsylvania 18240 submitted for filing an application for recertification of a facility as a qualifying small power production facility pursuant to Section 292.207(b) of the Commission's Regulations. No determination has been made that the submittal constitutes a complete filing.

According to the applicant, the facility is an 86 MW, anthracite waste-fired small power production facility located in Nesquehoning, Pennsylvania. The Commission most recently recertified the facility as a small power production facility in Panther Creek Partners, 64 FERC ¶ 62,206 (1993). The instant application for recertification is requested to assure that the facility will remain a qualifying facility following a change in upstream ownership and to certify additional sources of anthracite waste coal.

Comment date: 15 days after the date of publication of this notice in the **Federal Register**, 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. 97–26665 Filed 10–7–97; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[PF–766; FRL 5746–9]

Notice of Filing of Pesticide Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of pesticide petitions proposing the establishment of regulations for residues of certain pesticide chemicals in or on various food commodities.

DATES: Comments, identified by the docket control number PF–766, must be received on or before November 7, 1997.

ADDRESSES: By mail submit written comments to: Public Information and Records Integrity Branch, Information Resources and Services Division (7506C), Office of Pesticides Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person bring comments to: Rm. 1132, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically to: opp-docket@epamail.epa.gov. Follow the instructions under ''SUPPLEMENTARY INFORMATION'' of this document. No Confidential Business Information (CBI) should be submitted through e-mail.

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

FOR FURTHER INFORMATION CONTACT: The product manager listed in the table below:

Product Manager	Office location/telephone number	Address
Cynthia Giles-Parker, (PM 22).	Rm. 247, CM #2, 703–305–7740; e-mail: giles-parker cynthia@epamail.epa.gov.	1921 Jefferson Davis Hwy, Arlington, VA
Joanne Miller (PM 23) ...	Rm. 237, CM #2, 703–305–6224; e-mail: miller joanne@epamail.epa.gov.	Do.

SUPPLEMENTARY INFORMATION: EPA has received pesticide petitions as follows proposing the establishment and/or amendment of regulations for residues of certain pesticide chemicals in or on various food commodities under section 408 of the Federal Food, Drug, and Comestic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that these petitions contain data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

The official record for this notice of filing, as well as the public version, has been established for this notice of filing under docket control number [PF–766] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official record is located at the address in ''ADDRESSES'' at the beginning of this document.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comment and data will also be accepted on disks in Wordperfect 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number (PF-766) and appropriate petition number. Electronic comments on notice may be filed online at many Federal Depository Libraries.

List of Subjects

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

Dated: September 29, 1997.

James Jones,

Acting Director, Registration Division, Office of Pesticide Programs.

Summaries of Petitions

Petitioner summaries of the pesticide petitions are printed below as required by section 408(d)(3) of the FFDCA. The summaries of the petitions were prepared by the petitioners and represent the views of the petitioners. EPA is publishing the petition summaries verbatim without editing them in any way. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

1. AgrEvo USA Company (AgrEvo)

PP 7F4910 and 7E4911

EPA has received pesticide petitions (PP 7F4910 and 7E4911) from AgrEvo USA Company (AgrEvo), Wilmington, DE 19808 proposing pursuant to section 408(d) of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. 346a(d), to amend 40 CFR 180.473(c) and part 186 by establishing tolerances for residues of glufosinate-ammonium in or on raw agricultural commodities derived from transgenic sugar beets and canola that are tolerant to the herbicide, glufosinate-ammonium: sugar beet roots at 0.7 ppm, sugar beet tops (leaves) at 1.3 ppm, canola seed at 0.4 ppm and the processed feeds: canola meal at 2.0 ppm and sugar beet molasses at 5.0 ppm. AgrEvo has also proposed to amend 40 CFR 180.473(a)(1) and part 185 by establishing a tolerance for residues of the herbicide, glufosinate-ammonium: butanoic acid, 2-amino-4-(hydroxymethylphosphinyl)-, monoammonium salt and its metabolite, 3-methylphosphinico-propionic acid expressed as glufosinate free acid

equivalents in or on the following raw agricultural commodity: potatoes at 0.4 ppm and the processed foods: potato flakes at 1.3 ppm and processed potatoes (including potato chips) at 1.0 ppm. The proposed analytical method involves homogenization, filtration, partition and cleanup with analysis by gas chromatography. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism*. The metabolism of glufosinate-ammonium in plants is adequately understood for the purposes of these tolerances. The crop residue profile following selective use of glufosinate-ammonium on transgenic crops is different than that found in conventional crops. The only crop residue found after non-selective use is the metabolite, 3-methylphosphinico-propionic acid, which is found in only trace amounts. The principal residue identified in the metabolism studies after selective use of glufosinate-ammonium on transgenic crops is the acetylated derivative of the parent material, 2-acetamido-4-methylphosphinico-butanoic acid, with lesser amounts of glufosinate and 3-methylphosphinico-propionic acid.

2. *Analytical method*. There is a practical analytical method utilizing gas chromatography for detecting and measuring levels of glufosinate-ammonium and its metabolites in or on food with a general limit of quantification of 0.05 ppm. This method allows monitoring of food with residues at or above the levels proposed in these tolerances. This method has been validated by an independent laboratory and the petitioner has been advised that the EPA concluded its own successful method try out.

3. *Magnitude of residues*. Field residue trials with glufosinate-ammonium tolerant sugar beets and canola have been conducted in 1995 and 1996 and 1993 and 1994 respectively at several different use rates and timing intervals to represent the use patterns which would most likely result in the highest residue. In these trials, the primary residue in all samples was the combination of glufosinate and 2-acetamido-4-methylphosphinico-butanoic acid which was typically found at higher levels than 3-methylphosphinico-propionic acid. In sugar beets, the mean glufosinate-ammonium derived residues in treated roots did not exceed 0.70 ppm in trials conducted at 13 different sites representing the 6 major sugar beet producing regions in the U.S. The mean glufosinate-ammonium derived residues in treated tops (leaves) in these trials did not exceed 1.29 ppm when sampled at 60 days or more after treatment.

In canola, 11 out of 40 samples produced detectable residue levels above the limit of detection in harvested seed following treatment with glufosinate-ammonium at 14 trial locations. The highest level of residue found in these trials was 0.295 ppm and the total mean glufosinate derived residues in all samples containing detectable residues was 0.136 ppm.

For both sugar beet and canola, the tolerances levels have been proposed assuming the following: (1) a seasonal maximum rate of 1.1 pounds of active ingredient per acre for sugar beets and 0.9 pound of active ingredient per acre for canola and (2) a pre-harvest interval of 60 days for sugar beets and 65 days for canola.

Total residues of glufosinate-ammonium and its metabolite in potatoes desiccated with glufosinate-ammonium were determined in more than 40 trials conducted over approximately 13 locations during the period from 1987 to 1994. Within the pre-harvest interval of 7 to 56 days, all residue values (with one exception) did not exceed 0.4 ppm. A pre-harvest interval of 9 days is specified on the product label for potato desiccation and the seasonal maximum use rate is 0.4 pound of active ingredient per acre.

4. *Residue in processed commodities*. Studies have been conducted to determine the level of glufosinate derived residues found in or on the processed commodities from glufosinate tolerant sugar beet roots, canola seed and potatoes. The studies utilized treatments at significantly exaggerated rates to provide the necessary test sensitivity. In the sugar beet processing study, a concentration factor of 6.3x was determined for sugar beet molasses whereas there was no concentration of residues in either refined sugar or dried pulp.

In the canola processing study, a concentration factor of approximately 4 times was observed for the meal when the levels of terminal residues were compared between the seed and the toasted meal. There was no concentration of residues in the canola oil.

In the potato processing study, glufosinate residues appear to concentrate 2.3 fold in chips and 3.1 fold in flakes. Glufosinate residues do not appear to concentrate in the peel.

B. Toxicological Profile

1. *Acute toxicity*. The acute oral LD_{50} values for glufosinate-ammonium technical ranged from 1,510 to 2,000 mg/kg in rats and from 200 to 464 mg/kg in mice and dogs. The acute dermal LD_{50} was 2,000 mg/kg in rabbits and ≥ 4,000 mg/kg in rats. The 4–hour rat inhalation LC_{50} was 1.26 mg/L in males and 2.6 mg/L in females. Glufosinate-ammonium was not irritating to rabbit skin but was slightly irritating to the eyes. Glufosinate-ammonium did not cause skin sensitization in guinea pigs. Glufosinate-ammonium should be classified as Tox Category II for oral toxicity, Tox Category III for inhalation and dermal toxicity and Tox Category IV for skin irritation and eye irritation.

2. *Genotoxicty*. No evidence of genotoxicity was noted in an extensive battery of *in vitro* and *in vivo* studies. The petitioner has been advised by the EPA that negative studies determined acceptable included *Salmonella, E. Coli* and mouse lymphoma gene mutation assays, a mouse micronucleus assay, and an *in vitro* UDS assay.

3. *Reproductive and developmental toxicity*. Three developmental toxicity studies were conducted with rats, at dose levels ranging from 0.5 to 250 mg/kg/day. The No Observed Effect Levels (NOEL's) for maternal and developmental effects were determined to be 10 mg/kg/day for maternal toxicity and 50 mg/kg/day for developmental toxicity, based on the findings of hyperactivity and vaginal bleeding in dams at 50 mg/kg/day and increased incidence of arrested renal and ureter development in fetuses at 250 mg/kg/day.

A developmental toxicity study was conducted in rabbits at dose levels of 0, 2, 6.3 and 20 mg/kg/day. The maternal NOEL for this study was determined to be 6.3 mg/kg/day, based on increases in abortion and premature delivery, and decreases in food consumption and weight gain at 20 mg/kg/day. No evidence of developmental toxicity was noted at any dose level; thus the developmental NOEL was determined to be 20 mg/kg/day.

A 2-generation rat reproduction study was conducted at dietary concentrations of 0, 40, 120 and 360 ppm. The parental NOEL was determined to be 40 ppm (4 mg/kg/day) based on increased kidney weights at 120 ppm. The NOEL for reproductive effects was determined to be 120 ppm (12 mg/kg/day) based on reduced numbers of pups at 360 ppm.

4. *Subchronic toxicity*. A 90–day feeding study was conducted in Fisher

344 rats at dietary concentrations of 0, 8, 64, 500 and 4,000 ppm. Although slight evidence of toxicity was observed, there were no treatment-related histopathological findings at any dose level. The NOEL for this study was determined to be 8 ppm, based on increased kidney weights at 64 ppm.

A 90–day feeding study was conducted in NMRI mice at dietary concentrations of 0, 80, 320 and 1,280 ppm. There were no treatment-related pathological findings at any dose level but increases in absolute and relative liver weights, serum AST, and serum potassium levels were noted at 320 and/or 1,280 ppm. Based on these findings, the NOEL for this study was determined to be 80 ppm (16.6 mg/kg/day).

A 90–day feeding study was conducted in beagle dogs at dietary concentrations of 0, 4, 8, 16, 64 and 256 ppm. There were no treatment-related histopathological findings at any dose level. However, because of reduced weight gain and decreased thyroid weights at 64 and/or 256 ppm, the NOEL was determined to be 16 ppm (0.53 mg/kg/day).

5. *Chronic toxicity*. A 12–month feeding study was conducted in beagle dogs at dose levels of 0, 2, 5 and 8.5 mg/kg/day. The NOEL was 5 mg/kg/day based on clinical signs of toxicity, reduced weight gain and mortality at 8.5 mg/kg/day.

A 2–year mouse oncogenicity study was conducted in NMRI mice at dietary concentrations of 0, 20, 80 and 160 (males) or 320 (females) ppm. The NOEL was determined to be 80 ppm (10.8 and 16.2 mg/kg/day for males and females, respectively) based on increased blood glucose, decreased glutathione levels and increased mortality in the high-dose males and/or females. No evidence of oncogenicity was noted at any dose level.

A combined chronic toxicity/oncogenicity study was conducted in Wistar rats for up to 130 weeks at dietary concentrations of 0, 40, 140 and 500 ppm. A dose-related increase in mortality was noted in females at 140 and 500 ppm, while increased absolute and relative kidney weights were noted in 140 and 500 ppm males. Thus, the NOEL for this study was determined to be 40 ppm (2.1 mg/kg/day). No treatment-related oncogenic response was noted. However, the high-dose level in this study did not satisfy the EPA criteria for a Maximum Tolerated Dose and thus a data gap currently exists for a rat carcinogenicity study. All glufosinate-ammonium tolerances previously established by the EPA are time-limited because of this gap. A new rat oncogenicity study is currently being conducted and is due to the EPA by July 1, 1998.

6. *Animal metabolism*. Numerous studies have been conducted to evaluate the absorption, distribution, metabolism and/or excretion of glufosinate-ammonium in rats. These studies indicate that glufosinate-ammonium is poorly absorbed (5–10%) after oral administration and is rapidly eliminated, primarily as parent compound. Small amounts of the metabolites 3-methylphosphinico-propionic acid and 2-acetamido-4-methylphosphinico-butanoic acid were found in the excreta, although the latter is believed to be a result of a revisable acetylation and decetylation process by intestinal bacteria.

7. *Metabolite toxicology* . The primary residue resulting from the use of glufosinate-ammonium in genetically transformed sugar beets and canola that are tolerant to the herbicide, glufosinate-ammonium, consists of the metabolites, 2-acetamido-4-methylphosphinico-butanoic acid and 3-methylphosphinico-propionic acid. Only the latter metabolite is formed in conventional crops. A considerable number of toxicity studies have been conducted with these metabolites, including developmental toxicity studies in rats and rabbits with both metabolites and a 2-generation rat reproduction study with 2-acetamido-4-methylphosphinico-butanoic acid. Neither metabolite presents an acute toxicity hazard and both were determined to be non-genotoxic in an extensive battery of *in vitro* and *in vivo* genotoxicity studies. Neither metabolite demonstrated significant developmental toxicity to either rats or rabbits. Subchronic studies in rats, mice and dogs were conducted with both metabolites with no clear evidence for any specific target organ toxicity and with NOEL's or No Observed Adverse Effects Levels (NOAEL's) substantially higher than those seen with glufosinate-ammonium. Thus, these studies indicate that both metabolites are less toxic than the parent compound and do not pose any reproductive or developmental concerns.

C. Endocrine Effects

No special studies investigating potential estrogenic or endocrine effects of glufosinate-ammonium have been conducted. However, the standard battery of required studies has been completed. These studies include an evaluation of the potential effects on reproduction and development, and an evaluation of the pathology of the endocrine organs following repeated or long-term exposure. These studies are generally considered to be sufficient to detect any endocrine effects but no such effects were noted in any of the studies with either glufosinate-ammonium or its metabolites.

D. Aggregate Exposure

Glufosinate-ammonium is a non-selective, post-emergent herbicide with both food and non-food uses. As such, aggregate non-occupational exposure would include exposures resulting from consumption of potential residues in food and water, as well as from residue exposure resulting from non-crop use around trees, shrubs, lawns, walks, driveways, etc. Thus, the possible human exposure from food, drinking water and residential uses has been assessed below.

1. *Food*. For purposes of assessing the potential dietary exposure from food under the proposed tolerances, the petitioner has been advised that the EPA has estimated exposure based on the Theoretical Maximum Residue Contribution (TMRC) derived from the initially established tolerances for glufosinate-ammonium on apples, grapes, tree nuts, bananas, milk and the fat, meat and meat-by-products of cattle, goats, hogs, horses and sheep as well as the subsequently established tolerances for glufosinate-ammonium on field corn, soybeans, aspirated grain fractions, and the eggs, fat, meat and meat-by-products of poultry. The TMRC is obtained by using a model which multiplies the tolerance level residue for each commodity by consumption data which estimate the amount of each commodity and products derived from the commodity that are eaten by the U.S. population and various population subgroups. In conducting this exposure assessment, the EPA has made very conservative assumptions—100% of all commodities will contain glufosinate-ammonium residues and those residues would be at the level of the tolerance—which result in a large overestimate of human exposure. Thus, in making a safety determination for these tolerances, the Agency took into account this very conservative exposure assessment. In 62 FR 5333 (February 5, 1997), the Agency concluded that the original tolerances for apples, nuts, grapes and the secondary tolerances in animal commodities utilize 2.07% of the Reference Dose (RfD) and that the subsequent tolerances for the corn and soybean commodities will utilize 3.7% of the RfD.

2. *Drinking water*. There is presently no EPA Lifetime Health Advisory level or Maximum Contaminant Level established for residues of glufosinate-ammonium in water. The petitioner has

been advised by the EPA that all environmental fate data requirements for glufosinate-ammonium have been satisfied. The potential for glufosinate-ammonium to leach into groundwater has been assessed in a total of nine terrestrial field dissipation studies conducted in several states and in varying soil types. The degradation of glufosinate-ammonium in these studies was rapid, with half-lives ranging from a low of 6 to a high of 23 days. Despite the relatively high water solubility of glufosinate-ammonium, this compound did not appear to leach under typical test conditions. This is a result of the combination of its rapid degradation and its tendency to bind to certain soil elements such as clay or organic matter. Based on these studies and the expected conditions of use, the potential for finding significant glufosinate-ammonium residues in water is minimal and the contribution of any such residues to the total dietary intake of glufosinate-ammonium will be negligible.

3. *Non-dietary exposure*. As a non-selective, post-emergent herbicide, homeowner use of glufosinate-ammonium will consist primarily of spot spraying of weeds around trees, shrubs, walks, driveways, flower beds, etc. There will be minimal opportunity for post-application exposure since contact with the treated weeds will rarely occur. Thus, any exposures to glufosinate-ammonium resulting from homeowner use will result from dermal exposure during the application and will be limited to adults, not to infants or children. These exposures are not expected to pose any acute toxicity concerns. Furthermore, based on the US EPA National Home and Garden Pesticide Use Survey (RTI/5100/17-01F, March 1992), the average homeowner is expected to use non-selective herbicides only about 4 times a year. Thus, these exposures would not normally be factored into a chronic exposure assessment.

E. Cumulative Effects

The potential for cumulative effects of glufosinate-ammonium and other substances that have a common mechanism of toxicity must also be considered. The precise mechanism of action for the toxic effects of glufosinate-ammonium in animals is not known but is believed to result, at least in part, from interference with the neurotransmitter function of glutamate, to which it is a close structural analog. No other registered active ingredients are known to have a similar mechanism of action. Thus, no cumulative effects with other substances are anticipated. Furthermore, the residues in or on transgenic crops will consist primarily of the metabolites of glufosinate-ammonium, not glufosinate-ammonium itself. These metabolites are less toxic than glufosinate-ammonium and, because they are not structural analogs of glutamate, they should not cause the same effects. Thus, consideration of a common mechanism of toxicity is not appropriate at this time and only the potential risks of glufosinate-ammonium need to be considered in its aggregate exposure assessment.

F. Safety Determinations

1. *U.S. population*. Based on a complete and reliable toxicity database, the EPA has adopted an RfD value of 0.02 mg/kg/day using the NOEL of 2.1 mg/kg/day from the chronic rat toxicity study and a 100-fold safety factor. Using the Dietary Risk Evaluation System (DRES) with raw agricultural commodity residue values set at the established and proposed tolerance levels and with reasonable maximum market share estimates applied (''realistic'' case assessment), AgrEvo has calculated that aggregate dietary exposure to glufosinate-ammonium from the previously established tolerances and the proposed tolerances on sugar beets, canola and potatoes will utilize 2.1% of the RfD for the U.S. population (48 states). There is generally 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. Therefore, there is a reasonable certainty that no harm will result from aggregate exposure to glufosinate-ammonium residues to the U.S. population in general.

2. *Infants and children*. In assessing the potential for additional sensitivity of infants and children to residues of glufosinate-ammonium, one should consider data from developmental toxicity studies in the rat and rabbit and a 2-generation reproduction study in the rat. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from pesticide exposure during pre-natal development. Reproduction studies provide information relating to reproductive and other effects on adults and offspring from pre-natal and post-natal exposure to the pesticide.

Three developmental toxicity studies in rats (including pre- and post-natal phases), a developmental toxicity study in rabbits, and a 2-generation rat reproduction study have been conducted with glufosinate-ammonium. No evidence of developmental toxicity was noted in rabbits, even at the maternally toxic dose level of 20 mg/kg/day. No developmental or reproductive effects were noted in rats except at parentally toxic dose levels. The NOEL's for maternal and developmental toxicity in the rat developmental toxicity studies were determined to be 10 mg/kg/day and 50 mg/kg/day, respectively, based on findings of hyperactivity and vaginal bleeding in dams at 50 mg/kg/day and increased incidence of arrested renal and ureter development in fetuses at 250 mg/kg/day. The parental and reproductive NOEL's in the 2-generation rat reproduction study were determined to be 40 ppm (4 mg/kg/day) and 120 ppm (12 mg/kg/day), respectively, based on increased parental kidney weights at 120 ppm and decreased numbers of pups at 360 ppm. In all cases, the reproductive and developmental NOEL's were greater than or equal to the parental NOEL's, thus indicating that glufosinate-ammonium does not pose any increased risk to infants or children.

FFDCA section 408 provides that EPA may apply an additional safety factor for infants and children in the case of threshold effects to account for pre- and post-natal toxicity and the completeness of the database. Based on the current toxicological data requirements, the database relative to pre- and post-natal effects for children is complete. Further, the NOEL at 2.1 mg/kg/day from the chronic rat study with glufosinate-ammonium, which was used to calculate the RfD (discussed above), is already lower than the NOEL's from the reproductive and developmental studies with glufosinate-ammonium by a factor of at least 6-fold. Therefore, an additional safety factor is not warranted and an RfD of 0.02 mg/kg/day is appropriate for assessing aggregate risk to infants and children.

Using the DRES analysis with raw agricultural commodity residue values set at the established and proposed tolerance levels and with reasonable maximum market share estimates applied (''realistic'' case assessment), AgrEvo has calculated that aggregate dietary exposure to glufosinate-ammonium from the previously established tolerances and the proposed tolerances on sugar beets, canola and potatoes will utilize 5.5% of the RfD for non-nursing infants (1– year old), the most sensitive population sub-group and 5.3% of the RfD for children (1–6 year old), the second most sensitive population sub-group. Therefore, based on the completeness and reliability of the toxicity data and a comprehensive exposure assessment, it may be concluded that there is a reasonable certainty that no harm will result to

infants and children from aggregate exposure to glufosinate-ammonium residues.

G. International Tolerances

An analysis of the Codex Alimentarius Commission (Codex) tolerances has been conducted. While no international Codex tolerances for selective uses of tolerances for glufosinate-ammonium in the desiccation use pattern have been established for conventional canola (rapeseed) at 5 ppm, crude rapeseed oil at 0.05 ppm and potatoes at 0.5 ppm. These tolerances are established for the sum of glufosinate-ammonium and 3-methylphosphinico-propionic acid, calculated as glufosinate (free acid). The U.S. proposal for a 0.4 ppm tolerance for residues of glufosinate-ammonium in potatoes will be harmonized with the Canadian tolerance which has already been established at this level.

The Codex tolerances for glufosinate-ammonium in or on sugar beets have been established at 0.05 ppm in the beet and 0.1 ppm in the tops (leaves). AgrEvo intends to propose higher tolerances to the Codex commission for glufosinate-ammonium use on transgenic sugar beets in order to harmonize these tolerances with those proposed in the U.S. and elsewhere. (Joanne Miller)

2. K-I Chemical U.S.A., Inc.

PP 7F4821

EPA has received an amendment to pesticide petition (PP 7F4821) from K-I Chemical U.S.A., Inc. , White Plains, New York 10606, proposing pursuant to section 408(d) of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing a tolerance for residues of herbicide, fluthiacet-methyl in or on the raw agricultural commodity popcorn grain at 0.02 ppm.

On April 14, l997, EPA announces receipt of a pesticide petition (PP 7F4821) from K-I Chemical U.S.A., Inc., 11 Martine Avenue, 9th Floor, White Plains, NY 10606, proposing pursuant to section 408(d) of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing a tolerance for residues of the herbicide fluthiacet-methyl: Acetic acid, [[2-chloro-4-fluoro-5-[(tetrahydro-3-oxo-1*H*,3*H*-[1,3,4]thiadiazolo[3,4-*a*] pyridazin-1-ylidene)amino]phenyl]thio]-methylester in or on the raw agricultural commodities field corn grain and sweet corn grain (K + CWHR) at 0.02 ppm and corn forage and fodder at 0.05 ppm.

On September 4, 1997 K-I Chemical, U.S.A., Inc., amended PP 7F4821 to include a proposed tolerance for popcorn grain at 0.02 ppm. EPA has determined that the amended petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism*. The nature of the residues in corn is adequately understood following application of fluthiacet-methyl. Residue levels and the metabolic pathway are consistent with those in soybeans. Parent fluthiacet-methyl was the primary component of the residue seen in corn grain, forage, fodder and silage. Results of these studies have been submitted to the EPA.

2. *Analytical method*. K-I Chemical has submitted practical analytical methods (AG–603B and AG–624) for detecting and measuring the level of fluthiacet-methyl in or on corn and corn commodities and in animal tissues with a limit of detection that allows monitoring residues at or above the levels set for the proposed tolerance. The limit of quantitation of the crop method is 0.01 ppm in corn and corn commodities, 0.05 ppm in animal tissues and 0.01 ppm in milk. The crop method involves extraction, filtration, and solid phase clean up. Residue levels of fluthiacet-methyl are determined by gas chromatographic analysis utilizing a nitrogen phosphorus detector and a fused-silica column. The animal tissue method involves extraction, filtration, and partition. Determination of residue levels in animal tissues is by HPLC with UV detection via column switching using C1 and C18 columns. The analyte of interest in animal tissues and milk is the major animal metabolite CGA–300403. Residues of fluthiacet-methyl in corn are determined by gas chromatography.

3. *Magnitude of residues*. The residue of concern in corn is fluthiacet-methyl per se. Twenty-one field residue studies were conducted with corn grown in nineteen states. Fifteen of the studies were on field corn and six on sweet corn. No studies were conducted with popcorn, however K-I believes that the data on field and sweet corn support a tolerance in popcorn as well. Because the proposed use rate and pattern is the same for popcorn, it is reasonable to conclude that residues in popcorn grain will not exceed the proposed tolerance of 0.02 ppm. Residues in field and sweet corn forage after the day of application were less than the proposed tolerance of 0.05 ppm. Popcorn forage is not a fed commodity. Nonetheless, residues in popcorn forage or fodder are not expected to exceed the proposed tolerance of 0.05 ppm. The proposed tolerances of 0.02 ppm in field corn, sweet corn, and popcorn grain and 0.05 ppm in field corn and sweet corn forage and fodder are adequate to cover residues likely to occur when Action herbicide is applied to corn as directed.

This position is based on section 180.34(d) of the CFR which states that ''If the pesticide chemical is not absorbed into the living plant or animal when applied (is not systemic), it may be possible to make a reliable estimate of the residues to be expected on each commodity in a group of related commodities on the basis of less data than would be required for each commodity in the group, considered separately.'' And, section 180.34(e) states that ''Each of the following groups of crops lists raw agricultural commodities that are considered to be related for the purpose of paragraph (d) of this section; field corn, popcorn, sweet corn (each in grain form).''

Residues of fluthiacet-methyl in treated field and sweet corn grain and sweet corn ears were less than the method LOQ (<0.01 ppm). Because the proposed use rate and pattern is the same for popcorn, it is reasonable to conclude that residues in popcorn grain will not exceed the proposed tolerance of 0.02 ppm. Residues in field and sweet corn forage after the day of application were less than the proposed tolerance of 0.05 ppm. Popcorn forage is not a feed commodity. Nonetheless, residues in popcorn forage or fodder are not expected to exceed the proposed tolerance of 0.05 ppm. The proposed tolerances of 0.02 ppm in field corn, sweet corn, and popcorn grain and 0.05 ppm in field corn and sweet corn forage and fodder are adequate to cover residues likely to occur when Action herbicide is applied to corn as directed.

B. Toxicological Profile

1. *Acute toxicity*.

- A rat acute oral study with an LD_{50} > 5,000 mg/kg.
- A rabbit acute dermal study with an LD_{50} > 2,000 mg/kg.
- A rat inhalation study with an LC_{50} > 5.05 mg/liter.
- A primary eye irritation study in the rabbit showing moderate eye irritation.
- A primary dermal irritation study in the rabbit showing no skin irritation.
- A primary dermal sensitization study in the Guinea pig showing no sensitization.

•Acute neurotoxicity study in rats. Neurotoxic effects were not observed. The NOEL was 2,000 mg/kg.

2. *Genotoxicity*. In vitro gene mutation tests: Ames test - negative; Chinese hamster V79 test - negative; rat hepatocyte DNA repair test - negative; E. Coli letal DNA damage test - negative. In vitro chromosomal aberration tests: Chinese hamster ovary - positive at cytotoxic doses; Chinese hamster lung - positive at cytotoxic doses; human lymphocyes - positive at cytotoxic doses. In vivo chromosome aberration tests: Micronucleus assays in rat liver - negative; mouse bone marrow test - negative.

3. *Reproductive and developmental toxicity*. Reproductive and developmental toxicity. Teratology study in rats with a maternal and developmental NOEL equal to or greater than 1,000 mg/kg/day.

Teratology study in rabbits with a maternal NOEL greater than or equal to 1,000 mg/kg/day and a fetal NOEL of 300 mg/kg based on a slight delay in fetal maturation. 2-generation reproduction study in rats with a NOEL of 36 mg/kg/day, based on liver lesions in parental animals and slightly reduced body weight development in parental animals and pups. [The treatment had no effect on reproduction or fertility.]

4. *Subchronic toxicity*. 90–day subchronic neurotoxicity study in rats. The NOEL was 0.5 mg/kg/day based on reduced body weight gain. No clinical or morphological signs of neurotoxicity were detected at any dose level. 28–day dermal toxicity study in rats with a NOEL equal to or higher than the limit dose of 1,000 mg/kg.

6–week dietary toxicity study in dogs with a NOEL of 162 mg/kg/day in males and 50 mg/kg/day in females based on decreased body weight gain and modest hematological changes.

90–day subchronic dietary toxicity study in rats with a NOEL of 6.2 mg/kg/day based on liver changes and hematological effects.

5. *Chronic toxicity*. 24–month combined chronic toxicity/carcinogenicity study in rats with a NOEL of 2.1 mg/kg/day. Based on reduced body weight development and changes in bone marrow, liver, pancreas and uterus the MTD was exceeded at 130 mg/kg/day. A positive trend of adenomas of the pancreas in male rats treated at 130 mg/kg/day and above may be attributable to the increased survival of the rats treated at high doses. 18–month oncogenicity study in mice with a NOEL of 0.14 mg/kg/day. Based on liver changes, the MTD was reached at 1.2 mg/kg/day. The incidence of hepatocellular tumors was increased in males treated at 12 and 37 mg/kg/day.

C. Endocrine effects

Based on the results of short-term, chronic, and reproductive toxicity studies there is no indication that fluthiacet-methyl might interfere with the endocrine system. Considering further the low environmental concentrations and the lack of bioaccumulation, there is no risk of endocrine disruption in humans or wildlife.

Animal metabolism. The results from hen and goat metabolism studies, wherein fluthiacet-methyl was fed at exaggerated rates, showed that the transfer of fluthiacet-methyl residues from feed to tissues, milk and eggs is extremely low. No detectable residues of fluthiacet-methyl (or metabolite CGA–300403) would be expected in meat, milk, poultry, or eggs after feeding the maximum allowable amount of treated corn and soybeans. This conclusion is based on residue data from the corn and soybean metabolism and field residue chemistry studies coupled with the residue transfer from feed to tissues, milk and eggs obtained in the goat and hen metabolism studies.

D. Aggregate Exposure

Aggregate exposure includes exposure from dietary exposure from food and drinking water; and non-dietary exposure from non-dietary uses of pesticides products containing the active ingredient, fluthiacet-methyl.

1. *Dietary exposure*. Dietary exposure consists of exposures from food and drinking water.

2. *Food*. In this assessment, K-I Chemical has conservatively assumed that 100% of all soybeans and corn used for human consumption would contain residues of fluthiacet-methyl and all residues would be at the level of the proposed tolerances. The potential dietary exposure to fluthiacet-methyl was calculated on the basis of the proposed tolerance which is based on an LOQ of 0.01 ppm in soybeans and 0.02 ppm in corn (2 x LOQ). The anticipated residues in milk, meat and eggs resulting from feeding the maximum allowable amount of soybean and corn commodities to cattle and poultry were calculated, and the resulting quantities were well below the analytical method LOQ. Therefore, tolerances for milk, meat and eggs are not required. Assuming 100% crop treated values, the chronic dietary exposure of the general U.S. population to fluthiacet-methyl would correspond to 2.3% of the RfD.

3. *Drinking water*. Although fluthiacet-methyl has a slight to medium leaching potential; the risk of the parent compound to leach to deeper soil layers is negligible under practical conditions in view of the fast degradation of the product. For example, the soil metabolism half-life was extremely short, ranging from 1.1 days under aerobic conditions to 1.6 days under an aerobic conditions. Even in the event of very heavy rainfalls immediately after application, which could lead to a certain downward movement of the parent compound, parent fluthiacet-methyl continues to be degraded during the transport into deeper soil zones. Considering the low application rate of fluthiacet-methyl, the strong soil binding characteristics of fluthiacet-methyl and its degradates, and the rapid degradation of fluthiacet-methyl in the soil, there is no risk of ground water contamination with fluthiacet-methyl or its metabolites. Thus, aggregate risk of exposure to fluthiacet-methyl does not include drinking water

4. *Non-dietary exposure*. Fluthiacet-methyl is not registered for any other use and is only proposed for use on agricultural crops. Thus, there is no potential for non-occupational exposure other than consumption of treated commodities containing fluthiacet-methyl residue.

E. Cumulative Effects

A cumulative exposure assessment is not appropriate at this time because there is no information available to indicate that effects of fluthiacet-methyl in mammals would be cumulative with those of another chemical compound.

F. Safety Determination

1. *U.S. population*. Using the very conservative exposure assumptions described above coupled with toxicity data for fluthiacet-methyl, K-I Chemical calculated that aggregate, chronic exposure to fluthiacet-methyl will utilize no more than 2.3% of the RfD for the U.S. population. Because the actual anticipated residues are well below tolerance levels and the percent crop treated with fluthiacet-methyl is expected to be less than 25% of planted corn or soybeans, a more realistic estimate is that dietary exposure will likely be at least 20 times less than the conservative estimate previously noted (the margins of exposure will be accordingly higher). Exposures below 100% of the RfD are generally not of concern 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.

Also the acute dietary risk to consumers will be far below any significant level; the lowest NOEL from a short term exposure scenario comes from the teratology study in rabbits with a NOEL of 300 mg/kg. This NOEL is 2,000-fold higher than the chronic NOEL which provides the basis for the RfD (see above). Acute dietary exposure estimates which are based on a combined food survey from 1989 to 1992 predict margins of exposure of at least one million for 99.9% of the general population and for women of child bearing age. Margins of exposure of 100 or more are generally considered satisfactory. Therefore, K-I Chemical concludes that there is a reasonable certainty that no harm will result from aggregate exposure to fluthiacet-methyl residues.

2. *Infants and children*. In assessing the potential for additional sensitivity of infants and children to residues of fluthiacet-methyl, K-I Chemical considered data from developmental toxicity studies in the rat and rabbit and a 2-generation reproduction study in the rat. A slight delay in fetal maturation was observed in a teratology study in rabbits at a daily dose of 1,000 mg/kg. In a 2-generation reproduction study fluthiacet-methyl did not affect the reproductive performance of the parental animals or the physiological development of the pups. The NOEL was 500 ppm for maternal animals and their offspring, which is 50,000 fold higher than the RfD.

3. *Reference dose*. Using the same conservative exposure assumptions as was used for the general population, the percent of the RfD that will be utilized by aggregate exposure to residues of fluthiacet-methyl is as follows: 1.5% for nursing infants less than 1 year old, 5.9% for non-nursing infants, and 5.2% for children 1–6 years old. K-I Chemical concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to residues of fluthiacet-methyl.

G. International Tolerances

No international tolerances have been established under CODEX for fluthiacet-methyl. (Joanne Miller)

3. Zeneca Ag Products

PP 7F4864

EPA has received a pesticide petition (PP 7F4864) from Zeneca Ag Products, 1800 Concord Pike, P.O. Box 15458, Wilmington, DE 19850-5458] proposing pursuant to section 408(d) of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. 346a(d), to amend 40 CFR 180.507 by establishing a tolerance for residues of azoxystrobin (methyl(E)-2-(2-(6-(2-cyanophenoxy)pyrimidin-4-yloxy)phenyl)-3- methoxyacrylate) and the Z-isomer of azoxystrobin (methyl(Z)-2-(2-(6-(2-cyanophenoxy) pyrimidin-4-yloxy)phenyl)-3-methoxyacrylate)] in or on the raw agricultural commodities almond hulls at 4.0 ppm, cucurbits (chayotes, Chinese waxgourds, citron melons, cucumbers, gherkins, edible gourds, Mordica spp., cantaloupes, casabas, crenshaw melons, golden pershaw melons, honeydew melons, honey balls, mango melons, Persian melons, summer squashes, winter squashes, and watermelons) at 0.3 ppm, peanut hay at 1.5 ppm, pistachios at 0.01 ppm, rice grain at 4.0 ppm, rice hulls at 20 ppm, rice straw at 11 ppm, tree nuts (almonds, beech nuts, Brazil nuts, butternuts, cashews, chestnuts, chinquapins, filberts, hickory nuts, macadamia nuts, pecans, and walnuts) at 0.01 ppm, wheat bran at 0.12 ppm, wheat grain at 0.04 ppm, wheat hay at 13.0 ppm, and wheat straw at 4.0 ppm. It is also proposed that 40 CFR 180.507 be amended by establishment of a tolerance for the residues of azoxystrobin (methyl (*E*)-2-[2-[6-(2-cyanophenoxy)pyrimidin-4-yloxy]phenyl]-3-methoxyacrylate) in or on the following animal products: eggs at 0.4 ppm, cattle kidney at 0.06 ppm, liver of cattle, goat, horse, and sheep at 0.3 ppm, hog liver at 0.2 ppm, poultry liver at 0.4 ppm, meat and fat of cattle, goat, horse, sheep, poultry and swine at 0.01 ppm, and milk at 0.006 ppm. The proposed analytical methods use gas chromatography with nitrogen-phosphorous detection (GC-NPD) or, in mobile phase, high performance liquid chromatography with ultraviolet detection (HPLC-UV). EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism*. The metabolism of azoxystrobin as well as the nature of the residues is adequately understood for purposes of the tolerances. Plant metabolism has been evaluated in three diverse crops, grapes, wheat, and peanuts, which should serve to define the similar metabolism of azoxystrobin in a wide range of crops. Parent azoxystrobin is the major component found in crops. Azoxystrobin does not accumulate in crop seeds or fruits. Metabolism of azoxystrobin in plants is complex, with more than 15 metabolites identified. These metabolites are present at low levels, typically much less than 5% of the TRR.

2. *Analytical method*. An adequate analytical method, gas chromatography with nitrogen-phosphorous detection (GC-NDP) or, in mobile phase, by high performance liquid chromatography with ultraviolet detection (HPLC-UV), is available for enforcement purposes with a limit of detection that allows monitoring of food with residues at or above the levels set in these tolerances. The Analytical Chemistry Section of the EPA concluded that the method(s) are adequate for enforcement. Analytical methods are also available for analyzing meat, milk, poultry, and eggs and also underwent successful independent laboratory validations.

B. Toxicological Profile

1. *Acute toxicity*. The acute oral toxicity study in rats of technical azoxystrobin resulted in an LD_{50} of >5,000 milligrams/kilogram (limit test) for both males and females. The acute dermal toxicity study in rats of technical azoxystrobin resulted in an LD_{50} of >2,000 milligrams/kilogram (limit dose). The acute inhalation study of technical azoxystrobin in rats resulted in an LC_{50} of 0.962 milligrams/liter in males and 0.698 milligrams/liter in females. In an acute oral neurotoxicity study in rats dosed once by gavage with 0, 200, 600, or 2,000 milligrams/ kilogram azoxystrobin, the systemic toxicity no observed effect level (NOEL) was 200 milligrams/kilogram and the systemic toxicity lowest observed effect level (LOEL) was 200 milligrams/kilogram, based on the occurrence of transient diarrhea in both sexes. There was no indication of neurotoxicity at the doses tested. This acute neurotoxicity study is considered supplementary (upgradable) but the data required are considered only to be confirmatory. Zeneca has submitted the required confirmatory data; these data have been scheduled for review by the Agency.

2. *Genotoxicty (mutagenicity)*. Azoxystrobin was negative for mutagenicity in the salmonella/ mammalian activation gene mutation assay, the mouse micronucleus test, and the unscheduled DNA synthesis in rat hepatocytes/mammalian cells (in vivo/ in vitro procedure study). In the forward mutation study using L5178 mouse lymphoma cells in culture, azoxystrobin tested positive for forward gene mutation at the TK locus. In the *in vitro* human lymphocytes cytogenetics assay of azoxystrobin, there was evidence of a concentration related induction of

chromosomal aberrations over background in the presence of moderate to severe cytotoxicity.

3. *Reproductive and developmental toxicity*. In a prenatal development study in rats gavaged with azoxystrobin at dose levels of 0, 25, 100, or 300 mg/kg/day during days 7 through 16 of gestation, lethality at the highest dose caused the discontinuation of dosing at that level. The developmental NOEL was greater than or equal to 100 mg/kg/day and the developmental lowest observed effect level (LOEL) was >100 mg/kg/day because no significant adverse developmental effects were observed. In this same study, the maternal NOEL was not established; the maternal LOEL was 25 mg/kg/day, based on increased salivation.

In a prenatal developmental study in rabbits gavaged with 0, 50, 150, or 500 mg/kg/day during days 8 through 20 of gestation, the developmental NOEL was 500 mg/kg/day and the developmental LOEL was >500 mg/kg/day because no treatment-related adverse effects on development were seen. The maternal NOEL was 150 mg/kg/day and the maternal LOEL was 500 mg/kg/day, based on decreased body weight gain.

In a 2-generation study, rats were fed 0, 60, 300, or 1,500 ppm of azoxystrobin. The reproductive NOEL was 32.2 mg/kg/day. The reproductive LOEL was 165.4 mg/kg/day. Reproductive toxicity was demonstrated as treatment-related reductions in adjusted pup body weights as observed in the F18 and F2. pups dosed at 1500 ppm (165.4 mg/kg/day).

4. *Subchronic toxicity*. In a 90-day rat feeding study the NOEL was 20.4 mg/kg/day for males and females. The LOEL was 211.0 mg/kg/day based on decreased weight gain in both sexes, clinical observations of distended abdomens and reduced body size, and clinical pathology findings attributable to reduced nutritional status.

In a subchronic toxicity study in which azoxystrobin was administered to dogs by capsule for 92 or 93 days, the NOEL for both males and females was 50 mg/kg/day. The LOEL was 250 mg/kg/day, based on treatment-related clinical observations and clinical chemistry alterations at this dose.

In a 21-day repeated-dose dermal rat study using azoxystrobin, the NOEL for both males and females was greater than or equal to 1,000 mg/kg/day (the highest dosing regimen); a LOEL was therefore not determined.

5. *Chronic toxicity and carcinogenicity*. In a 2–year feeding study in rats fed diets containing 0, 60, 300, and 750/1,500 ppm (males/females), the systemic toxicity NOEL was 18.2 mg/kg/day for males and 22.3 mg/kg/day for females. The systemic toxicity LOEL for males was 34 mg/kg/day, based on reduced body weights, food consumption, and food efficiency; and bile duct lesions. The systemic toxicity LOEL for females was 117.1 mg/kg/day, based on reduced body weights. There was no evidence of carcinogenic activity in this study.

In a 1–year feeding study in dogs to which azoxystrobin was fed by capsule at doses of 0, 3, 25, or 200 mg/kg/day, the NOEL for both males and females was 25 mg/kg/day and the LOEL was 200 mg/kg/day for both sexes, based on clinical observations, clinical chemistry changes, and liver weight increases that were observed in both sexes.

In a 2–year carcinogenicity feeding study in mice using dosing concentrations of 0, 50, 300, or 2,000 ppm, the systemic toxicity NOEL was 37.5 mg/kg/day for both males and females. The systemic toxicity LOEL was 272.4 mg/kg/day for both sexes, based on reduced body weights in both at this dose. There was no evidence of carcinogenicity at the dose levels tested.

According to the new proposed guidelines for Carcinogen Risk Assessment (April, 1996), the appropriate descriptor for human carcinogenic potential of azoxystrobin is ''Not Likely''. The appropriate subdescriptor is ''has been evaluated in at least two well conducted studies in two appropriate species without demonstrating carcinogenic effects''.

6. *Animal metabolism*. In the study of metabolism in the rat, azoxystrobin--unlabeled or with a pyrimidinyl, phenylacrylate, or cyanophenyl label--was administered to rats by gavage as a single or 14-day repeated doses. Less than 0.5% of the administered dose was detected in the tissues and carcass up to 7 days post-dosing and most of it was in excretion- related organs. There was no evidence of potential for bioaccumulation. The primary route of excretion was via the feces, though 9 to 18% was detected in the urine of the various dose groups. Absorbed azoxystrobin appeared to be extensively metabolized. A metabolic pathway was proposed showing hydrolysis and subsequent glucuronide conjugation as the major biotransformation process. This study was classified as supplementary but upgradable; the company has submitted data intended to upgrade the study and these data have been reviewed.

C. Dietary Exposure

1. *Food*. The primary route of human exposure to azoxystrobin is expected to be dietary ingestion of both raw and processed agricultural commodities from bananas, grapes, peaches, peanuts, tomatoes, tree nuts, pistachios, rice, cucurbits, and wheat. A chronic dietary exposure analysis (combined years 1989 - 1992 U.S. Department of Agriculture's Nationwide Food Consumption Survey using the Technical Assessment Systems, Inc. ''EXPOSURE 1'' software) was conducted using tolerance level residues and 100% crop treated information to estimate the TMRC for the general population and 22 subgroups.

2. *Drinking water*. There is no established Maximum Concentration Level for residues of azoxystrobin in drinking water. The potential exposures associated with azoxystrobin 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 proposed uses were granted.

3. *Non-dietary exposure*. The Agency evaluated the existing toxicological database for azoxystrobin and assessed appropriate toxicological endpoints and dose levels of concern that should be assessed for risk assessment purposes. Dermal absorption data indicate that absorption is less than or equal to 4%. No appropriate endpoints were identified for acute dietary or short term, intermediate term, and chronic term (noncancer) dermal and inhalation occupational or residential exposure. Therefore, risk assessments are not required for these exposure scenarios and there are no residential risk assessments to aggregate with the chronic dietary risk assessment.

D. Cumulative Effects

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.'' EPA does not have, at this time, available data to determine whether azoxystrobin 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, azoxystrobin does not appear to be structurally similar to any other pesticide chemical at this time. No metabolites of azoxystrobin that are of toxicological concern are known to the Agency. Azoxystrobin appears to the only pesticide member of its class of

chemistry and there are no reliable data to indicate that this chemical is structurally or toxicologically similar to existing chemical substances at this time. Therefore, it appears unlikely that azoxystrobin bears a common mechanism of activity with other substances. For the purposes of this tolerance action, it is not appropriate to assume that azoxystrobin has a common mechanism of toxicity with other substances.

E. Safety Determination

The chronic toxicity Reference Dose (RfD) for azoxystrobin is 0.18 mg/kg/day, based on the NOEL of 18.2 mg/kg/day from the rat chronic toxicity/carcinogenicity feeding study in which decreased body weight and bile duct lesions were observed in male rats at the LOEL of 34 mg/kg/day. This NOEL was divided by an Uncertainty Factor of 100, to allow for interspecies sensitivity and intraspecies variability.

1.As part of the hazard assessment process, the available toxicological database was reviewed to determine if there are toxicological endpoints of concern. For azoxystrobin, the Agency does not have a concern for acute dietary exposure since the available data do not indicate any evidence of significant toxicity from a 1–day or single event exposure by the oral route. Therefore, an acute dietary risk assessment is not required for azoxystrobin at this time.

2. *U.S. population*. The chronic dietary exposure analysis showed that exposure from the proposed new tolerances in or on tree nuts, pistachios, cucurbits, rice, and wheat for the general U.S. population would be 1.1% of the RfD. This analysis used a value of 0.05 ppm for banana pulp rather than the value of 0.5 that has been established for banana (whole fruit including peel) because adequate data were submitted to support use of the lower value in the dietary risk analyses.

3. *Infants and children*. The chronic dietary exposure analysis, using the same tolerances and commodities that were used for the same analysis for the general U.S. population showed that the exposure of Non-nursing Infants (the subgroup with the highest exposure) would be 4.1% of the RfD.

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 margin of exposure analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans. In either case, EPA generally defines the level of appreciable risk as exposure that is greater than 1/100th of the no observed effect level in the animal study appropriate to the particular risk assessment. This hundredfold uncertainty (safety) factor/margin of exposure (safety) is designed to account for combined inter- and intraspecies variability. EPA believes that reliable data support using the standard hundredfold margin/factor not the additional tenfold margin/factor when EPA has a complete database 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 margin/factor. The database for azoxystrobin is complete except that the acute and subchronic neurotoxicity studies require upgrading. The upgrade data are confirmatory only, have been submitted by the company, and await review by the Agency.

There was no evidence of increased susceptibility of infants or children to azoxystrobin. Therefore, no additional uncertainty factors are considered necessary at this time.

F. Endocrine Effects

EPA is required to develop a screening program to determine whether certain substances (including all pesticides and inerts) ''may have an effect in humans that is similar to an effect produced by a naturally occurring estrogen, or such other endocrine effect...''. The Agency is currently working with interested shareholders, including other government agencies, public interest groups, industry, and research scientists, to develop a screening and testing program and a priority setting scheme to implement this program. Congress has allowed three (3) years from the passage pf FQPA (August 3, 1999) to implement this program. When this program is implemented, EPA may require further testing of azoxystrobin and end-use product formulations for endocrine disrupter effects. There are currently no data or information suggesting that azoxystrobin has any endocrine effects.

G. International Tolerances

There are no Codex Maximum Residue Levels established for azoxystrobin. (Cynthia Giles-Parker)

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ENVIRONMENTAL PROTECTION AGENCY

[PF–765; FRL–5745–9]

Notice of Filing of Pesticide Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of pesticide petitions proposing the establishment of regulations for residues of certain pesticide chemicals in or on various food commodities.

DATES: Comments, identified by the docket control number PF–765, must be received on or before November 7, 1997.

ADDRESSES: By mail submit written comments to: Public Information and Records Integrity Branch, Information Resources and Services Division (7506C), Office of Pesticides Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person bring comments to: Rm. 1132, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically to: opp-docket@epamail.epa.gov. Follow the instructions under ''SUPPLEMENTARY INFORMATION.'' No confidential business information should be submitted through e-mail.

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

FOR FURTHER INFORMATION CONTACT: The product manager listed in the table below:

Product Manager	Office location/telephone number	Address
Joe Tavano	Rm. 214, CM #2, 703–305–6411, e-mail: tavano.joe@epamail.epa.gov.	1921 Jefferson Davis Hwy, Arlington, VA
Bipin Gandhi,	Rm. 4W53, CS #1, 703–308–8380, e-mail: gandhi.bipin@epamail.epa.gov.	2800 Crystal Drive, Arlington, VA
Eugene Wilson	Rm. 245, CM #2, 703–305–6103, e-mail: wilson.eugene@epamail.epa.gov.	1921 Jefferson Davis Hwy, Arlington, VA

SUPPLEMENTARY INFORMATION: EPA has received pesticide petitions as follows proposing the establishment and/or amendment of regulations for residues of certain pesticide chemicals in or on various food commodities under section 408 of the Federal Food, Drug, and Comestic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that these petitions contain data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

The official record for this notice of filing, as well as the public version, has been established for this notice of filing under docket control number [PF–765] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official record is located at the address in ''ADDRESSES'' at the beginning of this document.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comment and data will also be accepted on disks in Wordperfect 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number PF–765 and appropriate petition number. Electronic comments on notice may be filed online at many Federal Depository Libraries.

List of Subjects

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

Dated: September 25, 1997.

James Jones,

Actinig Director, Registration Division, Office of Pesticide Programs.

Summaries of Petitions

Petitioner summaries of the pesticide petitions are printed below as required by section 408(d)(3) of the FFDCA. The summaries of the petitions were prepared by the petitioners and represent the views of the petitioners. EPA is publishing the petition summaries verbatim without editing them in any way. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

1. B2E Corporation

PP 7E4907

EPA has received a pesticide petition (PP 7E4907) from B2E Corporation, 16 School Street, Rye, NY 10580 proposing pursuant to section 408(d) of the Federal Food, Drug and Cosmetic Act,(FFDCA) 21 U.S.C. 346a(d), to amend 40 CFR part 180 to establish an exemption from the requirement of a tolerance for 2-Hydroxyacetophenone (2-HAP) in or on the raw agricultural commodity. The proposed analytical method involves homogenization, filtration, partition and cleanup with analysis by high performance liquid chromatography using UV detection. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Toxicological Profile

1. *Acute toxicity*. A rat acute oral study with an LD_{50} > 500 milligrams/kilogram (mg)/(kg), a rabbit acute dermal toxicity study with an LD_{50} > 2,000 mg/kg, a primary eye irritation study in the rabbit showing no irritation, a rabbit primary dermal irritation study showing 2-HAP is not an irritant, a skin sensitization study in guinea pigs showing 2-HAP is a slight skin sensitizer, and a 28 day rat inhalation study with a no observed-effect-level (NOEL) of 160 milligrams/cubic meter (mg)/(m^3).

2. *Genotoxicty*. 2-HAP was tested in the Ames Salmonella/microsome plate incorporation assay both in the presence and the absence of a metabolic activation system. Under the conditions of the assay, 2-HAP did not exhibit genetic activity according to the assay criteria. It can therefore be considered non-mutagenic.

3. *Ecotoxicity*. A study of acute toxicity to Bluegill Sunfish was conducted at five nominal concentrations, selected on the basis of preliminary toxicity screening, as well as a control and the solvent (acetone). The fish (10 in each replicate) were observed at 24, 48, 72 and 96 hour intervals for signs of toxic effects and mortality. 2-HAP was determined to have an LC_{50} (96 hours) of 115 milligrams/liter (mg)/(L) and a no observed effect-concentration (NOEC) of 31.3 mg/L.

A study of acute toxicity to Daphnids was conducted at five nominal concentrations as well as a control and solvent (acetone) over 48 hours (hrs). They were observed at 24 and 48 hours for signs of toxic effects and mortality. 2-HAP was calculated to have an EC_{50} (48 hr) of 57 mg/L under these conditions. The NOEC was found to be 25 mg/L.

B. Environmental Fate

Aerobic soil metabolism was evaluated by a Ready Biodegradation by CO_2 Production study. The test liquid was added to test medium at 10 and 20 mg/L. Unacclimated diluted inoculum (20 ml, 1.3 million CFU. ml) was added to 2 liters of diluted test material, positive control material (glucose at 20 milligrams/milliter (mg)/(ml) or control medium. Carbon dioxide free air was bubbled through the stirred 22.6–23.2 ° C. incubation mixtures and carbon dioxide collected for 28 days. Carbon dioxide was measured by titration of barium hydroxide traps at regular intervals of the study. Percent biodegradation was estimated by percent of theoretical carbon dioxide

(TCO_2) production achieved based on the empirical formula, assuming that all organic carbon in the test material is converted to carbon dioxide, and by measurement of total organic carbon (TOC) remaining after the 28 day incubation.

After a lag of about 1 day, test material carbon dioxide production achieved 93.2% (at 10 mg/L) and 86.7% (at 20 mg/l) TCO_2 28 days after study start. The soluble organic carbon content at study termination was < 0.5 mg/L and 0.7 mg/l initial concentrations of test material respectively. This corresponds to 100% (at 10 mg/L) and 98.6% (at 20 mg/L) removal of test material also indication effective mineralization.

The 2-HAP produced greater than 60% of the TCO_2 within 28 days of incubation and can be considered readily biodegradable.

Anaerobic degradation is not expected to be a factor given the application of the product.

C. Aggregate Exposure

1. *Dietary exposure*. Dietary exposure for 2-HAP is expected to be negligible for the application of 2-HAP in non-food use pesticides. If 2-HAP were to be incorporated in pesticides used for food crops, the level of 2-HAP would be at most, a small fraction of the acceptable tolerances of the pesticides. The use level within the pesticide is only a maximum of 0.1% by weight. The rapid biodegradability make significant uptake into plant tissue unlikely. Human exposure may be expected to be within acceptable (note: FDA classifies this as a GRAS material for use in meat products, poultry, condiments, soups and seasonings) limits.

2. *Drinking water.* Although 2-HAP is not considered to be hydrolyzable, it is readily biodegradable. Use levels at a maximum of 0.1% within pesticides also make it unlikely that there will be a presence in groundwater. Based on this data, exposure to residues in drinking water in not anticipated. The EPA has not established a Maximum Concentration Level for residues of 2-HAP in drinking water.

3. *Non-dietary exposure.* Evaluations by B2E Corporation of the estimated non-occupational exposure to 2-HAP have concluded that the potential exposure for the general population may be from residues in food crops discussed above. Another possible exposure is from the use on turf of pesticides containing 2-HAP as an inert. The route of exposure would be dermal (assuming that people would be walking barefoot on treated areas) and the material has been shown to have a low order of acute dermal toxicity (rabbit - LD_{50} 10,300 mg/kg).

D. Cumulative Effects

B2E Corporation considered the potential for cumulative effects of 2-HAP and similar substances that may have a common mechanism of toxicity. there is no information to indicate that toxic effects that might be found at high levels of exposure to 2-HAP would be cumulative with other chemical compounds. The potential risks of 2-HAP are judged solely in its aggregate exposure.

E. Safety Determination

1. *U.S. population*. Based on the exposure assumptions and the toxicity data described above, there is no appreciable risk to human health. It can be concluded that there is a reasonable certainty that no harm will result from aggregate exposure to 2-HAP residues.

2. *Infants and children*. Based on the use patterns of the material and the levels of exposure, there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to 2-HAP residue.

F. International Tolerances

No international tolerances have been established.

2. Novartis Crop Protection, Inc.

PP 6F4616, 6F4617, 6F4618, & 6F4633

EPA has received a pesticide petition (PP 6F4616, 6F4617, 6F4618, & 6F4633) from Novartis Crop Protection, Inc., P.O. Box 18300, Greensboro, NC 27419–8300 proposing pursuant to section 408(d) of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing a tolerance for residues of Fenoxycarb, ethyl[2-(4-phenoxyphenoxy)ethyl]carbamate in or on the raw agricultural commodities: pome fruit at 0.02 parts per million (ppm); nutmeat at 0.05 ppm; almond hulls at 4.0 ppm; citrus fruit at 0.05 ppm; grass Forage (except Bluegrass) at 0.6 ppm; grass hay (except Bluegrass) at 0.5 ppm; milk, meat and meat byproducts of cattle, goats, hogs, horses and sheep at 0.01 ppm; and fat of cattle, goats, hogs, horses and sheep at 0.05 ppm. The proposed analytical method involves Column switching high performance liquid chromatography and UV detection. EPA has determined that the petitions contain data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism*. The metabolism of fenoxycarb in plants (apples, citrus and grass) is well understood. Identified metabolic pathways are similar in plants and animals. It has been determined that fenoxycarb, per se, is the residue of concern for tolerance setting purposes.The metabolism of fenoxycarb in plants (apples, citrus and grass) is well understood. Identified metabolic pathways are similar in plants and animals. It has been determined that fenoxycarb, per se, is the residue of concern for tolerance setting purposes.

2. *Analytical method*. Novartis Crop Protection Inc. has submitted practical analytical methodology for detecting and measuring levels of fenoxycarb in or on food. The limits of detection (2.5 ng) and quantitation (0.01 ppm) allow monitoring of food with residues at or above the levels in the proposed tolerances. All methods are based on crop specific cleanup procedures and determination nce liquid chromatography with column-switching and UV detection.

3. *Magnitude of residues*. Residue trials: 15 residue trials in 8 states on apples and pears; 16 field trials in 13 states on grasses; 13 residue trials in 4 states on citrus; 8 residue trials in 6 states on tree nuts. No residues of fenoxycarb (0.01 ppm) were found in apples or pears treated at the maximum labeled rate. The maximum residues found in grasses were 0.056 ppm in forage and 0.041 in hay. Only one detectable residue at 0.02 ppm was found on citrus. This grapefruit sample was aerially treated with the maximum labeled rate. The maximum residue found in nutmeats treated at the maximum labeled rate was 0.02 ppm.

B. Toxicological Profile

1. *Acute toxicity*. The following acute toxicity studies have been conducted to support the proposed tolerance for fenoxycarb. The studies indicate that fenoxycarb has a low order of acute toxicity with effects in catgegory III and IV.

- Rat acute oral study with an LD_{50} >10,000 mg/kg.
- Rabbit acute dermal study with an LD_{50} > 2,000 mg/kg.
- Rat inhalation study with an LC_{50} > 4.4 mg/L.
- Primary eye irritation study in the rabbit showing slight eye irritation.
- Primary dermal irritation study in the rabbit showing fenoxycarb is not a skin irritant.

- Skin sensitization study showing fenoxycarb is not a skin sensitizer in the Guinea pig.
- Dermal absorption study showing a maximum of 30.2% of fenoxycarb is absorbed by the rat following a 24 hour dermal exposure.

2. *Genotoxicty*. Results from the following assays indicate that fenoxycarb is not genotoxic: Ames Assay - Negative; Mouse Micronucleus Test - Negative; *Saccharomyces cerevisiae* D7 test - Negative.

3. *Reproductive and developmental toxicity*. Novartis conducted a teratogenicity study in the rat at doses of 0, 50, 150, or 500 mg/kg/day by gavage with maternal and developmental NOELs of ≥ 500 mg/kg/day.

Novartis also conducted a teratogenicity study in the rabbit at doses of 0, 30, 100, 200 or 300 mg/kg/day. The maternal NOEL based on reduced body weight gains was 100 mg/kg/day. The developmental NOEL was ≥ 300 mg/kg/day.

In a 2-generation reproduction study, rats were dosed of 0, 200, 600 or 1,800 ppm. The systemic NOEL was 200 ppm based on decreased body weight gains and food consumption, increased gonad weights (without effects on reproductive performance or a morphological correlate), liver hypertrophy and focal necrosis and increased liver weights. There were no effects on fertility or reproductive performance. Based on decreased pup weights and slight delays in pinna unfolding and eye opening, there was no clear developmental NOEL. A derived NOEL (DNOEL), determined using analysis of variance and regression, was 40 ppm.

4. *Subchronic toxicity*. Novartis conducted a 21–day dermal study in which fenoxycarb was applied to the shaved skin of 5 male and 5 female New Zealand White rabbits at dose levels of 0, 20, 200, or 2,000 mg/kg for 21 consecutive days. The only effect observed was a slight increase in liver weights at the high dose. However, there was no histopathological correlate to this finding and the change was interpreted as representing an adaptive response. The NOEL was 200 mg/kg.

In a 6–month oral (capsule) study of dogs dosed at 0, 50, 150 or 500 mg/kg/day, the NOEL was 150 mg/kg/day based on reduced weight gain in females.

In a 90–day feeding study, Sprague Dawley rats were fed fenoxycarb at dietary concentrations to result in doses of 0, 80, 250 or 800 mg/kg/day. Based on slight liver weight increases at 80 mg/kg/day, the NOEL was < 80 mg/kg/day.

Novartis conducted a 90–day feeding study in mice in which mice were fed dietary concentrations of fenoxycarb to result in doses of 0, 100, 300 or 900 mg/kg/day. Based on increased liver weight accompanied by fatty changes, glycogen depletion and increased multinucleated hepatocytes, the NOEL was 100 mg/kg/day.

Rats in a 21–day inhalation study were exposed to 0, 0.01, 0.10 or 1.13 mg/L for 6 hrs/day/5 days/week. Based on decreased body weight gain in males and increased liver weight in females the NOEL was 0.10 mg/L.

5. *Chronic toxicity*. In a 52 week oral (capsule) study, dogs were dosed at levels of 0, 25, 80 or 260 mg/kg/day. Based on decreased body weight gain and food consumption and decreases in adrenal weights and inorganic phosphorous the NOEL was 25 mg/kg/day.

In a 24–month chronic feeding and oncogenicity study, rats were dosed at levels of 0, 200, 600 or 1,800 ppm. Based on liver toxicity (non-neoplastic histopathology and increased liver enzymes) the NOEL was 200 ppm. There was no evidence of carcinogenic potential.

In an 80–week chronic feeding and oncogenicity study, mice were dosed at 0, 30, 110 or 420 ppm for males and 0, 20, 80 or 320 ppm for females. Systemic toxicity was not observed at any level. The NOEL for chronic toxicity was ≥ 420 ppm and 320 ppm for males and females, respectively. There was evidence of carcinogenic potential. Lung adenomas and combined adenoma/carcinoma in addition to Harderian gland tumor incidences were increased in males at 420 ppm.

In an 18–month oncogenicity study, mice were dosed at 0, 10, 50, 500 or 2,000 ppm with a NOEL of 50 ppm (5 – 6 mg/kg/day). A carcinogenic response was noted in the lung in males and females at 500 and 2,000 ppm and in the liver of male mice at 500 and 2,000 ppm.

In a study investigating biochemical parameters in livers, mice were treated at doses of 0, 50, 500 or 2,000 ppm showing that fenoxycarb is a strong inducer of hepatic xenobiotic metabolizing enzymes in the mouse and can be classified as a peroxisome proliferator..

6. *Animal metabolism*. The metabolism of fenoxycarb in animals (goat and rat) is well understood. It has been determined that fenoxycarb, per se, is the residue of concern in animal commodities for tolerance setting purposes.

C. Aggregate Exposure

1. *Food*. For purposes of assessing the potential dietary exposure under the proposed tolerances, Novartis has estimated aggregate exposure based on exposure from anticipated residues on pome fruit, tree nuts, citrus, cattle meat and milk. Since there were no detections of fenoxycarb in pome fruit, tree nuts or citrus treated according to label directions, the anticipated residue of 0.005 ppm, one-half the limit of quantitation, was used. Exposure via meat and milk comes from the possible consumption by cattle of almond hulls, grass, citrus pulp and apple pomace. Theoretical residues in milk make up greater than 50% of the possible exposure to fenoxycarb. Almost all of the theoretical residue in milk comes from almond hulls in the theoretical diet for cattle. The anticipated residue in milk is greatly exaggerated since almond hulls, in general, are not a significant portion of cattle diet. Percent crop treated figures for food crops and cattle feed were also used in the analysis.

2. *Drinking water*. The product chemistry data for fenoxycarb indicate that movement of fenoxycarb into drinking water would be unlikely and that fenoxycarb would be expected to have a strong affinity for binding to the soil. Soil metabolism data further demonstrate that fenoxycarb and its residues have an affinity for binding to soil, and thus a low propensity to move from the soil surface. Field studies in Washington, Georgia and in California showed that fenoxycarb did not move below the top 6 inches of the soil. Based on the available data, Novartis does not anticipate exposure to residues of fenoxycarb in drinking water. There is no established Maximum Contaminant Level for residues of fenoxycarb in drinking water The product chemistry data for fenoxycarb indicate that movement of fenoxycarb into drinking water would be unlikely and that fenoxycarb would be expected to have a strong affinity for binding to the soil. Soil metabolism data further demonstrate that fenoxycarb and its residues have an affinity for binding to soil, and thus a low propensity to move from the soil surface. Field studies in Washington, Georgia and in California showed that fenoxycarb did not move below the top 6 inches of the soil. Based on the available data, Novartis does not anticipate exposure to residues of fenoxycarb in drinking water. There is no established Maximum Contaminant Level for residues of fenoxycarb in drinking water.

3. *Non-dietary exposure*. Other potential sources of exposure of the general population to residues of pesticides are exposure from non-occupational sources. Novartis has estimated non-occupational exposure to fenoxycarb and concludes that the potential for exposure is insignificant. The potential for non-occupational exposure to fenoxycarb resulting from use of pet sprays or carpet sprays containing fenoxycarb is not included in safety determinations for the U.S. population and infants (shown below) since the registrations for these uses have been canceled. Exposure through turf uses of fenoxycarb as a fire ant bait is also considered not significant. Used as a fire ant bait, fenoxycarb is only applied to turf with active fire ant infestations and has no efficacy as a preventive treatment. Turf infested with fire ants is not commonly used for recreational activities because of the danger presented by fire ants. In addition, studies demonstrate that > 95% of the bait applied to fire ant infestations is removed by the ants within 24 hours. Therefore opportunity for exposure to fenoxycarb as a fire ant bait through treated turf is extremely small.

D. Cumulative Effects

Novartis also considered the potential for cumulative effects of fenoxycarb and other substances that have a common mechanism of toxicity. Novartis concluded that consideration of a common mechanism of toxicity is not appropriate at this time. Novartis does not have reliable information to indicate that toxic effects produced by fenoxycarb would be cumulative with those of any other chemical compounds; thus Novartis is considering only the potential risks from dietary exposure of fenoxycarb in its aggregate exposure assessment.

E. Safety Determination

1. *U.S. population*. Using the exposure assumptions described above and based on the completeness and reliability of the toxicity data base for fenoxycarb, Novartis has calculated that aggregate exposure to fenoxycarb will utilize 0.016% of the Reference Dose (RfD) for the U.S. population - 48 states - all seasons, based on chronic toxicity endpoints. Lifetime carcinogenic risk for dietary exposure based on quantitative risk assessment and a Q_1* of 5.6×10^{-2} $(mg/kg/day)^{-1}$, is 7.31×10^{-7}. EPA generally has no concern for exposures below 100% of the RfD or lifetime carcinogenic risks less than 1×10^{-6}. Since anticipated residues of fenoxycarb in food are extremely low and all short term NOELs are at least an order of magnitude higher than the chronic NOEL, no acute risk from exposure to residues of fenoxycarb is anticipated. Therefore, Novartis concludes that there is a reasonable certainty that no harm will result from aggregate exposure to fenoxycarb residues.

2. *Infants and children*. In assessing the potential for additional sensitivity of infants and children to residues of fenoxycarb, Novartis considered data from developmental toxicity studies in the rat and rabbit and a 2-generation reproduction study in the rat. No evidence of developmental toxicity was observed in rats or rabbits. Fenoxycarb did not impair any reproductive or postnatal development parameters and was neither embryotoxic nor teratogenic. The NOELs for maternal and developmental toxicity in the rat were determined to be ≥ 500 mg/kg/day. The NOEL for maternal toxicity in the rabbit, based on reduced body weight gains, was 100 mg/kg/day and the NOEL for developmental toxicity was ≥ 300 mg/kg/day. In a 2-generation reproduction study in rats, the systemic NOEL for parental animals was 200 ppm based on decreased body weight gains and food consumption, increased gonad weights (without effects on reproductive performance or a morphological correlate), liver hypertrophy and focal necrosis and increased liver weights. There were no effects on fertility or reproductive performance. Based on decreased pup weights and slight delays in pinna unfolding and eye opening, there was no clear developmental NOEL. A NOEL of 40 ppm was derived using analysis of variance and regression. The mild nature of the effects of fenoxycarb on rat pups and the lack of effects in the developmental toxicity studies suggest that there is no particular sensitivity to fenoxycarb for infants and children.

Using the same exposure assumptions used for the determination in the general population, Novartis has concluded that the percent of the RfD that will be utilized by aggregate exposure to residues of fenoxycarb is 0.038% for nursing infants less than 1 year old, 0.098% for non-nursing infants, 0.048% for children 1–6 years old and 0.028% for children 7–12 years old. Therefore, based on the completeness and reliability of the toxicity data base, Novartis concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to fenoxycarb residues.

F. International Tolerances

No Codex MRLs have been established for residues of fenoxycarb.

3. Novartis Crop Protection, Inc.

PP 7F4897

EPA has received a pesticide petition (PP 7F4897) from Novartis Crop Protection, Inc., Greensboro, NC 27419, proposing pursuant to section 408(d) of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. 346a(d), to amend 40 CFR 180.368 by establishing a tolerance for residues of metolachlor in or on the raw agricultural commodities sunflower seed at 0.3 ppm and sunflower meal at 0.6 ppm. The proposed analytical method involves extraction by acid reflux, filtration, partition and cleanup with analysis by gas chromatography using Nitrogen/Phosphorous (N/P) detection. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2)of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism*. The qualitative nature of the metabolism of metolachlor in plants is well understood. Metabolism in plants involves conjugation of the chloroacetyl side chain with glutathione, with subsequent conversion to the cysteine and thiolactic acid conjugates. Oxidation to the corresponding sulfoxide derivatives occurs and cleavage of the side chain ether group, followed by conjugation with glucose.

2. *Analytical method*. Novartis Crop Protection has submitted a practical analytical method involving extraction by acid reflux, filtration, partition and cleanup with analysis by gas chromatography using Nitrogen/ Phosphorous (N/P) detection. The methodology converts residues of metolachlor into a mixture of CGA–37913 and CGA–49751. The limit of quantitation (LOQ) for the method is 0.03 ppm for CGA–37913 and 0.05 ppm for CGA–49751.

3. *Magnitude of residues*. Eight residue trials were conducted in major sunflower growing areas of the United States [CA, KS, TX (2), MN(2), ND, IL). Five tests were conducted with metolachlor alone and three were conducted as a tank mix of metolachlor and another product. Metolachlor residues were analyzed for in all trials. Applications were made at the

maximum labeled rate of 3.0 lbs. active ingredient/Acre (ai/A) and at 2 times the maximum labeled rate (6.0 lbs. ai/A). A processing study was also conducted with seeds processed into meal, hulls, crude oil, refined oil and soapstock. According to the Revised Table II of Subdivision O, only meal and refined oil are now required. Based on these studies and an earlier EPA review of these data, tolerances are proposed in sunflower seeds at 0.3 ppm and in sunflower meal at 0.6 ppm.

B. Toxicological Profile

1. *Acute toxicity*. Metolachlor has a low order of acute toxicity. The combined rat oral LD_{50} is 2,877 mg/kg. The acute rabbit dermal LD_{50} is > 2,000 mg/kg and the rat inhalation LC_{50} is > 4.33 mg/L. Metolachlor is not irritating to the skin and eye. It has been shown to be positive in guinea pigs for skin sensitization. End use formulations of metolachlor also have a low order of acute toxicity and cause slight skin and eye irritation.

2. *Genotoxicty*. Assays for genotoxicity were comprised of tests evaluating metolachlor's potential to induce point mutations (Salmonella assay and an L5178/TK+/- mouse lymphoma assay), chromosome aberrations (mouse micronucleus and a dominant lethal assay) and the ability to induce either unscheduled or scheduled DNA synthesis in rat hepatocytes or DNA damage or repair in human fibroblasts. The results indicate that metolachlor is not mutagenic or clastogenic and does not provoke unscheduled DNA synthesis.

3. *Reproductive and developmental toxicity*. The developmental and teratogenic potential of metolachlor was investigated in rats and rabbits. The results indicate that metolachlor is not embyrotoxic or teratogenic in either species at maternally toxic doses. The NOEL for developmental toxicity for metolachlor was 360 mg/kg/day for both the rat and rabbit while the NOEL for maternal toxicity was established at 120 mg/kg/day in the rabbit and 360 mg/kg/day in the rat. A 2-generation reproduction study was conducted with metolachlor in rats at feeding levels of 0, 30, 300 and 1,000 ppm. The reproductive NOEL of 300 ppm (equivalent to 23.5 to 26 mg/kg/day) was based upon reduced pup weights in the F1a and F2a litters at the 1,000 ppm dose level (equivalent to 75.8 to 85.7 mg/kg/day). The NOEL for parental toxicity was equal to or greater than the 1,000 ppm dose level.

4. *Subchronic toxicity*. Metolachlor was evaluated in a 21–day dermal toxicity study in the rabbit and a 6–month dietary study in dogs; NOELs of 100 mg/kg/day and 7.5 mg/kg/day were established in the rabbit and dog, respectively. The liver was identified as the main target organ.

5. *Chronic toxicity*. A 1–year dog study was conducted at dose levels of 0, 3.3, 9.7, or 32.7 mg/kg/day. The Agency-determined RfD for metolachlor is based on the 1–year dog study with a NOEL of 9.7 mg/kg/day. The RfD for metolachlor is established at 0.1 mg/kg/day using a 100-fold uncertainty factor. A combined chronic toxicity/oncogenicity study was also conducted in rats at dose levels of 0. 1.5, 15 or 150 mg/kg/day. The NOEL for systemic toxicity was 15 mg/kg/day. An evaluation of the carcinogenic potential of metolachlor was made from two sets of oncogenicity studies conducted with metolachlor in rats and mice. Using the Guidelines for Carcinogenic Risk Assessment published September 24, 1986 (51 FR 33992) and the results of the November, 1994 Carcinogenic Peer Review, EPA has classified metolachlor as a Group C carcinogen and recommended using a Margin of Exposure (MOE) approach to quantify risk. This classification is based upon the marginal tumor response observed in livers of female rats treated with a high (cytotoxic) dose of metolachlor (3,000 ppm). The two studies conducted in mice were negative for oncogenicity.

6. *Animal metabolism*. The qualitative nature of the metabolism of metolachlor in animals is well understood. Metolachlor is rapidly metabolized and almost totally eliminated in the excreta of rats, goats, and poultry. Metabolism in plants and animals proceeds through common Phase 1 intermediates and glutathione conjugation.

7. *Metabolite toxicology*. The metabolism of metolachlor has been well characterized in standard FIFRA rat metabolism studies. The metabolites found are considered to be toxicologically similar to parent. Metolachlor does not readily undergo dealkylation to form an aniline or quinone amine as has been reported for other members of the chloroacetanilide class of chemicals. Therefore, it is not appropriate to include metolachlor with the group of chloroacetanilides that readily undergo dealkylation, producing a common toxic metabolite (quinone imine).

C. Aggregate Exposure

1. *Dietary exposure*. Dietary exposure consists of exposures from food and drinking water.

2. *Food*. For purposes of assessing the potential dietary exposure to metolachlor, aggregate exposure has been estimated based on the TMRC from the use of metolachlor in or on raw agricultural commodities for which tolerances have been previously established (40 CFR 180.368). The incremental effect on dietary risk resulting from the addition of sunflowers to the label was assessed by conservatively assuming that exposure would occur at the proposed tolerance level of 0.3 ppm with 100% of the crop treated.

The TMRC is obtained by multiplying the tolerance level residue for all these raw agricultural commodities by the consumption data which estimates the amount of these products consumed by various population subgroups. Some of these raw agricultural commodities (e.g. corn forage and fodder, peanut hay, sunflower meal) are fed to animals; thus exposure of humans to residues in these fed commodities might result if such residues are transferred to meat, milk, poultry, or eggs. Therefore, tolerances of 0.02 ppm for milk, meat and eggs and 0.2 ppm for kidney and 0.05 ppm for liver have been established for metolachlor. In an EPA review of sunflower residue data previously submitted by Novartis, the EPA has indicated that any secondary residues in meat, milk, poultry and eggs will be covered by existing metolachlor tolerances.

In conducting this exposure assessment, it has been conservatively assumed that 100% of all raw agricultural commodities for which tolerances have been established for metolachlor will contain metolachlor residues and those residues would be at the level of the tolerance--which results in an overestimation of human exposure.

3. *Drinking water*. Another potential source of exposure of the general population to residues of pesticides are residues in drinking water. Based on the available studies used by EPA to assess environmental exposure, it is not anticipated that exposure to residues of metolachlor in drinking water will exceed 20% of the RfD (0.02 mg/kg/day), a value upon which the Health Advisory Level of 70 ppb for metolachlor is based. In fact, based on experience with metolachlor, it is believed that metolachlor will be infrequently found in groundwater (less than 5% of the samples analyzed), and when found, it will be in the low ppb range.

4. *Non-dietary exposure*. Although metolachlor may be used on turf and ornamentals in a residential setting, that use represents less than 0.1% of the total herbicide market for residential turf and landscape uses. Currently, there

are no acceptable, reliable exposure data available to assess any potential risks. However, given the small amount of material that is used, it is concluded that the potential for non-occupational exposure to the general population is unlikely.

D. Cumulative Effects

The potential for cumulative effects of metolachlor and other substances that have a common mechanism of toxicity has also been considered. It is concluded that consideration of a common mechanism of toxicity with other registered pesticides in this chemical class (chloroacetamides) is not appropriate. Since EPA has concluded that the carcinogenic potential of metolachlor is not the same as other registered chloroacetamide herbicides, based on differences in rodent metabolism (EPA Peer Review of metolachlor, 1994), it is believed that only metolachlor should be considered in an aggregate exposure assessment.

E. Safety Determination

1. *U.S. population*. Using the conservative exposure assumptions described above, based on the completeness and reliability of the toxicity data, it is concluded that aggregate exposure to metolachlor will utilize 1.3% of the RfD for the U.S. population. 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. Therefore, it is concluded that there is a reasonable certainty that no harm will result from aggregate exposure to metolachlor or metolachlor residues.

2. *Infants and children*. In assessing the potential for additional sensitivity of infants and children to residues of metolachlor, data from developmental toxicity studies in the rat and rabbit and a 2-generation reproduction study in the rat have been considered. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from chemical exposure during prenatal development to one or both parents. Reproduction studies provide information relating to effects from exposure to a chemical on the reproductive capability of mating animals and data on systemic toxicity.

Developmental toxicity (reduced mean fetal body weight, reduced number of implantations/dam with resulting decreased litter size, and a slight increase in resorptions/dam with a resulting increase in post-implantation loss) was observed in studies conducted with metolachlor in rats and rabbits. The NOEL's for developmental effects in both rats and rabbits were established at 360 mg/kg/day. The developmental effect observed in the metolachlor rat study is believed to be a secondary effect resulting from maternal stress (lacrimation, salivation, decreased body weight gain and food consumption and death) observed at the limit dose of 1,000 mg/kg/day.

A 2-generation reproduction study was conducted with metolachlor at feeding levels of 0, 30, 300 and 1,000 ppm. The reproductive NOEL of 300 ppm (equivalent to 23.5 to 26 mg/kg/day) was based upon reduced pup weights in the F1a and F2a litters at the 1,000 ppm dose level (equivalent to 75.8 to 85.7 mg/kg/day). The NOEL for parental toxicity was equal to or greater than the 1,000 ppm dose level.

FFDCA section 408 provides that EPA may apply an additional safety factor for infants and children in the case of threshold effects to account for pre- and post-natal toxicity and the completeness of the database. Based on the current toxicological data requirements, the database relative to pre- and post-natal effects for children is complete. Further, for the chemical metolachlor, the NOEL of 9.7 mg/kg/day from the metolachlor chronic dog study, which was used to calculate the RfD (discussed above), is already lower than the developmental NOEL's of 360 mg/kg/day from the metolachlor teratogenicity studies in rats and rabbits. In the metolachlor reproduction study, the lack of severity of the pup effects observed (decreased body weight) at the systemic lowest observed-effect-level (equivalent to 75.8 to 85.7 mg/kg/day) and the fact that the effects were observed at a dose that is nearly 10 times greater than the NOEL in the chronic dog study (9.7 mg/kg/day) suggest there is no additional sensitivity for infants and children. Therefore, it is concluded that an additional uncertainty factor is not warranted to protect the health of infants and children and that the RfD at 0.1 mg/kg/day based on the chronic dog study is appropriate for assessing aggregate risk to infants and children from use of metolachlor.

Using the conservative exposure assumptions described above, the percent of the RfD that will be utilized by aggregate exposure to residues of metolachlor including the proposed use on sunflowers is 1.1% for nursing infants less than 1 year old, 3.3% for non-nursing infants, 2.7% for children 1 to 6 years old and 2.0% for children 7 to 12 years old. Therefore, based on the completeness and reliability of the toxicity data and the conservative exposure assessment, it is concluded that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to metolachlor residues.

F. International Tolerances

There are no Codex Alimentarius Commission (CODEX) maximum residue levels (MRL's) established for residues of metolachlor in or on raw agricultural commodities.

[FR Doc. 97–26535 Filed 10–7–97; 8:45 am]
BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[PF–769; FRL 5748–6]

Notice of Filing of Pesticide Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of pesticide petitions proposing the establishment of regulations for residues of certain pesticide chemicals in or on various food commodities.

DATES: Comments, identified by the docket control number PF–769, must be received on or before November 7, 1997.

ADDRESSES: By mail submit written comments to: Public Information and Records Integrity Branch, Information Resources and Services Division (7506C), Office of Pesticides Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person bring comments to: Rm. 1132, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically to: opp-docket@epamail.epa.gov. Follow the instructions under ''SUPPLEMENTARY INFORMATION'' of this document. No Confidential Business Information (CBI) should be submitted through e-mail.

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

Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: The product manager listed in the table below:

Product Manager	Office location/telephone number	Address
Adam Heyward (PM 13)	Rm. 227, CM #2, 703–305–5418, e-mail: heyward.adam@epamail.epa.gov.	1921 Jefferson Davis Hwy, Arlington, VA
Beth Edwards (PM 13) ..	Rm. 206, CM #2, 703–305–5400, e-mail: edwards.beth@epamail.epa.gov.	Do.

SUPPLEMENTARY INFORMATION: EPA has received pesticide petitions as follows proposing the establishment and/or amendment of regulations for residues of certain pesticide chemicals in or on various food commodities under section 408 of the Federal Food, Drug, and Comestic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that these petitions contain data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

The official record for this notice of filing, as well as the public version, has been established for this notice of filing under docket control number [PF–769] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official record is located at the address in ''ADDRESSES'' at the beginning of this document.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comment and data will also be accepted on disks in Wordperfect 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number PF–769 and appropriate petition number. Electronic comments on notice may be filed online at many Federal Depository Libraries.

List of Subjects

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

Dated: September 25, 1997.

James Jones,

Acting Director, Registration Division, Office of Pesticide Programs.

Summaries of Petitions

Petitioner summaries of the pesticide petitions are printed below as required by section 408(d)(3) of the FFDCA. The summaries of the petitions were prepared by the petitioners and represent the views of the petitioners. EPA is publishing the petition summaries verbatim without editing them in any way. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

1. DowElanco

PP 7F4871

EPA has received a pesticide petition (PP 7F4871) from DowElanco, 9330 Zionsville Road, Indianapolis, IN 46268-1054, proposing pursuant to section 408(d) of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing a tolerance for residues of spinosad in or on the raw agricultural commoditIies almonds, nutmeat at 0.02 ppm; almonds, hulls at 2 ppm; citrus, whole fruit at 0.3 ppm; citrus, oil at 3 ppm; citrus, dried pulp at 0.5 ppm; and leafy vegetables at 8 ppm. Because of the amount of spinosad residue found in almonds, hulls and citrus, dried pulp as well as wet apple pomace (pending tolerance under PP 6F4761) and the amount of almond hulls, citrus dried pulp, and apple pomace potentially included in livestock rations, a livestock, fat residue tolerance of 0.7 ppm is also being proposed. The following meat and milk tolerances for residues of spinosad are presently pending under PP 6F4761: meat at 0.04 ppm, kidney and liver at 0.2 ppm, fat at 0.4 ppm, milk at 0.04 ppm, and milk fat at 0.5 ppm. An adequate analytical method is available for enforcement purposes. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism*. The metabolism of spinosad in plants (apples, cabbage, cotton, tomato, and turnip) and animals (goats and poultry) is adequately understood for the purposes of these tolerances. A rotational crop study showed no carryover of measurable spinosad related residues in representative test crops.

2. *Magnitude of residues*. Magnitude of residue studies were conducted for almonds (6 sites), citrus (13 sites on oranges, 6 sites on grapefruit, and 5 sites on lemons), and leafy vegetables (6 sites each on head lettuce, leaf lettuce, spinach, and celery). Residues found in these studies ranged from ND to 0.008 ppm on almonds, nutmeat; 0.22 to 1.45 ppm on almonds, hulls; 0.01 to 0.21 ppm on citrus, whole fruit; and ND to 6 ppm on leafy vegetables. A processed products study in citrus at a 5x application rate showed that residues of spinosad did not concentrate in citrus juice; however, there was aconcentration of spinosad residues in citrus oil (14x concentration factor) and citrus dried pulp (2x concentration factor).

B. Toxicological Profile

1. *Acute toxicity*. Acute Toxicity Spinosad has low acute toxicity. The rat oral LD_{50} is 3,738 mg/kg for males and >5,000 mg/kg for females, whereas the mouse oral LD_{50} is >5,000 mg/kg. The rabbit dermal LD_{50} is >2,000 mg/kg and the rat inhalation LC_{50} is >5.18 mg/l air. In addition, spinosad is not a skin sensitizer in guinea pigs and does not produce significant dermal or ocular irritation in rabbits. End use formulations of spinosad that are water based suspension concentrates have similar low acute toxicity profiles.

2. *Genotoxicty*. Short term assays for genotoxicity consisting of a bacterial reverse mutation assay (Ames test), an

in vitro assay for cytogenetic damage using the Chinese hamster ovary cells, an *in vitro* mammalian gene mutation assay using mouse lymphoma cells, an *in vitro* assay for DNA damage and repair in rat hepatocytes, and an *in vivo* cytogenetic assay in the mouse bone marrow (micronucleus test) have been conducted with spinosad. These studies show a lack of genotoxicity.

3. *Reproductive and developmental toxicity*. Spinosad caused decreased body weights in maternal rats given 200 mg/kg/day by gavage (highest dose tested). This was not accompanied by either embryo toxicity, fetal toxicity, or teratogenicity. The no-observed-effect levels (NOELs) for maternal and fetal effects in rats were 50 and 200 mg/kg/day, respectively. A teratology study in rabbits showed that spinosad caused decreased body weight gain and a few abortions in maternal rabbits given 50 mg/kg/day (highest dose tested). Maternal toxicity was not accompanied by either embryo toxicity, fetal toxicity, or teratogenicity. The NOELs for maternal and fetal effects in rabbits were 10 and 50 mg/kg/day, respectively. The NOEL found for maternal and pup effects in a rat reproduction study was 10 mg/kg/day. Neonatal effects at 100 mg/kg/day (highest dose tested in the rat reproduction study) were attributed to maternal toxicity.

4. *Subchronic toxicity*. Spinosad was evaluated in 13-week dietary studies and showed NOELs of 4.9 mg/kg/day in dogs, 6 mg/kg/day in mice, and 8.6 mg/kg/day in rats. No dermal irritation or systemic toxicity occurred in a 21–day repeated dose dermal toxicity study in rabbits given 1,000 mg/kg/day.

5. *Chronic toxicity*. Based on chronic testing with spinosad in the dog and the rat, the EPA has set a reference dose (RfD) of 0.0268 mg/kg/day for spinosad. The RfD has incorporated a 100-fold safety factor to the NOELs found in the chronic dog study. The NOELs shown in the dog chronic study were 2.68 and 2.72 mg/kg/day, respectively for male and female dogs. The NOELs shown in the rat chronic study were 2.4 and 3.0 mg/kg/day, respectively for male and female rats. Using the Guidelines for Carcinogen Risk Assessment published September 24, 1986 (51 FR 33992), it is proposed that spinosad be classified as Group E for carcinogenicity (no evidence of carcinogenicity) based on the results of carcinogenicity studies in two species. There was no evidence of carcinogenicity in an 18-month mouse feeding study and a 24-month rat feeding study at all dosages tested. The NOELs shown in the mouse oncogenicity study were 11.4 and 13.8 mg/kg/day, respectively for male and female mice. The NOELs shown in the rat chronic/oncogenicity study were 2.4 and 3.0 mg/kg/day, respectively for male and female rats. A maximum tolerated dose was achieved at the top dosage level tested in both of these studies based on excessive mortality. Thus, the doses tested are adequate for identifying a cancer risk. Accordingly, a cancer risk assessment is not needed.

6. *Animal metabolism*. There were no major differences in the bioavailability, routes or rates of excretion, or metabolism of spinosyn A and spinosyn D following oral administration in rats. Urine and fecal excretions were almost completed in 48-hours post-dosing. In addition, the routes and rates of excretion were not affected by repeated administration.

7. *Metabolite toxicology*. The residue of concern for tolerance setting purposes is the parent material (spinosyn A and spinosyn D). Thus, there is no need to address metabolite toxicity.

8. *Neurotoxicity*. Spinosad did not cause neurotoxicity in rats in acute, subchronic, or chronic toxicity studies.

9. *Endocrine effects*. There is no evidence to suggest that spinosad has an effect on any endocrine system.

C. Aggregate Exposure

1. *Dietary exposure*. For purposes of assessing the potential dietary exposure from use of spinosad on almonds, citrus, and leafy vegetables as well as from other existing and pending uses, a conservative estimate of aggregate exposure is determined by basing the TMRC on the proposed tolerance levels for spinosad and assuming that 100% of the almonds, citrus, leafy vegetables, and other existing and pending crop uses grown in the U.S. were treated with spinosad. The TMRC is obtained by multiplying the tolerance residue levels by the consumption data which estimates the amount of crops and related foodstuffs consumed by various population subgroups. The use of a tolerance level and 100% of crop treated clearly results in an overestimate of human exposure and a safety determination for the use of spinosad on crops cited in this summary that is based on a conservative exposure assessment.

2. *Drinking water*. Another potential source of dietary exposure are residues in drinking water. Based on the available environmental studies conducted with spinosad wherein it's properties show little or no mobility in soil, there is no anticipated exposure to residues of spinosad in drinking water. In addition, there is no established Maximum Concentration Level for residues of spinosad in drinking water.

3. *Non-dietary exposure*. Spinosad is currently registered for use on cotton with several crop registrations pending all of which involve applications of spinosad in the agriculture environment. Spinosad is also currently registered for use on turf and ornamentals at low rates of application (0.04 to 0.54 lb a.i. per acre). Thus, the potential for non-dietary exposure to the general population is not expected to be significant.

D. Cumulative Effects

The potential for cumulative effects of spinosad and other substances that have a common mechanism of toxicity is also considered. In terms of insect control, spinosad causes excitation of the insect nervous system, leading to involuntary muscle contractions, prostration with tremors, and finally paralysis. These effects are consistent with the activation of nicotinic acetylcholine receptors by a mechanism that is clearly novel and unique among known insecticidal compounds. Spinosad also has effects on the GABA receptor function that may contribute further to its insecticidal activity. Based on results found in tests with various mammalian species, spinosad appears to have a mechanism of toxicity like that of many amphiphilic cationic compounds. There is no reliable information to indicate that toxic effects produced by spinosad would be cumulative with those of any other pesticide chemical. Thus it is appropriate to consider only the potential risks of spinosad in an aggregate exposure assessment.

E. Safety Determination

1. *U.S. population*. Using the conservative exposure assumptions and the proposed RfD described above, the aggregate exposure to spinosad use on almonds, citrus, leafy vegetables, and other existing and pending crop uses will utilize 20.0% of the RfD for the U.S. population. A more realistic estimate of dietary exposure and risk relative to a chronic toxicity endpoint is obtained if average (anticipated) residue values from field trials are used. Inserting the average residue values in place of tolerance residue levels produces a more realistic, but still conservative risk assessment. Based on average or anticipated residues in a dietary risk analysis, the use of spinosad on almonds, citrus, leafy vegetables, and other existing and pending crop uses will utilize 3.2% of the RfD for the U.S. population. 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. Thus, it is clear that there is reasonable certainty that no harm will result from aggregate exposure to spinosad residues on almonds, citrus, leafy vegetables, and other existing and pending crop uses.

2. *Infants and children*. In assessing the potential for additional sensitivity of infants and children to residues of spinosad, data from developmental toxicity studies in rats and rabbits and a 2-generation reproduction study in the rat are considered. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from pesticide exposure during prenatal development. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability and potential systemic toxicity of mating animals and on various parameters associated with the well-being of pups.

FFDCA Section 408 provides that EPA may apply an additional safety factor for infants and children in the case of threshold effects to account for pre- and post-natal toxicity and the completeness of the database. Based on the current toxicological data requirements, the database for spinosad relative to pre- and post-natal effects for children is complete. Further, for spinosad, the NOELs in the dog chronic feeding study which was used to calculate the RfD (0.0268 mg/kg/day) are already lower than the NOELs from the developmental studies in rats and rabbits by a factor of more than 10-fold.

Concerning the reproduction study in rats, the pup effects shown at the highest dose tested were attributed to maternal toxicity. Therefore, it is concluded that an additional uncertainty factor is not needed and that the RfD at 0.0268 mg/kg/day is appropriate for assessing risk to infants and children.

Using the conservative exposure assumptions previously described (tolerance level residues), the percent (RfD) utilized by the aggregate exposure to residues of spinosad on almonds, citrus, leafy vegetables, and other existing and pending crop uses is 36.1% for children 1 to 6 years old, the most sensitive population subgroup. If average or anticipated residues are used in the dietary risk analysis, the use of spinosad on these crops will utilize 7.0% of the RfD for children 1 to 6 years old. Thus, based on the completeness and reliability of the toxicity data and the conservative exposure assessment, it is concluded that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to spinosad residues on almonds, citrus, leafy vegetables, and other existing and pending crop uses.

F. International Tolerances

There are no Codex maximum residue levels established for residues of spinosad on almonds, citrus, and leafy vegetables or any other food or feed crop. (Adam Heyward)

2. Zeneca Ag Products

PP 7F4875

EPA has received a pesticide petition (PP 7F4875) from Zeneca Ag Products, 1800 Concord Pike, P.O. Box 15458, Wilmington, DE 19850–5458. The petition proposes pursuant to section 408(d) of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. 346a(d), to amend 40 CFR part 180 to establish tolerances for residues of the insecticide lambda-cyhalothrin and its epimer in or on the raw agricultural commodities avocados (imported) at 0.2 parts per million (ppm); cereal grain crop group (except rice and wild rice): grain, 0.2 ppm, forage (except sorghum) 6.0 ppm, hay 2.0 ppm, straw 2.0 ppm, aspirated grain dust 2.0 ppm, bran 0.8 ppm and flour 0.6 ppm; fruiting vegetable crop group (except cucurbits) 0.2 ppm; peas and beans - edible podded crop subgroup 0.2 ppm; peas and beans - succulent shelled crop subgroup 0.01 ppm; peas and beans - dried shelled subgroup (except soybean) 0.1 ppm; peanut hay 3.0 ppm; sorghum forage 0.3 ppm; sorghum fodder 0.5 ppm; and sugarcane 0.05 ppm. The names for lambda-cyhalothrin and its epimer are as follows: lambda-cyhalothrin, a 1:1 mixture of (*S*)-alpha-cyano-3-phenoxybenzyl-(*Z*)-(1*R*,3*R*)-3-(2-chloro-3,3,3-trifluoroprop-1-enyl)-2,2-dimethylcyclopropanecarboxylate and (*R*)-alpha-cyano-3-phenoxybenzyl-(*Z*)-(1*S*,3*S*)-3-(2-chloro-3,3,3- trifluoroprop-1-enyl)-2,2-dimethylcyclopropanecarboxylate. Epimer of lambda-cyhalothrin, a 1:1 mixture of (*S*)-alpha-cyano-3-phenoxybenzyl- (*Z*)(1*S*,3*S*)-3-(2-chloro-3,3,3-trifluoroprop-1-enyl)-2,2-dimethylcyclopropanecarboxylate and (*R*)-alpha-cyano-3-phenoxybenzyl- (*Z*)-(1*R*,3*R*)-3-(2-chloro-3,3,3-trifluoroprop-1-enyl)-2,2-dimethylcyclopropanecarboxylate. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism*. The metabolism of lambda-cyhalothrin has been studied in cotton, soybean, cabbage, and wheat plants. The studies show that the metabolism generally follows that of other pyrethroid insecticides. The ester linkage is cleaved to form cyclopropanecarboxylic acids and the corresponding phenoxybenzyl alcohol. Overall the studies show that unchanged lambda-cyhalothrin is the principal constituent of the residue on edible portions of these crops.

2. *Analytical method*. An adequate analytical method (gas liquid chromatography with an electron capture detector) is available for enforcement purposes.

3. *Magnitude of residues*. Avocados - six trials were conducted at 3 sites within Mexico. In these trials the maximum observed residue was 0.11 ppm. Peppers (nonbell) - three trials were conducted with a maximum observed residue of 0.13 ppm. Peppers (bell) - eight trials were conducted with a maximum observed residue of 0.16 ppm. Edible podded peas - three trials were conducted with a maximum observed residue of 0.14 ppm. Edible podded beans - six trials were conducted with a maximum observed residue of 0.035 ppm. Succulent shelled peas - six trials were conducted with a maximum observed residue of 0.01 ppm. Succulent shelled beans - six trials were conducted with a maximum observed residue of 0.01 ppm. Dried shelled peas - five trials were conducted with a maximum observed residue of 0.06 ppm. Dried shelled peas - eight trials were conducted with a maximum observed residue of 0.015 ppm. Peanut hay - eleven trials were conducted with a maximum observed residue of 2.61 ppm. Sorghum forage and fodder - thirteen trials were conducted with a maximum observed residue of 0.3 and 0.42 ppm, respectively, in forage and fodder. Sugarcane - nine trials were conducted with a maximum observed residue of 0.035 ppm. A sugarcane processing study was conducted to determine if residues concentrated in molasses or refined sugar. No concentration of residues was observed in either processed commodity.

B. Toxicological Profile

The following toxicity studies have been conducted to support the request for a regulation for residues of lambda-cyhalothrin in or on rice.

1. *Acute toxicity*. Acute toxicity studies with the technical grade of the active ingredient lambda-cyhalothrin: oral LD_{50} in the rat of 79 milligram/

kilogram (mg/kg) (males) and 56 mg/kg (females), dermal LD_{50} in the rat of 632 mg/kg (males) and 696 mg/kg females, primary eye irritation study showed mild irritation, and primary dermal irritation study showed no irritation.

2. *Genotoxicity*. The following genotoxicity tests were all negative: a gene mutation assay (Ames), a mouse micronucleus assay, an in vitro cytogenetics assay, and a gene mutation study in mouse lymphoma cells.

3. *Reproductive and developmental toxicity*—i. A three-generation reproduction study in rats fed diets containing 0, 10, 30, and 100 ppm with no developmental toxicity observed at 100 ppm, the highest dose tested. The maternal no-observed-effect-level (NOEL) and lowest-observed-effect-level (LOEL) for the study are established at 30 (1.5 mg/kg/day) and 100 ppm (5 mg/kg/day), respectively, based upon decreased parental body weight gain. The reproductive NOEL and LOEL are established at 30 (1.5 mg/kg/day) and 100 ppm (5 mg/kg/day), respectively, based on decreased pup weight gain during weaning.

ii. A developmental toxicity study in rats given gavage doses of 0, 5, 10, and 15 mg/kg/day with no developmental toxicity observed under the conditions of the study. The developmental NOEL is greater than 15 mg/kg/day, the highest dose tested. The maternal NOEL and LOEL are established at 10 and 15 mg/kg/day, respectively, based on reduced body weight gain.

iii. A developmental toxicity study in rabbits given gavage doses of 0, 3, 10, and 30 mg/kg/day with no developmental toxicity observed under the conditions of the study. The maternal NOEL and LOEL are established at 10 and 30 mg/kg/day, respectively, based on decreased body weight gain. The developmental NOEL is greater than 30 mg/kg/day, the highest dose tested.

4. *Subchronic toxicity*—i. A 90–day feeding study in rats fed doses of 0, 10, 50, and 250 ppm with a NOEL of 50 ppm and a LOEL of 250 ppm based on body weight gain reduction.

ii. A 21–day study in rabbits exposed dermally to doses of 0, 10, 100, and 1,000 mg/kg/day, 6 hours/day, 5 days/week with a systemic NOEL > 1,000 mg/kg/kg. There were no clinical signs of systemic toxicity at any dose level tested.

5. *Chronic toxicity*—i. A 12–month feeding study in dogs fed dose (by capsule) levels of 0, 0.1, 0.5, and 3.5 mg/kg/day with a NOEL of 0.1 mg/kg/day. The LOEL for this study is established at 0.5 mg/kg/day based upon clinical signs of neurotoxicity.

ii. A 24–month chronic feeding/carcinogenicity study with rats fed diets containing 0, 10, 50, and 250 ppm. The NOEL was established at 50 ppm and LOEL at 250 ppm based on reduced body weight gain. There were no carcinogenic effects observed under the conditions of the study.

iii. A carcinogenicity study in mice fed dose levels of 0, 20, 100, or 500 ppm (0, 3, 15, or 75 mg/kg/day) in the diet for 2 years. A systemic NOEL was established at 100 ppm and systemic LOEL at 500 ppm based on decreased body weight gain in males throughout the study at 500 ppm. The Agency has classified lambda-cyhalothrin as a Group D carcinogen (not classifiable due to an equivocal finding in this study). Zeneca concludes that no treatment-related carcinogenic effects were observed under the conditions of the study.

6. *Animal metabolism*. Metabolism studies in rats demonstrated that distribution patterns and excretion rates in multiple oral dose studies are similar to single-dose studies. There is an accumulation of unchanged compound in fat upon chronic administration with slow elimination. Otherwise, lambda-cyhalothrin was rapidly metabolized and excreted. The metabolism of lambda-cyhalothrin in livestock has been studied in the goat, chicken, and cow. Unchanged lambda-cyhalothrin is the major residue component of toxicological concern in meat and milk.

7. *Metabolite toxicology*. The Agency has previously determined that the metabolites of lambda-cyhalothrin are not of toxicological concern and need not be included in the tolerance expression. Given this determination, Zeneca concludes that there is no need to discuss metabolite toxicity.

8. *Endocrine effects*. No evidence of such effects were reported in the toxicology studies described above. There is no evidence at this time that lambda-cyhalothrin causes endocrine effects.

C. Aggregate Exposure

1. *Dietary exposure*—i. *Food*. For the purposes of assessing the potential dietary exposure for all existing and pending tolerances for lambda-cyhalothrin, Zeneca has utilized available information on anticipated residues and percent crop treated. For all existing and pending tolerances the anticipated residue contribution (ARC) is estimated at 0.000212 mg/kg/body weight (bwt)/day.

ii. *Drinking water*. Laboratory and field data have demonstrated that lambda-cyhalothrin and its degradates are immobile in soil and will not leach into groundwater. Other data show that lambda-cyhalothrin is virtually insoluble in water and extremely lipophilic. As a result, Zeneca concludes that residues reaching surface waters from field runoff will quickly adsorb to sediment particles and be partitioned from the water column. Zeneca concludes that together these data indicate that residues are not expected in drinking water.

2. *Non-dietary exposure*. Other potential sources of exposure are from non-occupational sources such as structural pest control and ornamental plant and lawn use of lambda-cyhalothrin. Zeneca has no data upon which to estimate exposure from these uses. However, given the extremely low vapor pressure of lambda-cyhalothrin (1.5×10^{-9} millimeters (mm) of mercury (Hg)) and the low use rates, Zeneca concludes that inhalation and dermal exposure from these uses will be insignificant.

D. Cumulative Effects

At this time, Zeneca cannot make a determination based on available and reliable information that lambda-cyhalothrin and other substances that may have a common mechanism of toxicity would have cumulative effects. Thus, Zeneca concludes that for purposes of this tolerance it is appropriate only to consider the potential risks of lambda-cyhalothrin in an aggregate exposure assessment.

E. Safety Determination

The acceptable Reference Dose (RfD) based on a NOEL of 0.1 mg/kg/bwt/day from the chronic dog study and a safety factor of 100 is 0.001 mg/kg/bwt/day. A chronic dietary exposure/risk assessment has been performed for lambda-cyhalothrin using the above RfD. Available information on anticipated residues and percent crop treated was incorporated into the analysis to estimate the ARC. The ARC is generally considered a more realistic estimate than an estimate based on tolerance level residues.

1. *U.S. population*. The ARC from established tolerances and the current and pending actions are estimated to be 0.000212 mg/kg/bwt/day and utilize 24.9% of the RfD for the U.S. population.

2. *Infants and children*. The ARC for children, aged 1 to 6 years old, and non-nursing infants (subgroups most highly exposed) utilizes 77% and 48% of the RfD, respectively. Generally speaking, the Agency has no cause for concern if ARC for all published and proposed tolerances is less than the RfD.

F. International Tolerances

There are no Codex maximum residue levels (MRL) established for residues of lambda-cyhalothrin in or on avocados; cereal grain crop group: grain, forage, hay, straw, aspirated grain dust, bran, flour; fruiting vegetable crop group; peas and beans - edible podded crop subgroup; peas and beans - succulent shelled crop subgroup; peas and or beans - dried shelled subgroup. (Beth Edwards)

[FR Doc. 97–26536 Filed 10–7–97; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[PP 5E4597; FRL–5746–7]

Milliken & Company; Correction of Pesticide Petition

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of correction.

SUMMARY: This notice corrects and extends the comment period of pesticide petition (PP) 5E4597, submitted by Milliken & Company proposing to establish an exemption from the requirement of a tolerance for Poly(ethylene glycol) modified FD&C Blue No. 1, Methyl Poly(ethylene glycol) modified FD&C Blue No. 1, and Poly(ethylene glycol) modified Methyl Violet 2B. Pesticide petition 5E4597, was published in the **Federal Register** on August 29, 1997 (62 FR 45804). EPA is extending the comment period to allow additional time for comment.

DATES: The comment period is extended to October 29, 1997.

FOR FURTHER INFORMATION CONTACT: By mail: Amelia Acierto, Registration Division, (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: 4th Floor, CS #1, 2800 Crystal Drive, Arlington, VA (703)–308–8377; e-mail: ascierto.amelia@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA issued a Notice of Filing in the **Federal Register** of August 29, 1997 (62 FR 45804) (PF–758; FRL–5738–2) for pesticide petitions (PP) 3E4246, 7F4845, and 5E4597. This notice corrects PP 5E4597.

In FR Doc. 97-23097, in the issue for August 29, 1997, on page 45808, in the third column, in the first paragraph under PP 5E4597, the phrase ''not to exceed 0.6 parts per billion (ppb),'' should be corrected to read ''not to exceed 1 to 5% of the final formulation.''

List of subjects

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

Authority: 7 U.S.C. 136a.

Dated: September 25, 1997.

James Jones,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 97–26534; Filed 10–7–97; 8:45 am]

BILLING CODE 6560–50–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Committee on Vital and Health Statistics: Publication of Recommendations Relating to HIPA A Health Data Standards

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: Section 1172 (f), Subtitle F of Pub. L. 104–191, the Health Insurance Portability and Accountability Act of 1996, requires the Secretary of Health and Human Services to publish in the Federal Register any recommendation of the National Committee on Vital and Health Statistics (NCVHS) regarding the adoption of a data standard under that law. On September 9, the NCVHS submitted recommendations to the Secretary relating to the unique identifier for payers, the unique identifier for individuals, and security standards. Accordingly, the full text of the NCVHS recommendations relating to HIPAA data standards is reproduced below. The text of the recommendations is also available on the NCVHS website: http//aspe.os.dhhs.gov/ncvhs/.

SUPPLEMENTARY INFORMATION: Under the Administrative Simplification provisions of the Health Insurance Portability and Accountability Act of 1996 HIPAA), the Secretary of Health and Human Services is required to adopt standards for specified administrative health care transactions to enable information to be exchanged electronically. The law requires that, within 24 months of adoption, all health plans, health care clearinghouses and health care providers who choose to conduct these transactions electronically must comply with these standads. Further, the law requires the Secretary to submit to Congress detailed recommendations on standards with respect to the privacy of individually identifiable health information. In preparing these reports and recommendations, the Secretary is required to consult with the NCHVHS, the statutory public advisory body to HHS on health data, privacy and health information policy. On September 9, the Committee submitted recommendations to the Secretary relating to the unique identifier for payers, the unique identifier for individuals, and security standards.

Accordingly, the full text of the NCVHS recommendations relating to HIPAA data standards is reproduced below.

Recommendations Relating to the National PAYERID

September 9, 1997.

The Honorable Donna E. Shalala,
Secretary, Department of Health and Human Services, 200 Independence Avenue, S.W., Washington, D.C. 20201

Dear Secretary Shalala: On behalf of the National Committee on Vital and Health Statistics (NCVHS), I am pleased to forward to you our recommendations relating to another of the health data standards being proposed for adoption in accordance with the administrative simplification provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA). The NCVHS is very pleased to provide support, advice and consultation to you in this effort.

The NCVHS has been briefed on the proposal for the national standard for identifiers for health plans or PAYERID, and we offer our strong support. The proposal includes a nine digit numeric identifier that would be assigned to all health plans. The identifier includes a check digit and contains no embedded intelligence. We recommend that HHS proceed to publish the proposal for public comment without delay. In the interests of operational efficiency and simplification, we suggest that the Department also leave open the option of moving to an alphanumeric identifier in the future. While public comments are likely to on the technical details of the number and the optimal approach to enumeration, we have found broad support for the proposal in general and urge you to proceed.

The Committee did identify one concern that we bring to your attention. The PAYERID, as proposed, replaces the plan ID and sub ID used in current transactions. The sub ID is currently used for electronic routing, and concern has been expressed that this function will be lost. We recommend that this functionality be addressed before the final rule is issued.

We appreciate you national leadership in health data standards, electronic data interchange and privacy, and we are privileged to work with you on these issues.

Sincerely,

Don E. Detmer, M.D.,

Chair.

Recommendations Relating to the Unique Health Identifier for Individuals

September 9, 1997.

The Honorable Donna E. Shalala,
Secretary of Health and Human Services, Washington, D.C. 20201

Dear Secretary Shalala: The National Committee on Vital and Health Statistics (NCVHS) is responding to the requirement of Congress to set a standard for a unique health identifier for each individual for use in the health care system. While the NCVHS continues to support the concept of a unique health identifier for individuals, we believe it would be unwise and premature to proceed to select and implement such an identifier in the absence of legislation to assure the confidentiality of individually identifiable health information and to preserve an individual's right to privacy.

The selection of a unique health identifier for individuals will become the focus of tremendous public attention and interest, far beyond that afforded to other health privacy decisions. No choice should be made without considerably more public notice, hearings, and comment.

Until a new federal law adequately protects the privacy of identifiable health information, it is not possible to make a sufficiently informed choice about an identification number or procedure. The degree of formal legal protection for personal health information will have a major influence on both the decision and public acceptance of that decision. Passage of a comprehensive health privacy law may make the choice of an identifier easier and less threatening to privacy.

A unique health identifier for individuals cannot be properly protected from misuse under current law. The Committee reaches this conclusion notwithstanding the enactment of criminal penalties for wrongful disclosure as part of the Health Insurance Portability and Accountability Act of 1996. Additional legislation may be required to authorize the use of some alternatives or to provide adequate restrictions for other alternatives.

We recommend alternative methods of identifying individuals and linking health information of individuals for health purposes be evaluated on the basis of the American Society for Testing and Materials (ASTM) criteria coupled with a cost-benefit evaluation and public comment. The committee intends to continue to receive public comment on this issue and will revisit this issue at our November meeting.

We appreciate you national leadership in health data standards, electronic data interchange and privacy, and we are privileged to work with you on these issues.

Sincerely,

Don E. Detmer, M.D.,

Chair.

Recommendations for Security Standards

September 9, 1997.

The Honorable Donna Shalala,
Secretary, Department of Health and Human Services, 200 Independence Avenue, SW, Washington, DC 20201.

Dear Madam Secretary: The National Committee on Vital and Health Statistics is pleased to provide recommendations on the adoption of security standards as mandated by the Health Insurance Portability and Accountability Act of 1996 (Public Law 104–191).

The Subcommittee on Health Data Needs, Standards and Security held a hearing on August 5 and 6 to receive testimony from a wide range of industry representatives on issues regarding security. Twenty-five individuals representing professional associations, providers, managed care organizations, vendors, consultants and standards development organizations provide input. A copy of the witnesses is attached to this letter.

Where there was consensus among the witnesses regarding the need for security standards, testimony highlighted the evolutionary development of information security in the health care industry. Currently, there are poor practices in the handling of paper-based health information and the move towards electronic storage and transmission heightens concerns. Health care organizations have been slow to adopt strong security practices due largely to lack of strong management and organizational incentives. Additionally, the lack of national privacy legislation or regulation to ensure confidentiality of health information creates additional tensions.

Based on the testimony received and discussion at the Committee meeting on September 8 and 9, the NCVHS has developed a series of principles and recommendations for your consideration. Since the standards in this area are not fully mature and have not been extensively implemented by the health care industry, we are not recommending adoption of specific standards.

The Committee believes that any standard that is adopted must be technology neutral and should promote interoperability among information system. There are a number of factors that must be considered in this area; the cost of implementing specific solutions and the need for scalability on the size of the health care entity.

In order for health information systems to be secure, there must be:

- Individual authentication of users

Every individual in an organization should have a unique identifier for use in logging onto the organization's information systems and each organization should have policies and procedures in place to enforce the appropriate use and maintenance of access methods.

- access controls

Procedures should be in place that restricts users' access to only that information for which they have a legitimate need. Individual organizations will have to determine the appropriate approach that will work within their organization and balance the interests between access and privacy.

- monitoring of access

Organizations should develop audit trails and mechanisms to review access to information systems to identify authorized users who misuse their privileges and perform unauthorized actions and detect attempts by intruders to access systems.

- physical security and disaster recovery

Organizations should immediately take steps to limit unauthorized physical access to computer systems, displays, networks and medical records. Disaster recovery plans should include procedures for providing basic system functions and ensuring access to health information in the event of a natural disaster or computer failure.

- protection of remote access points

Organizations must protect their information systems from intruders who try to access their systems through external communication points such as the Internet or dial-in telephone lines.

- protection of external electronic communications

Organizations need to protect sensitive communication that is transmitted electronically over open networks so that it cannot be easily intercepted and interpreted by parties other than the intended recipient.

- software discipline

Organizational procedures and educational programs should be implemented to protect against viruses, Trojan horses and other forms of malicious software and to raise users' awareness of the problem.

- system assessment

Organizations should formally assess the security and vulnerabilities of their information systems on an ongoing basis.

- monitoring of integrity of data

The integrity of health information is critical to providing quality care to patients. Organizations must implement a process to ensure that information systems do not compromise data integrity.

There are a series of organizational practice that the Committee believes are imperative:

- scalable confidentiality and security policies and procedures
- security/confidentiality committees
- designation of an information security officer in health care organizations
- education and training programs for all employees, medical staff, agents and contractors
- organizational sanctions for violation of policies and procedures
- improved patient authorization forms for disclosure of health information
- patient access to audit logs

Many of these recommendations and practices are based on the National Research Council's report *For the Record: Protecting*

Electronic Health Information. In the short-term, it is recommended that health care organizations institute a risk assessment of their current state of compliance with these organizational and technical practices. As industry experience evolves, the Committee suggests that criteria be developed to evaluate and monitor compliance with these recommendations. Organizations that license or accredit health care organizations should consider incorporating these requirements into their standards.

The Committee plans to continue to monitor industry compliance and the development and maturation of technology and standards. As standards that are fully mature and tested become available, we will review and recommend for adoption.

Thank you for the opportunity to provide assistance.

Sincerely,

Don E. Detmer, M.D.,

Chair.

CONTACT PERSON FOR MORE INFORMATION: Information about the Committee as well as the text of all HIPAA recommendations is available on the NCVHS website or from James Scanlon, NCVHS Executive Staff Director, Office of the Assistant Secretary for Planning and Evaluation, DHHS, Room 440–D, Hubert H. Humphrey Building, 200 Independence Avenue S.W., Washington, D.C. 20201, telephone (202) 690–7100, or Marjorie S. Greenberg, Executive Secretary, NCVHS, NCHS, Room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone (301) 436–7050.

Dated: October 1, 1997.

James Scanlon,

Director, Division of Data Policy, Office of the Assistant Secretary for Planning and Evaluation.

[FR Doc. 97–26659 Filed 10–7–97; 8:45 am]

BILLING CODE 4151–04–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Statement of Organization, Functions, and Delegations of Authority

This notice amends Part K of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (DHHS), Administration for Children and Families (ACF) as follows: Chapter KD, The Regional Offices of the Administration for Children and Families (62 FR 49243), as last amended, September 19, 1997. This notice reflects the reorganization of Region 8. This Chapter is amended as follows:

After the end of KD7.20 Functions (61 FR 3937, 02/02/96), Paragraph D and before KD9.10 Organization (62 FR 31610, 06/10/97) insert the following:

KD8.10 Organization. The Administration for Children and Families, Region 8, is organized as follows:

Office of the Regional Administrator (KD8A)
Office of Community and Work Programs (KD8B)
Office of State and Youth Programs (KD8C)

KD8.20 Functions. A. The Office of the Regional Administrator is headed by a Regional Administrator who reports to the Assistant Secretary for Children and Families through the Director, Office of Regional Operations. The Office is responsible for the Administration for Children and Families' key national goals and priorities and provides executive leadership and direction to state, county, city, territorial and tribal governments, as well as public and private local grantees to ensure effective and efficient program and financial management. It ensures that these entities conform to federal laws, regulations, policies and procedures governing the programs, and exercises all delegated authorities and responsibilities for oversight of the programs.

The Office takes action to approve state plans and submits recommendations to the Assistant Secretary for Children and Families concerning state plan disapproval, where applicable. The Office contributes to the development of national policy based on perspectives on all ACF programs. It oversees ACF operations and the management of ACF regional staff; coordinates activities across regional programs; and assures that goals and objectives are met and departmental and agency initiatives are carried out. The Office alerts the Assistant Secretary for Children and Families to problems and issues that may have significant regional or national impact. The Office provides executive representation for ACF in regional external communications, and serves as ACF liaison with the HHS Regional Director, other HHS operating divisions, other federal agencies and public or private local organizations representing children and families.

The Executive Officer and Administrative and Program Support staff provide day-to-day support for regional administrative functions, including internal ACF regional budget and financial management, performance management, procurement, property management, internal systems, employee relations, training, media inquires and public affairs activities. This team oversees the management and coordination of internal automated systems in the region, and provides systems management support to all Regional Office components.

The Grants Officer, functioning independently of all program offices, provides program staff with expertise in the technical and other non-programmatic areas of grants administration, and provides appropriate internal control and checks and balances to ensure financial integrity in all phases of the grants process. The Grants Officer and financial staff provide expert grants management technical support to the Office of Community and Work Programs and the Office of State and Youth Programs to resolve complex problems in such areas as cost allocation, accounting principles, audit, deferrals and disallowances. The Grants Officer approves and signs all discretionary grants.

B. The Office of Community and Work Programs is headed by an Assistant Regional Administrator who reports to the Regional Administrator. This office is comprised of two geographic state teams, each headed by a Program Manager. Each geographic team is responsible for both program and fiscal operations for Head Start, Child Care and Temporary Assistance for Needy Families (TANF) within their respective states.

The Office is responsible for providing centralized management, financial management services, and technical administration of ACF discretionary and formula grant programs such as Head Start, Child Care and TANF. The Office provides policy guidance to state, county, city or town and tribal governments and public and private organizations to assure consistent and uniform adherence to federal requirements governing ACF grants. The Office provides technical assistance to entities responsible for administering these programs to ensure that appropriate procedures and practices are adopted, and monitors the programs to ensure their efficiency and effectiveness.

The Office performs systematic fiscal reviews, makes recommendations to the Regional Administrator to approve or disallow costs under ACF discretionary grant programs; and makes recommendations to the Regional Administrator concerning state plan approval or disapproval. The Office issues discretionary grant awards based on a review of project objectives, budget

projections, and proposed funding levels. As applicable, the Office makes recommendations regarding the clearance and closure of audits of grantee programs, paying particular attention to financial management deficiencies that decrease the efficiency and effectiveness of the ACF programs and taking steps to monitor the resolution of such deficiencies. The Office oversees the management and coordination of office automation systems in the region such as PC Cost and HS Cost systems for budget analysis of Head Start Applications and monitors grantee systems projects such as the Head Start Program Information Report, Head Start Management Tracking System and the Head Start Bulletin Board.

The Office represents the Regional Administrator in dealing with entities receiving ACF funding on all matters under its jurisdiction and in providing early warnings on problems or issues that may have significant implications for ACF programs.

C. The Office of State and Youth Programs is headed by an Assistant Regional Administrator who reports to the Regional Administrator. This unit is comprised of two programmatic teams, the Child Support Team and the Child Welfare, Youth and Developmental Disabilities Team. Each team is responsible for both program and fiscal operations in their program areas.

The Office is responsible for providing centralized, management, financial management services, and technical administration of ACF formula, block and entitlement programs such as Child Support Enforcement, Foster Care and Adoption Assistance, Child Welfare, Family Preservation and Support Services, Child Abuse and Neglect, Developmental Disabilities and the discretionary Runaway and Homeless Youth Program.

The Office provides policy guidance to state, county, city, or town and tribal governments and public and private organizations to assure consistent and uniform adherence to federal requirements governing ACF grants. State plans are reviewed and recommendations concerning state plan approval or disapproval are made to the Regional Administrator. The Office provides technical assistance to entities responsible for administering ACF grants, resolving identified problems and ensuring adoption of appropriate procedures and practices that promote policy compliance and program efficiency and effectiveness.

The Office provides financial management oversight for ACF grants under its jurisdiction, reviews cost allocation plans, program objectives, budget projections, cost estimates and reports. The Office performs systematic fiscal reviews and makes recommendations to the Regional Administrator to approve, defer, or disallow claims for financial participation in ACF grants. As applicable, the Office makes recommendations regarding the clearance and closure of audits, paying particular attention to financial management deficiencies of ACF programs and closely monitors the resolution of such deficiencies.

The Office oversees the management and coordination of external automated systems. The external systems responsibilities include monitoring state systems projects and providing technical assistance to states on the development enhancement of automated systems. The Office represents the Regional Administrator on State systems matters with ACF central office, states, contractors and grantees.

The Office represents the Regional Administrator in dealing with entities receiving ACF funding on all matters under its jurisdiction, and in providing early warnings on problems or issues that may have significant implications for ACF programs.

Dated: October 2, 1997.

Olivia A. Golden,

Principal Deputy Assistant Secretary for Children and Families.

[FR Doc. 97–26677 Filed 10–7–97; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–437]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposal for the collection of information. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. Type of Information Collection Request: Extension of a currently approved collection; *Title of Information Collection:* Psychiatric Unit Criteria Work Sheet, Rehabilitation Unit Criteria Work Sheet, Rehabilitation Hospital Criteria Work sheet and Supporting Regulations 42 CFR 412.20–412.32; *Form No.:* HCFA–437, OMB # 0938–0358; *Use*: Rehabilitation hospitals and Psychiatric hospital units that are excluded from the Medicare Prospective Payment System (PPS) must complete the criteria work sheets to verify and reverify that they comply and remain in compliance with the exclusion criteria for the Medicare prospective payment system. These forms capture information that will allow Medicare to reimburse these facilities on the basis of a nationally-determined average standardized amounts, i.e., a prospective payment type system. *Frequency:* Annually; *Affected Public:* Business or other for-profit, Not-for-profit institutions and State, Local or Tribal Government; *Number of Respondents:* 2,555; Total Annual Responses: 2,555; *Total Annual Hours:* 639.

2. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Information Collection Requirements Referenced in 42 CFR 411.404(c)(2)+(3), 411.406(c)+(d): Procedures for Determining Whether Providers, Practitioners, or other suppliers of services are liable for certain noncovered services; *Form No.:* HCFA-R–77, OMB # 0938–0465; *Use:* BERC–273–F requires Peer Review Organizations (PROs) to provide written notification of noncovered services to beneficiaries and/or providers, practitioners and suppliers. The notification provides provider, practitioner or supplier with knowledge that Medicare will not pay for items or services mentioned in the notification. After this notification, any future claim for the same or similar services will not be paid. *Frequency:* Monthly; *Affected Public:* Business or other for-profit, Individuals or Households; *Number of Respondents:* 724,271; *Total Annual Responses:* 2,897,085; *Total Annual Hours:* 241,424.

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, or to obtain the supporting statement and any related forms, E-mail your request, including your address and phone number, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed by November 7, 1997 directly to the OMB Desk Officer designated at the following address: OMB Human Resources and Housing Branch, *Attention:* Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: September 30, 1997.

John P. Burke III,

HCFA Reports Clearance Officer HCFA, Office of Information Services, Information Technology Investment Management Group, Division of HCFA Enterprise Standards.

[FR Doc. 97–26564 Filed 10–7–97; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Document Identifier: HCFA–R–64

Agency Information Collection Activities: Submission for OMB Review; Comment Request

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposal for the collection of information. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection; *Title of Information Collection:* Indirect Medical Education (IME) and Supporting Regulations 42 CFR 412.105; *Form No.:* HCFA–R–64 OMB # 0938–0456; *Use:* The collection of information on Interns and Residents (IR) is needed to properly calculate Medicare program payments to hospitals that incur indirect costs for medical education. The reports provide contractors with information to ensure that hospitals are properly reimbursed for IME, and eliminate IME duplicate reporting. *Frequency:* Annually; *Affected Public:* Not-for profit institutions, Business or other for-profit; *Number of Respondents:* 1300; *Total Annual Responses:* 1300; *Total Annual Hours:* 3,250.

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, or to obtain the supporting statement and any related forms, E-mail your request, including your address and phone number, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed by November 7, 1997 directly to the OMB Desk Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: September 23, 1997.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA, Office of Information Services, Information Technology Investment Management Group, Division of HCFA Enterprise Standards.

[FR Doc. 97–26566 Filed 10–7–97; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Council; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following National Advisory body scheduled to meet during the month of November 1997.

Name: Maternal and Child Health Research Grants Review Committee

Date and Time: November 12–14, 1997, 9:00 a.m.–5:00 p.m.

Place: Conference Room ''O'', Parklawn Building, 3rd Floor, 5600 Fishers Lane, Rockville, Maryland 20857.

Open on Wednesday, November 12, 1997, 9:00 a.m.–10:00 a.m. Closed for remainder of meeting.

Agenda: The open portion of the meeting will cover opening remarks by the Director, Division of Science, Education and Analysis, who will report on program issues, congressional activities and other topics of interest to the field of maternal and child health. The meeting will be closed to the public on November 12 at 10:00 a.m. for the remainder of the meeting for the review of grant applications. The closing is in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., and the Determination by the Acting Associate Administrator for Management and Program Support, Health Resources and Services Administration, pursuant to Public Law 92–463.

Anyone requiring information regarding the subject Council should contact Gontran Lamberty, Dr.P.H., Executive Secretary, Maternal and Child Health Research Grants Review Committee, Room 18A–55, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–2190.

Agenda Items are subject to change as priorities dictate.

Dated: September 30, 1997.

Jane M. Harrison,

Acting Director, Division of Policy Review and Coordination, HRSA.

[FR Doc. 97–26646 Filed 10–7–97; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Proposed Collection: Comment Request (The Cardiovascular Health Study)

SUMMARY: In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the National Heart, Lung, and Blood Institute (NHLBI), the National Institutes of Health (NIH) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

PROPOSED COLLECTION: *Title:* The Cardiovascular Health Study. *Type of Information Request:* NEW. *Need and Use of Information Collection:* This study will quantify associations between conventional and hypothetical risk factors and coronary heart disease and stroke in people age 65 years and older. The primary objectives include quantifying associations of risk factors with subclinical disease, characterize the natural history of CHD, stroke and identify factors associated with clinical course. The findings will provide important information on cardiovascular disease in an older U.S. population and lead to early treatment of risk factors associated with disease

and identification of factors which may be important in disease prevention. *Frequency of response:* 5.36 (annual number of responses/annual number of respondents) *Affected public:* Individuals or households. *Types of Respondents:* Individuals recruited for CHS and their selected proxies and physicians. The annual reporting burden is as follows: *Estimated Number of Respondents:* 5,790; *Estimated Number of Responses per respondent:* 5.4; *and Estimated Total Annual Burden Hours Requested:* 8,098. There are no costs for respondents. Estimated annualized cost for information collection for information collection for a 13-year period is $6,820 thousand per year. This is based on CHS Field, Center and Reading Centers costs in thousands per year. Personnel, $3,627; Equipment, $47; Subcontracts, $257; Other, $1,437; Overhead, $1,452. The annualized cost of monitoring the project by the NHLBI is $207 thousand.

REQUEST FOR COMMENTS: Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information will have practical utility; (2) The accuracy of the agency's estimate of 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 collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

FOR FURTHER INFORMATION: To request more information on the proposed project or to obtain a copy of data collection plans and instruments, contact Dr. Robin Boineau, Epidemiology and Biometry Program, Division of Clinical Applications, NHLBI, NIH, II Rockledge Centre, 6701 Rockledge Drive, MSC #7934, Βετηεσδα, ΜΔ, 20892–7934, ορ ψαλλ νον-τολλ φρεε νθμβερ (301) 435–0707, ορ Ε-μαιλ υοθρ ρεφθεστ, ινψλθδινγ υοθρ αδδρεσσ το≦ βοινεαθ@νιη.γοω.

COMMENTS DUE DATE: Comments regarding this information collection are best assured of having their full effect if received within 60-days of the date of this publication.

Dated: October 1, 1997.

Sheila E. Merritt,

Executive Officer, NHLBI.

[FR Doc. 97–26631 Filed 10–7–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

National Institutes of Health

Proposed Data Collection: Public Comment; Leukemia and Other Cancers Among Chernobyl Clean-up Workers in Lithuania

SUMMARY: In compliance with the requirement of Section 3506 (c) (2) (A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the National Institutes of Health (NIH), National Cancer Institute (NCI) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

PROPOSED COLLECTION: *Title:* Leukemia and Other Cancers Among Chernobyl Clean-up Workers in Lithuania. *Type of Information Collection Request:* renewal. *Need and Use of Information Collections:* A cohort study will be conducted to investigate the risk of radiation-induced leukemia and other cancers, and of occupationally related cancers, among 7,000 workers from Lithuania who were sent to Chernobyl to clean-up after the accident there in 1986. The workers will be asked to respond to a mail questionnaire or an interview that collects information about specific duties performed during the Chernobyl clean-up, occupational exposures, other cancer risk factors, and incident cancers. The information will be combined with similar information from Estonia and Latvia and used by the National Cancer Institute to determine site-specific risk estimates for cancer based on various exposure patterns. *Frequency of Response:* One time; *Affected Public:* Individuals or households; *Type of Respondents:* Chernobyl Workers. The annual reporting burden is as follows: *Estimated Number of Respondents: 7,000; Estimated Number of Responses per Respondent:* 1; *Average Burden Hours per Response:* 0.5; and *Estimated Total Annual Burden Hours Requested:* 3,500. There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

REQUEST FOR COMMENTS: Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the plans and instruments, contact Gilbert W. BeeBe, Ph.D., National Cancer Institute, EPN 400, 6130 Executive Boulevard, Rockville, MD 20892–7364, or call the non-toll-free number (301) 496–5067.

COMMENTS DUE DATE: Comments regarding this information collection are best assured of having their full effect if received on or before December 8, 1997.

Dated: September 30, 1997.

Nancie L. Bliss,

OMB Project Clearance Liaison.

[FR Doc. 97–26632 Filed 10–7–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The National Institutes of Health is seeking licensees for the further development, evaluation, and commercialization of novel progesterone antagonists and pharmaceutical compositions thereof. The invention claimed in U.S. Patent Application 60/016,628 entitled ''21-Substituted Progesterone Derivatives As New Antiprogestational Agents'' (HK Kim, RP Blye, PN Rao, JW Cessac, and CK Acosta), filed May 1, 1996, and a related case filed April 30, 1997, are available for either exclusive or non-exclusive licensing (in accordance with 35 U.S.C. 207 and 37 CFR Part 404).

ADDRESSES: Licensing proposals and questions about this opportunity should be addressed to Ms. Carol Lavrich,

Technology Licensing Specialist, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7735 ext. 287; fax: 301/402–0220; e-mail: CL21R@NIH.GOV.

Information about the patent applications and pertinent information not yet publicly described can be obtained under a Confidential Disclosure Agreement. Respondees interested in licensing the invention(s) will be required to submit an Application for License to Public Health Service Inventions.

SUPPLEMENTARY INFORMATION: As part of its continuing steroid synthesis program and its expanded mission, the Contraception and Reproductive Health Branch, Center for Population, National Institute of Child Health and Human Development, has developed several 21-substituted derivatives of progesterone for therapeutic applications as antiprogestational agents.

Preclinical evaluation of these steroids indicates greater antiprogestational activity and reduced antiglucocorticoid activity compared with mifepristone. These data and those derived from a number of endocrinological, reproductive and receptor binding studies are available for the process of due diligence. None of these data has been published. Radioimmunoassays for these steroids are being developed. No toxicological studies have been undertaken, but extensive safety studies have been performed on a similar antiprogestational agent.

Antiprogestational agents have a broad spectrum of potential therapeutic uses in gynecic medicine including cervical ripening, endometriosis, uterine fibroids, breast and endometrial cancer and postmenopausal hormone replacement therapy.

Applicants for licensing are encouraged to submit a research plan which encompasses the most extensive development for therapeutic use.

Dated: September 26, 1997.

Barbara M. McGarey,

Deputy Director, Office of Technology Transfer.

[FR Doc. 97–26630 Filed 10–7–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel (SEP) meeting:

Name of SEP: NIAMS SEP Program Project Review.

Date: November 19, 1997.

Time: 8:00 a.m.–5:00 p.m.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Bethesda, Maryland 20815.

Contact Person: Aftab A. Ansari, Ph.D., Scientific Review Administrator, Natcher Building, 45 Center Drive, Rm 5AS25U, Bethesda, Maryland 20892–6500, Telephone: 301–594–4952.

Purpose/Agenda: To evaluate and review research grant applications.

This meeting will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C. The discussion of these applications could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. [93.846, Project Grants in Arthritis, Musculoskeletal and Skin Diseases Research], National Institutes of Health, HHS)

Dated: October 1, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–26627 Filed 10–7–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meetings

Prusant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice of hereby given of the following National Institute of Child Health and Human Development Initial Review Group meetings:

Name of Subcommittee: Population Research Subcommittee.

Date: October 9–10, 1997.

Time: October 9–8:00 a.m.-5:00 p.m.; October 10–8:00 a.m.-adjournment.

Place: Bethesda Ramada Hotel, 8400 Wisconsin Avenue, Bethesda, Maryland 20814.

Contact Person: A.T. Gregoire, Ph.D., Scientific Review Administrator, DSR, 6100 Executive Boulevard, Room 5E01, Bethesda, Maryland 20892, Telephone: 301–496–1485.

Name of Subcommittee: Population Research Subcommittee.

Date: October 16, 1997.

Time: 8:00 a.m.-adjournment.

Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, Maryland 20814.

Contact Person: A.T. Gregoire, Ph.D., Scientific Review Administrator, DSR, 6100 Executive Boulevard, Room 5E01, Bethesda, Maryland 20892, Telephone: 301–496–1485.

This notice is being published less than 15 days prior to the above meetings due to the urgent need to meet timing limitations imposed by the review and funding cycle.

Name of Subcommittee: Mental Retardation Subcommittee.

Date: October 20, 1997.

Time: 8:00 a.m.-adjournment.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, Maryland 20814.

Contact Person: Norman Chang, Ph.D., Scientific Review Administrator, DSR, 6100 Executive Boulevard, Room 5E01, Bethesda, Maryland 20892, Telephone: 301–496–1485.

Name of Subcommittee: Maternal and Child Health Research Subcommittee.

Date: October 21–22, 1997.

Time: October 21–8:00 a.m.–5:00 p.m.; October 22–8:00 a.m.-adjournment.

Place: Holiday Inn-Silver Spring, 8777 Georgia Avenue, Silver Spring, Maryland 20910.

Contact Person: Gopal M. Bhatnagar, Ph.D., Scientific Review Administrator, DSR, 6100 Executive Boulevard, Room 5E01, Bethesda, Maryland 20892, Telephone: 301–496–1485.

Name of Subcommittee: Medical Rehabilitation Research Subcommittee.

Date: October 22–23, 1997.

Time: October 22–8:30 a.m.–5:00 p.m.; October 23–8:30 a.m.-adjournment.

Place: Holiday Inn-Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, Maryland.

Contact Person: Ms. Anne Krey, Scientific Review Administrator, DSR, 6100 Executive Boulevard, Room 5E01, Bethesda, Maryland 20892, Telephone: 301–496–1485.

Purpose/Agenda: To evaluate and review research grant applications.

These meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. The discussion of these applications could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. [93.864, Population Research and No. 93.865, Research for Mothers and Children], National Institutes of Health, HHS)

Dated: October 1, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–26629 Filed 10–7–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; Notice of Meeting of the Biomedical Library Review Committee

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Biomedical Library Review Committee on November 5–6, 1997, convening at 8:30 a.m. in the Board Room of the National Library of Medicine, Building 38, 8600 Rockville Pike, Bethesda, Maryland.

The meeting on November 5 will be open to the public from 8:30 a.m. to approximately 11 a.m. for the discussion of administrative reports and program developments. Attendance by the public will be limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Dr. Milton Corn at 301–496–4621 two weeks before the meeting.

In accordance with provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., and sec. 10(d) of Pub. L. 92–463, the meeting on November 5 will be closed to the public for the review, discussion, and evaluation of individual grant applications from 11 a.m. to approximately 5 p.m., and on November 6 from 8:30 a.m. to adjournment. These applications and the discussion could reveal confidential trade secrets or commercial property, such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Milton Corn, Acting Associate Director, Extramural Programs, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20894, telephone number: 301–496–4621, will provide summaries of the meeting, rosters of the committee members, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Program No. 93.879—Medical Library Assistance, National Institutes of Health)

Dated: October 1, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–26628 Filed 10–7–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Alaska Land Managers Forum

AGENCY: Office of the Secretary.

ACTION: Notice of meeting.

SUMMARY: This notice is published in accordance with section 10(a)(2) of the Federal Advisory Committee Act (FACA), 5 U.S.C. App. (1988) and 41 CFR 101–6.1015(b). The Department of the Interior hereby gives notice of a public meeting of the Alaska Land Managers Forum to be held at 10 a.m. on October 15, 1997. The meeting will take place at the Pioneer School House, 437 East Third Avenue (third floor), Anchorage, Alaska. This meeting will be held to receive and discuss work group reports on recreation and tourism. The agenda will also include several briefing items.

FOR FURTHER INFORMATION CONTACT: Ronald B. McCoy at (907) 271–5485 or Sally Rue at (907) 465–4084.

Deborah L. Williams,

Special Assistant to the Secretary for Alaska.

[FR Doc. 97–26620 Filed 10–7–97; 8:45 am]

BILLING CODE 4310–RP–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–990–1020–01]

Resource Advisory Councils meeting Upper Snake River Districts

AGENCY: Bureau of Land Management, Interior.

ACTION: Resource Advisory Council meeting location and time.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972 (FACA), 5 U.S.C., the Department of the Interior, Bureau of Land Management (BLM) council meeting of the Upper Snake River Districts Resource Advisory Council will be held as indicated below. The agenda includes a field tour of grazing allotments and implementation of the healthy rangeland standard and guidelines. All meetings are open to the public. The public may present written comments to the council. Each formal council meeting will have a time allocated for hearing public comments. The public comment period for the council meeting is listed below. Depending on the number of persons wishing to comment, and time available, the time for individual oral comments may be limited. Individuals who plan to attend and need further information about the meetings, or need special assistance such as sign language interpretation or other reasonable accommodations, should contact Debra Kovar at the Shoshone Resource Area Office, P. O. Box 2–B, Shoshone, ID, 83352, (208) 886–7201.

DATE AND TIME: Date is October 28, 1997, starts at 8:30 a.m. at the Snake River Resource Area Office at 15 East 200 South, Burley, Idaho. Public comments received from 8:30 to 9:00 a.m prior to the field trip.

SUPPLEMENTARY INFORMATION: The purpose of the council is to advise the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with the management of the public lands.

FOR FURTHER INFORMATION CONTACT: Contact Debra Kovar, Shoshone Resource Area Office, P.O. Box 2–B, Shoshone, ID 83352, (208) 886–7201.

Dated: September 29, 1997.

Tom Dyer,

District Manager.

[FR Doc. 97–26661 Filed 10–7–97; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV 910 0777 30]

Northeastern Great Basin Resource Advisory Council Meeting Location and Time

AGENCY: Bureau of Land Management, Interior.

ACTION: Resource Advisory Council's Meeting Location and Time.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972 (FACA), 5 U.S.C., the Department of the Interior, Bureau of Land Management (BLM), Council meetings will be held as indicated below. The agenda for this meeting includes: approval of minutes of the previous meetings, review of the RAC charter and regulations, update on land sales-exchanges-trades, Standards and Guidelines, wild horses and range condition in the Diamond Mountain Complex, Columbia River Basin Draft

Environmental Impact Statement, Fire Management Planning, Collaborative Management Reports, Bureau of Land Management water rights and policy in Nevada, Off Highway Vehicle use, identification of additional issues for future consideration by the RAC.

All meetings are open to the public. The public may present written comments to the Council. Each formal Council meeting will also have time allocated for hearing public comments. The public comment period for the Council meeting is listed below. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited. Individuals who plan to attend and need special assistance, such as sign language, interpretation or other reasonable accommodations, should contact the District Manager at the Ely District Office, 702 North Industrial Way, HC33 Box 33500, Ely, NV 89301–9408, telephone 702–289–1800.

DATES, TIMES, PLACE: The time and location of the meeting is as follows: Northeastern Great Basin Resource Advisory Council, Holiday Inn, (conference room), 1501 Avenue F, Ely, Nevada, 89301; November 3, 1997, starting at 9:00 a.m.; public comments will be at 11:00 a.m. and 3:00 p.m.; tentative adjournment for the day at 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Curtis G. Tucker, Team Leader for the Northeastern Resource Advisory Council, Ely District Office, 702 North Industrial Way, HC 33 Box 33500, Ely, NV 89301–9408, telephone 702–289–1841.

SUPPLEMENTARY INFORMATION: The purpose of the Council is to advise the Secretary of the Interior, through the BLM, on a variety of planning and management issues, associated with the management of the public lands.

Dated: September 29, 1997.

Gene Drais,

Acting District Manager, Ely.

[FR Doc. 97–26662 Filed 10–7–97; 8:45 am]

BILLING CODE 4310–HC–M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Outer Continental Shelf, Gulf of Mexico Region, Proposed Western Gulf Sales 171, 174, 177, and 180

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of availability of the draft multisale Environmental Impact Statement (EIS) and public hearings on proposed Western Gulf of Mexico (GOM) Sales 171, 174, 177, and 180.

The Minerals Management Service (MMS) has prepared a draft multisale EIS on five proposed Outer Continental Shelf (OCS) oil and gas lease sales in the Western GOM. We will conduct a planning process for one sale each year from 1998 through 2001. Although this EIS addresses four proposed lease sales, it is a decision document only for proposed Sale 171. We will consult with other Federal agencies and the affected States for each of the yearly proposed sales. We will perform a National Environmental Policy Act review, and give the public an opportunity to participate in each sale.

You may obtain single copies of the draft multisale EIS from the Minerals Management Service, Gulf of Mexico OCS Region, Attention: Public Information Office (MS–5034), 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana 70123–2394, or by calling 1–800–200–GULF.

You may look at copies of the draft EIS in the following libraries:

Texas

Abilene Christian University, Margaret and Herman Brown Library, 1600 Campus Court, Abilene;
Alma M. Carpenter Public Library, 330 South Ann, Sourlake;
Arkansas Pass Public Library, 110 North Lamont Street, Aransas Pass;
Austin Public Library, 402 West Ninth Street, Austin;
Bay City Public Library, 1900 Fifth Street, Bay City;
Baylor University, 13125 Third Street, Waco;
Brazoria County Library, 410 Brazoport Boulevard, Freeport;
Calhoun County Library, 301 South Ann, Port Lavaca;
Chambers County Library System, 202 Cummings Street, Anahuac;
Comfort Public Library, Seventh & High Streets, Comfort;
Corpus Christi Central Library, 805 Comanche Street, Corpus Christi;
Dallas Public Library, 1513 Young Street, Dallas;
East Texas State University Library, 2600 Neal Street, Commerce;
Houston Public Library, 500 McKinney Street, Houston;
Jackson County Library, 411 North Wells Street, Edna;
Lamar University, Gray Library, Virginia Avenue, Beaumont;
LaRatama Library, 505 Mesquite Street, Corpus Christi;
Liberty Municipal Library, 1710 Sam Houston Avenue, Liberty;
Orange Public Library, 200 North Fifth Street, Orange;
Port Arthur Public Library, 3601 Cultural Center Drive, Port Arthur;
Port Isabel Public Library, 213 Yturria Street, Port Isabel;
R.J. Kleberg Public Library, Fourth and Henrietta, Kingsville;
Reber Memorial Library, 193 North Fourth, Raymondville;
Refugio County Public Library, 815 South Commerce Street, Refugio;
Rice University, Fondren Library, 6100 South Main Street, Houston;
Rockwall County Library, 105 South First Street, Rockwall;
Rosenberg Library, 2310 Sealy Street, Galveston;
Sam Houston Regional Library & Research Center, FM 1011 Governors Road, Liberty;
Stephen F. Austin State University, Steen Library, Wilson Drive, Nacogdoches;
Texas A & M University, Corpus Christi Library, 6300 Ocean Drive, Corpus Christi;
Texas A & M University, Evans Library, Spence and Lubbock Streets, College Station;
Texas Southmost College Library, 1825 May Street, Brownsville;
Texas State Library, 1200 Brazos Street, Austin;
Texas Tech University Library, 18th and Boston Avenue, Lubbock;
University of Houston Library, 4800 Calhoun Boulevard, Houston;
University of Texas at Arlington, Library, 701 South Cooper Street, Arlington;
University of Texas at Austin, Library, 21st and Speedway Streets, Austin;
University of Texas at Brownsville, Oliveria Memorial Library, 80 Fort Brown, Brownsville;
University of Texas at Dallas, McDermott Library, 2601 North Floyd Road, Richardson;
University of Texas at El Paso, Library, Wiggins Road and University Avenue, El Paso;
University of Texas at San Antonio, Library, 6900 North Loop 1604 West, San Antonio;
University of Texas Law School, Tarlton Law Library, 727 East 26th Street, Austin;
University of Texas, LBJ School of Public Affairs Library, 2313 Red River Street, Austin;
Victoria Public Library, 320 North Main, Victoria;

Louisiana

Calcasieu Parish Library, 327 Broad Street, Lake Charles;
Cameron Parish Library, Marshall Street, Cameron;
Grand Isle Branch Library, Highway 1, Grand Isle;

Government Documents Library, Loyola University, 6363 St. Charles Avenue, New Orleans;
Iberville Parish Library, 24605 J. Gerald Berret Boulevard, Plaquemine;
Jefferson Parish Regional Branch Library, 4747 West Napoleon Avenue, Metairie;
Jefferson Parish West Bank Outreach Branch Library, 2751 Manhattan Boulevard, Harvey;
Lafayette Public Library, 301 W. Congress Street, Lafayette;
Lafitte Branch Library, Route 1, Box 2, Lafitte;
Lafourche Parish Library, 303 West 5th Street, Thibodaux;
Louisiana State University Library, 760 Riverside Road, Baton Rouge;
Louisiana Tech University, Prescott Memorial Library, Everet Street, Ruston;
LUMCON, Library, Star Route 541, Chauvin;
McNeese State University, Luther E. Frazar Memorial Library, Ryan Street, Lake Charles;
New Orleans Public Library, 219 Loyola Avenue, New Orleans;
Nicholls State University, Nicholls State Library, Leighton Drive, Thibodaux;
Plaquemines Parish Library, 203 Highway 11, South, Buras;
St. Bernard Parish Library, 1125 East St. Bernard Highway, Chalmette;
St. Charles Parish Library, 105 Lakewood Drive, Luling;
St. John The Baptist Parish Library, 1334 West Airline Highway, LaPlace;
St. Mary Parish Library, 206 Iberia Street, Franklin;
St. Tammany Parish Library, Covington Branch, 310 West 21st Street, Covington;
St. Tammany Parish Library, Slidell Branch, 555 Robert Boulevard, Slidell;
Terrebonne Parish Library, 424 Roussell Street, Houma;
Tulane University, Howard Tilton Memorial Library, 7001 Freret Street, New Orleans;
University of New Orleans Library, Lakeshore Drive, New Orleans;
University of Southwestern LA, Dupre Library, 302 East St. Mary Boulevard, Lafayette;
Vermilion Parish Library, Abbeville Branch, 200 North Street, Abbeville;

There will be three public hearings held to receive comments on the draft multisale EIS. The hearings will provide us with information that will help in the evaluation of the potential effects of the proposed lease sales. Hearings will be held in: New Orleans, Louisiana, on October 29, 1997; 1:00–3:00 p.m., Minerals Management Service, 1201 Elmwood Park Boulevard, Conference Room 111, Jefferson, Louisiana; Austin, Texas, on October 28, 1997; 1:00–3:00 p.m., Doubletree Hotel, 303 West 15th; Corpus Christi, Texas, on October 29, 1997; 7:00–9:00 p.m., Texas A&M University, Natural Resources Center, Room 1003, 6300 Ocean Drive; and Houston, Texas, on October 30, 1997; 1:00–3:00 p.m., Adam's Mark Hotel, 2900 Briarpark Drive.

If you wish to testify at a hearing, you may register beginning 1 hour prior to the meeting. Speakers will be limited to 10 minutes. Each hearing will recess when all speakers have had an opportunity to testify. If there are no additional speakers, we will adjourn the hearing immediately after the recess. Written statements submitted at a hearing will be considered part of the hearing record. If you are unable to attend the hearing, you may submit written statements until December 2, 1997. Send written statements to the Regional Director (MS–5410), Minerals Management Service, Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394.

Dated: September 25, 1997.

Thomas A. Readinger,

Acting Associate Director for Offshore Minerals Management.

[FR Doc. 97–26636 Filed 10–7–97; 8:45 am]

BILLING CODE 4310–MR–M

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Notice of Transfer of Lands—Colorado River Storage Project, Colorado

AGENCY: Bureau of Reclamation, Interior.

SUMMARY: By virtue of the authority vested in the Secretary of the Interior by Section 8 of the Colorado River Storage Project (CRSP) Act of April 11, 1956 (70 Stat. 110), and his delegation of authority to the Commissioner of the Bureau of Reclamation (Reclamation), jurisdiction over the following described land, which lies within the exterior boundary of the Bureau of Land Management's (BLM) Montrose Resource Area, Colorado, and which was acquired by Reclamation for fish and wildlife mitigation purposes for the development of the Wayne P. Aspinall Unit, a unit of the CRSP, is hereby transferred to BLM for fish and wildlife purposes.

ADDRESSES: Copies of the Memorandum of agreement between Reclamation and BLM are on file in the Office of the Regional Director, Upper Colorado Region, Bureau of Reclamation, 125 South State Street, Salt Lake City, Utah; and the State Director, Colorado State Office, Bureau of Land Management, 2850 Youngfield Street, Lakewood, Colorado.

FOR FURTHER INFORMATION CONTACT: Mr. Darrell Welch, Bureau of Reclamation, Upper Colorado Region, 125 South State Street, Salt Lake City, Utah 84138 or telephone (801) 524–3765.

SUPPLEMENTARY INFORMATION: Pursuant to the National Intragency Agreement between Reclamation and BLM dated March 25, 1983, agreements may be executed between both agencies for recreation, and fish and wildlife management activities on Federal land. Statutory authority for such agreements includes: Section 307, Federal Land Policy and Management Act (43 U.S.C. 1937); Economy Act (31 U.S.C. 686); and Reclamation Act of 1902 (43 U.S.C. Chapter 12) as amended or supplemented thereto.

Parcel No. WAU-(mit.)-1 describes the 225 acres of Reclamation acquired land to be transferred to BLM. The parcel consists of that portion of the McCluskey property as referenced by Memorandum of Agreement, Contract No. 0–LM–40–00340, dated July 30, 1992, between Reclamation and BLM.

Pursuant to Section 8 of the CRSP, the above land shall become BLM land with the provision that the land is administered and managed for angler access and other fish and wildlife purposes.

Dated: October 2, 1997.

Eluid L. Martinez,

Commissioner, Bureau of Reclamation.

[FR Doc. 97–26693 Filed 10–7–97; 8:45 am]

BILLING CODE 4310–94–M

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Bay-Delta Advisory Council Meeting

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of meeting.

SUMMARY: The Bay-Delta Advisory Council (BDAC) will meet to discuss several issues including: follow-up from items from the previous meeting; receive advice on tradeoffs associated with the CALFED alternatives; update BDAC on ongoing CALFED activities. BDAC members are also invited to attend an informal educational session to discuss legislation that may be introduced in the California State Legislature pertaining to the CALFED Bay-Delta Program. Both the informal educational session and the meeting is

open to the public. For the meeting, interested persons may make oral statements to the BDAC or may file written statements for consideration.

DATE: The Bay-Delta Advisory Council informal educational session will be held from 7:30 p.m. to 9 p.m. on Tuesday, November 4, 1997. The BDAC meeting will be held from 9:30 am to 5:00 pm on Tuesday, November 4, 1997 and from 8:30 a.m. to 5:00 p.m. on Wednesday, November 5, 1997.

ADDRESSES: The Bay-Delta Advisory Council educational session will be held at the Hyatt Regency Hotel, 1209 L Street, Sacramento, California 95814. The Bay-Delta Advisory Council meeting will meet at the Sacramento Convention Center, 1030 15th Street, Sacramento, California 95814, (916) 264–5291.

CONTACT PERSON FOR MORE INFORMATION: Mary Selkirk, CALFED Bay-Delta Program, at (916) 657–2666. If reasonable accommodation is needed due to a disability, please contact the Equal Employment Opportunity Office at (916) 653–6952 or TDD (916) 653–6934 at least one week prior to the meeting.

SUPPLEMENTARY INFORMATION: The San Francisco Bay/Sacramento-San Joaquin Delta Estuary (Bay-Delta system) is a critically important part of California's natural environment and economy. In recognition of the serious problems facing the region and the complex resource management decisions that must be made, the state of California and the Federal government are working together to stabilize, protect, restore, and enhance the Bay-Delta system. The State and Federal agencies with management and regulatory responsibilities in the Bay-Delta system are working together as CALFED to provide policy direction and oversight for the process.

One area of Bay-Delta management includes the establishment of a joint State-Federal process to develop long-term solutions to problems in the Bay-Delta system related to fish and wildlife, water supply reliability, natural disasters, and water quality. The intent is to develop a comprehensive and balanced plan which addresses all of the resource problems. This effort, the CALFED Bay-Delta Program (Program), is being carried out under the policy direction of CALFED. The CALFED Bay-Delta Program is exploring and developing a long-term solution for a cooperative planning process that will determine the most appropriate strategy and actions necessary to improve water quality, restore health to the Bay-Delta ecosystem, provide for a variety of beneficial uses, and minimize Bay-Delta system vulnerability. A group of citizen advisers representing California's agricultural, environmental, urban, business, fishing, and other interests who have a stake in finding long term solutions for the problems affecting the Bay-Delta system has been chartered under the Federal Advisory Committee Act (FACA) as the Bay-Delta Advisory Council (BDAC) to advise CALFED on the program mission, problems to be addressed, and objectives for the CALFED Bay-Delta Program. BEDAC provides a forum to help ensure public participation, and will review reports and other materials prepared by CALFED staff.

Minutes of the meeting will be maintained by the CALFED Bay-Delta Program, Suite 1155, 1416 Ninth Street, Sacramento, CA 95814, and will be available for public inspection during regular business hours, Monday through Friday within 30 days following the meeting.

Dated: October 1, 1997.

Roger Patterson,

Regional Director, Mid-Pacific Region.

[FR Doc. 97–26626 Filed 10–7–97; 8:45 am]

BILLING CODE 4310–94–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332–383]

Advice Concerning Possible Modifications to the U.S. Generalized System of Preferences; Imports of Raw Cane Sugar From Brazil

AGENCY: United States International Trade Commission.

ACTION: Amendment of scope of the investigation.

SUMMARY: Following receipt on October 2, 1997, of a request from the United States Trade Representative (USTR), the Commission amended the scope of its investigation No. 332–383, Advice Concerning Possible Modifications to the U.S. Generalized System of Preferences, to include advice concerning whether any industry in the United States is likely to be adversely affected by a waiver of the competitive need limits specified in section 503(c)(2)(A) of the Trade Act of 1974 with respect to imports of raw cane sugar from Brazil, provided for under subheading 1701.11.10 of the Harmonized Tariff Schedule of the United States.

EFFECTIVE DATE: October 3, 1997.

FOR FURTHER INFORMATION CONTACT:

(1) Project Manager, Cynthia B. Foreso (202–205–3348)
(2) Agricultural and forest products, Douglas Newman (202–205–3328)
(3) Energy, chemicals, and textiles, Eric Land (202–205–3349)
(4) Minerals, metals, machinery, and miscellaneous manufactures, Vincent DeSapio (202–205–3435)
(5) Services, electronics, and transportation, Laura Polly (202–205–3408)

All of the above are in the Commission's Office of Industries. For information on legal aspects of the investigation contact William Gearhart of the Commission's Office of the General Counsel at 202–205–3091.

Background

The Commission's notice of institution of the investigation and the scheduling of a public hearing was published in the **Federal Register** of September 18, 1997 (62 F.R. 49028). The public hearing will be held on October 21, 1997, as announced in the notice published on September 18. Persons wishing to appear at the public hearing and offer testimony concerning the effect of waiver of competitive need limitation on raw cane sugar from Brazil should file a letter asking to testify with the Secretary, United States International Trade Commission, 500 E Street, SW., Washington, DC 20436, not later than the close of business (5:15 p.m.) on October 14, 1997. In addition, persons testifying should file prehearing briefs (original and 14 copies) with the Secretary by close of business on October 14, 1997. All other dates announced in the notice of September 18, 1997 will remain the same.

In lieu of or in addition to appearing at the public hearing, interested persons are invited to submit written statements concerning the investigation. Written statements should be received by the close of business on October 29, 1997. Commercial or financial information which a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked ''Confidential Business Information'' at the top. All submissions requesting confidential treatment must conform with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons. All submissions should be addressed to the Secretary at the Commission's office in Washington, D.C.

Hearing-impaired individuals are advised that information on this matter can be obtained by contacting our TDD terminal on (202) 205–1810.

Issued: October 6, 1997.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 97–26801 Filed 10–7–97; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Justice Management Division; Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Reinstatement, without change, of a previously approved collection for which approval has expired; Certification of Identity.

This information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted until (insert date of 60 days from date of publication in the **Federal Register**). This process is conducted in accordance with the Paperwork Reduction Act of 1995.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information 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.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Ms. Patricia D. Harris, 301–436–1018, FOIA/PA Coordinator, Mail Management Services, Facilities and Administrative Services Staff, Justice Management Division, United States Department of Justice, Washington, DC 20530.

Overview of this information collection:

(1) *Type of Information Collection:* Reinstatement, without change, of a previously approved collection for which approval has expired.

(2) *Title of the Form/Collection:* Certification of Identity.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form: DOJ–361. Facilities and Administrative Services Staff, Justice Management Division, U.S. Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals. The information collection will be used by the Department to identify individuals requesting certain records under the Privacy Act. Without this form an individual cannot obtain the information requested.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 34,390 respondents at 1 hour per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 34,390 annual burden hours.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW, Washington, DC 20530.

Dated: October 2, 1997.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 97–26619 Filed 10–7–97; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that on September 29, 1997, a proposed Consent Decree in *United States* v. *Case Corporation,* et al., Civil Action No. 97–4101, was lodged with the United States District Court for the Central District of Illinois.

The Consent Decree settles an action brought under Section 107 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601, *et seq.,* (''CERCLA'') for the recovery of past costs incurred by the United States in responding to releases or threatened releases of hazardous substances at the A.A. Waste Oil Site, located in Rock Island, Illinois. The proposed settlement set forth in the Consent Decree addresses the liability of twenty-eight defendants in this action, each of which has been named as a generator of hazardous substances sent to the Site. Under the terms of the proposed decree, the settling defendants will pay the United States a total of $395,000 in settlement of the United States' past costs claims against them.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the Consent Decrees. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Case Corporation, et al.,* D.J. Ref. 90–11–2–1261.

The Consent Decree may be examined at the office of the United States Attorney, Central District of Illinois, 100 N.E. Monroe Street, Room 216, Peoria, IL 61620, at United States Environmental Protection Agency Region V, 77 West Jackson Boulevard, Chicago, Illinois 60604, and at the Consent Decree Library, 1120 G Street NW., 4th Floor, Washington, DC 20005. In requesting copies of these three proposed settlements, please enclose a check in the amount of $12.75 (25 cents per page reproduction cost) payable to the Consent Decree Library, and should refer to *United States* v. *Case Corporation, et al.,* D.J. Ref. 90–11–2–1261.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 97–26655 Filed 10–7–97; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Water Act

In accordance with the policy of the Department of Justice, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States* v. *Stone Container Corp.,* Civ. No. CIV–97–1971–PHX–EHC, was lodged with the United States District Court for the District of Arizona, on September 23, 1997. That action was brought against defendant pursuant to the Clean Water Act (''the

Act'') for penalties and injunctive relief as a result of unauthorized discharges from Stone Container Corp's (Stone) pulp and paper mill, located in Snowflake, AZ, into Dry Lake and Twin Lakes, two playa lakes on its property. The proposed consent decree requires Stone, *inter alia,* to cease all discharge to Dry Lake by January 1, 1997, which it did, to remediate Dry Lake allowing it to return to its natural state, and to pay a civil penalty of $375,000. In addition, Stone will use its mill effluent to fertilize and irrigate a ''biomass plantation'' it has created on its property to grow trees and other crops. Stone must operate this biomass plantation in accordance with best management practices set forth in the decree, which among other things, allow the discharge of mill effluent into Twin Lakes under certain limited conditions.

The Department of Justice will receive comments relating to the proposed consent decree for a period of 30 days from the date of this publication. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530. All comments should refer to *United States* v. *Stone Container Corp.,* D.J. Ref. 90–5–1–1–3208.

The proposed consent decree may be examined at the office of the United States Attorney for the District of Arizona, 4000 United States Courthouse, 230 N. First Ave., Phoenix, AZ 85025, at the Region IX office of the Environmental Protection Agency, 75 Hawthorne Street, San Francisco, California 94105, and at the Consent Decree Library, 1120 G Street, N.W., 4th floor, Washington, D.C. 20005, 202–624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library. In requesting a copy, please enclose a check in the amount of $14.75 for the decree (25 cents per page reproduction costs) payable to the Consent Decree Library. When requesting a copy, please refer to *United States* v. *Stone Container Corp.,* D.J. Ref. 90–5–1–1–3208.

Walker Smith,

Deputy Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 97–26656 Filed 10–7–97; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation, Criminal Justice Information Services, Agency Information Collection Activities: Proposed Collection: Comment Request

ACTION: *Notice of Information Collection Under Review: Law Enforcement Officers Killed and Assaulted (LEOKA).*

The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted until December 8, 1997.

Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information. Your comments should address one or more of the following four points:

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

(2) Evaluate the accuracy of the 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.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time should be direct to SSA Paul J. Gans (phone number and address listed below). If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact SSA Paul J. Gans, 304–625–4830, FBI, CJIS, Statistical Unit, PO Box 4142, Clarksburg WV 26302–9921. Overview of this information collection:

(1) *Type of information collection:* Extension of Current Collection

(2) *The title of the form/collection:* Law Enforcement Officers Killed and Assaulted (LEOKA).

(3) *The agency form number, if any, and applicable component of the Department sponsoring the collection. Form:* I–705. Federal Bureau of Investigation, Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as brief abstract. Primary:* State and Local Law Enforcement Agencies. This collection is needed to provide data regarding Law Enforcement Officers Killed and Assaulted throughout the United States. Data is tabulated and published in the comprehensive annual ''Law Enforcement Officers Killed and Assaulted''.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 17,145 agencies; 205,740 responses (includes Zero Reports); and with an average completion time of 5 minutes a month or 1 hour annually per responding agency.

(6) *An estimate of the total public burden (in hours) associated with this collection:* 17,145 hours annually.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW, Washington, DC 20530.

Dated: October 2, 1997.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 97–26611 Filed 10–7–97; 8:45 am]

BILLING CODE 4410–02–M

DEPARTMENT OF LABOR

Labor Advisory Committee for Trade; Negotiations and Trade Policy; Meeting Notice

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463 as amended), notice is hereby given of a meeting of the Steering Subcommittee of the Labor Advisory Committee for Trade Negotiations and Trade Policy.

DATE; TIME AND PLACE: October 16, 1997, 10:00 am, U.S. Department of Labor, Room S–1011, 200 Constitution Ave., NW, Washington, D.C. 20210.

PURPOSE: The meeting will include a review and discussions of current issues which influence U.S. trade policy. Potential U.S. negotiating objectives and bargaining positions in current and anticipated trade negotiations will be discussed. Pursuant to section 9(B) of the Government in the Sunshine Act, 5 U.S.C. 552b(c)(9)(B) it has been determined that the meeting will be concerned with matters the disclosure of which would seriously compromise the Government's negotiating objectives or

bargaining positions. Accordingly, the meeting will be closed to the public.

FOR FURTHER INFORMATION, CONTACT: Jorge Perez-Lopez, Director, Office of International Economic Affairs, Phone: (202) 219–7597.

Signed at Washington, D.C. this 1st day of October 1997.

Andrew J. Samet,

Acting Deputy Under Secretary, International Affairs.

[FR Doc. 97–26688 Filed 10–7–97; 8:45 am]

BILLING CODE 4510–28–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Biological Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting;

Name: Special Emphasis Panel in Biological Sciences (#1754)

Date & time: October 30, 1997 at 8:30 am to 5:00 pm, October 31, 1997 at 8:30 am to 3:00 pm

Location: Room 375, National Science Foundation 4201 Wilson Boulevard, Room 615, Arlington, Virginia 22230

Type of meeting: Closed

Contact person: Dr. James T. Callahan, Program Director, National Science Foundation 4201 Wilson Boulevard Arlington, Virginia 22230 (703) 306–1469

Purpose of meeting: To provide advice and recommendations concerning research proposals submitted to the National Science Foundation for financial support.

Agenda: To review and evaluate research, proposals, submitted to and being considered by the Equipment and Facilities for Research at Biological Research Collection as part of the selection process for awards.

Reasons for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b.(c)(4) and (6) of Government in the Sunshine Act.

Dated: October 3, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–26686 Filed 10–7–97; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Panel in for Cognitive, Psychological & Language Sciences; Notice of Meetings

This notice is being published in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended). During the period October and November 1997, the Advisory Panel will be holding panel meetings to review and evaluate research proposals. The dates, contact person, and types of proposals. The dates, contact person, and types of proposals are as follows:

Advisory Panel in for Cognitive, Psychological & Language Sciences (1757)

1. *Date:* October 30–31, 1997.

Contact: Dr. Paul Chapin, Program Director for Linguistics, Division of Social, Behavioral and Economic Science Research, Room 995, 703–306–1731.

Type of Proposal: Linguistics.

2. *Date:* November 5–7, 1997.

Contact: Dr. Michael McCluskey, Program Director Human Cognitive and Perception, Division of Social, Behavioral and Economic Science Research, Room 995, 703–306–1732.

Type of Proposal: Human Cognitive and Perception.

3. *Date: November 5–7, 1997.*

Contact: Dr. Steven J. Breckler, Program Director for Social Psychology, Division of Social, Behavioral, and Economic Research, Room 995, 703–306–1728.

Type of Proposal: Social Psychology.

Times: 8:30 to 5:00 p.m. each day.

Place: National Science Foundation, 4201 Wilson Blvd., Arlington, VA.

Type of Meetings: Closed.

Purpose of meetings: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c)(4) and (6) of the Government in the Sunshine Act.

Dated: October 3, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–26687 Filed 10–7–97; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Engineering Education and Centers; Notice of Meeting

In accordance with Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel Engineering Education and Centers (#173).

Date/Time: October 27–28 1997, 8:00 a.m.–5:30 p.m.

Place: National Science Foundation, Room 360, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Janet Rutledge, Program Director, Engineering Education and Centers Division, National Science Foundation, Room 585, 4201 Wilson Boulevard, Arlington, VA 22230.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals submitted to the Research Experiences for Undergraduates Program as part of the selection process for awards.

Reason For Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b. (c)(4) and (6) of the Government in the Sunshine Act.

Dated: October 3, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–26680 Filed 10–7–97; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Infrastructure, Methods & Science Studies; Notice of Meetings

This notice is being published in accord with the Federal Advisory Committee Act (Pub. L. 92–463, as amended). During the period October 1, 1997 through December 31, 1998, the Advisory Panel will be holding panel meetings to review and evaluate research proposals. The dates, contact person, and types of proposals are as follows:

Advisory Panel for Infrastructure, Methods & Science Studies (#1760)

1. *Date:* October 26–27, 1997.

Place: Holiday Inn City Center, 181 West Broadway, The Broadhurst Room, Tucson, AZ 85701.

Contact: Dr. Rachelle Hollander, Program Director for Societal Dimensions of Engineering Science & Technology, Division of Social, Behavioral & Economic Research, Room 995, 703–306–1743.

Type of proposal: Societal Dimensions of Engineering, Science & Technology Studies.

2. *Date:* November 21–22, 1997.

Contact: Dr. Edward J. Hackett, Program Director for Science & Technology Studies, Division of Social, Behavioral & Economic Research, Room 995, 703–306–1742.

Type of proposal: Science & Technology Studies.

3. *Date:* December 8–9, 1997.

Contact: Dr. Cheryl L. Eavey, Program Director of Methods, Measurement & Statistics, Division of Social, Behavioral, and Economic Research, Room 995, 703–306–1729.

Type of Proposal: Methods, Measurement & Statistics.

Times: 8:30 to 5:00 p.m. each day.

Place: National Science Foundation, 4201 Wilson Blvd., Arlington, VA.

Type of Meetings: Closed.

Purpose of Meetings: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals submitted to the Directorate as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 USC 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: October 3, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–26678 Filed 10–7–97; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Social, Behavioral, and Economic Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Public Law 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Social, Behavioral, and Economic Sciences (1766).

Date and Time: October 28, 1997; 9:00 a.m. to 5:00 p.m.

Place: Room 375, 4201 Wilson Blvd., Arlington, VA.

Type of Meeting: Open.

Contact Person: M. Marge Machen, Project Officer, Division of Science Resources Studies, Research and Development Statistics Program, 4201 Wilson Blvd., Suite 965, Arlington, VA 22230, Telephone: (703) 306–1772, ext. 6934, Fax: (703) 306–0508, Internet: mmachen@nsf.gov

Minutes may be obtained from the contact person at the above address.

Purpose of Meeting: To review and comment on issues affecting the annual Survey of Science and Engineering Research and Development Expenditures at Universities and Colleges.

Agenda: Discussion on multidisciplinary research; Federal funds for R&D expenditures by agency and by field; and non-science and engineering R&D expenditures.

Dated: October 3, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–26682 Filed 10–7–97; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[NUREG–1600]

Policy and Procedure for Enforcement Actions; Enforcement Conference Procedures

AGENCY: Nuclear Regulatory Commission.

ACTION: Policy statement: amendment.

SUMMARY: The Nuclear Regulatory Commission (NRC) is revising its ''General Statement of Policy and Procedure for NRC Enforcement Actions'' to clarify procedures associated with enforcement conferences based on reports of the NRC Office of Investigations associated with discrimination.

EFFECTIVE DATE: This action is effective on October 8, 1997.

FOR FURTHER INFORMATION CONTACT: James Lieberman, Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, (301) 415–2741.

SUPPLEMENTARY INFORMATION:

The Commission's ''General Statement of Policy and Procedure for NRC Enforcement Actions'' (Enforcement Policy or Policy) was first issued on September 4, 1980. Since that time, the Enforcement Policy has been revised on a number of occasions. On June 30, 1995 (60 FR 34381), the Enforcement Policy was revised in its entirety and was also published as NUREG–1600. The Policy primarily addresses violations by licensees and certain non-licensed persons.

On March 24, 1997 (62 FR 13906), the NRC published changes to the Enforcement Policy concerning predecisional enforcement conferences based on findings of discrimination. The changes permitted limited participation in those conferences by the complainant. The Statement of Consideration for those changes provided that ''normally'' Office of Investigations (OI) reports involving discrimination will be made public. However, the actual Policy change in the eighth paragraph of Section V. Predecisional Enforcement Conferences, stated that they ''will be made'' public. In this revision, the word ''may'' has now been substituted to more accurately reflect those cases in which it is not appropriate to make the OI report public. Also, additional language in this paragraph is being added to clarify that the purpose of the complainant's participation in a conference is to provide information to the NRC to assist it in its enforcement deliberations.

Paperwork Reduction Act

This policy statement does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Existing requirements were approved by the Office of Management and Budget, approval number 3150–0136. The approved information collection requirements contained in this policy statement appear in Section VII.C.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Small Business Regulatory Enforcement Fairness Act

In accordance with the Small Business Regulatory Enforcement Fairness Act of 1996, the NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs of OMB.

Accordingly, the eighth paragraph of Section V of the NRC Enforcement Policy is amended to read as follows:

General Statement of Policy and Procedure for NRC Enforcement Actions

* * * * *

V. Predecisional Enforcement Conferences

* * * * *

For a case in which an NRC Office of Investigations (OI) report finds that discrimination as defined under 10 CFR 50.7 (or similar provisions in Parts 30, 40, 60, 70, or 72) has occurred, the OI report may be made public, subject to withholding certain information (i.e., after appropriate redaction), in which case the associated predecisional enforcement conference will normally be open to public observation. In a conference where a particular individual is being considered potentially responsible for the discrimination, the conference will remain closed. In either case (i.e., whether the conference is open or closed), the employee or former employee who was the subject of the alleged discrimination (hereafter referred to as ''complainant'') will normally be provided an opportunity to participate in the predecisional enforcement conference with the licensee/employer. This participation will normally be in the form of a complainant statement and comment on

the licensee's presentation, followed in turn by an opportunity for the licensee to respond to the complainant's presentation. In cases where the complainant is unable to attend in person, arrangements will be made for the complainant's participation by telephone or an opportunity given for the complainant to submit a written response to the licensee's presentation. If the licensee chooses to forego an enforcement conference and, instead, responds to the NRC's findings in writing, the complainant will be provided the opportunity to submit written comments on the licensee's response. For cases involving potential discrimination by a contractor or vendor to the licensee, any associated predecisional enforcement conference with the contractor or vendor would be handled similarly. These arrangements for complainant participation in the predecisional enforcement conference are not to be conducted or viewed in any respect as an adjudicatory hearing. The purpose of the complainant's participation is to provide information to the NRC to assist it in its enforcement deliberations.

* * * * *

Dated at Rockville, Maryland, this 3rd day of October 1997.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Secretary of the Commission.

[FR Doc. 97–26690 Filed 10–7–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Nuclear Waste; Notice of Meeting

The Advisory Committee on Nuclear Waste (ACNW) will hold its 95th meeting on October 21, 1997, at the William F. Bolger Center For Leadership Development, 9600 Newbridge Drive, Potomac, Maryland, and October 22–23, 1997, in Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance. The schedule for this meeting is as follows:

Tuesday, October 21, 1997–8:30 a.m. until 6:00 p.m.

Wednesday, October 22, 1997–8:30 a.m. until 6:00 p.m.

Thursday, October 23, 1997–8:30 a.m. until 4:00 p.m.

A. *ACNW Retreat*—The Committee members will discuss their mission, planned accomplishments, priorities, and work processes for FY 1998–99. The retreat will be held on October 21, 1997, at the William F. Bolger Center For Leadership Development.

B. *Meeting with NRC's Director, Division of Waste Management, Office of Nuclear Material Safety and Safeguards*—The Committee will meet with the Director to discuss technical assistance, developments at the Yucca Mountain project, resources, and other items of mutual interest.

C. *Review of NRC Research and Technical Assistance*—The Committee will review activities of NRC's Office of Nuclear Materials Safety and Safeguards and Nuclear Regulatory Research in the area of nuclear waste disposal. The ACNW will provide input to the Advisory Committee on Reactor Safeguards' February 1998 report to Congress on NRC research.

D. *Prepare for Next Meeting with the Commission*—The Committee will prepare for its next formal meeting with the Commission. The Committee is scheduled to discuss items of mutual interest with the Commission on December 17, 1997.

E. *Preparation of ACNW Reports*—The Committee will discuss planned reports, including a recommended approach to implement the defense-in-depth concept in the revised 10 CFR Part 60, the Application of Probabilistic Risk Assessment Methods to Performance Assessment in the NRC High-Level Waste Program, ACNW priority issues for 1998, and other topics discussed during the meeting as the need arises.

F. *Committee Activities/Future Agenda*—The Committee will consider topics proposed for future consideration by the full Committee and Working Groups. The Committee will discuss ACNW-related activities of individual members.

G. *Miscellaneous*—The Committee will discuss miscellaneous matters related to the conduct of Committee activities and organizational activities and complete discussion of matters and specific issues that were not completed during previous meetings, as time and availability of information permit.

Procedures for the conduct of and participation in ACNW meetings were published in the **Federal Register** on September 2, 1997 (62 FR 46382). In accordance with these procedures, oral or written statements may be presented by members of the public, electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Committee, its consultants, and staff. Persons desiring to make oral statements should notify the Chief, Nuclear Waste Branch, Mr. Richard K. Major, as far in advance as practicable so that appropriate arrangements can be made to schedule the necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during this meeting will be limited to selected portions of the meeting as determined by the ACNW Chairman. Information regarding the time to be set aside for this purpose may be obtained by contacting the Chief, Nuclear Waste Branch, prior to the meeting. In view of the possibility that the schedule for ACNW meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should notify Mr. Major as to their particular needs.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting Mr. Richard K. Major, Chief, Nuclear Waste Branch (telephone 301/415–7366), between 8:00 A.M. and 5:00 P.M. EDT.

ACNW meeting notices, meeting transcripts, and letter reports are now available on FedWorld from the ''NRC MAIN MENU.'' Direct Dial Access number to FedWorld is (800) 303–9672; the local direct dial number is 703–321–3339.

Dated: October 2, 1997.

John C. Hoyle,

Acting Advisory Committee Management Officer.

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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 September 15, 1997, through September 26, 1997. The last biweekly notice was published on September 24, 1997 (62 FR 50000).

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 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 November 7, 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: Rulemakings and Adjudications Staff, 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: March 18, 1997, as supplemented by letters dated July 28, 1997 and September 9, 1997

Description of amendments request: The amendments would revise the operating licenses for Palo Verde Units 1, 2 and 3 to reflect approval of Amendment 42 to the Palo Verde Nuclear Generating Station (PVNGS) Physical Security Plan. Amendment 42 would revise the methods used to search materials, packages and personnel prior to their entry into the protected area, as described within the security plan.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes do not significantly increase the probability or consequences of an accident previously evaluated. The ''accident'' as it relates to the Security Plan would have to be an impact to the Design Basis Threat (DBT) postulated for PVNGS. This change does not decrease the overall security systems (as described in paragraph's (b) through (h) of 10 CFR 73.55) ability to protect PVNGS with the objective of high assurance against the DBT of radiological sabotage as stated in 73.1(a). This change does not delete or contradict any regulatory requirements.

The applicable design basis threat is described in 10 CFR 73.1. Based on that threat, the probability of an external determined violent assault by stealth, or deceptive actions, of several persons is unaffected by the requested changes to the search requirements. Similarly, an internal threat of an insider, including an employee (in any position) is no more likely to occur as a result of the search techniques. The probability of an attack with a four-wheel drive land vehicle bomb is unaffected. Theft or diversion of formula quantities of strategic special nuclear material is a threat of removal from the inside of the protected area, which is not within the scope of this change that only affects searches of material entering the protected area.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The possibility of an accident of a new or different kind has not been created because the DBT (as described in the Security Plan and 10 CFR 73.1) would not be changed as a result of these changes. The changes supplement regulatory requirements and commitments already described in the PVNGS Physical Security Plan.

3. The proposed change does not involve a significant reduction in a margin of safety.

The proposed changes do not involve a significant reduction in a margin of safety. These changes to the personnel, material and package search criteria are not specifically considered in the basis for any margin of safety. The DBT considers inside assistance by a knowledgeable individual, however, these changes would not assist this individual in either sabotage or theft of nuclear material.

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

Duke Energy Corporation, et al., Docket Nos. 50-413 and 50-414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of amendment request: September 15, 1997

Description of amendment request: The proposed license amendments would revise the Technical Specifications (TS) to:

1. Revise the reactor coolant system heatup limitation curves in Figure 3.4-2, which are applicable only to the first 10 effective full-power years (EFPYs). The revised curves would be (a) applicable to the first 15 EFPYs; (b) include the latest radiation surveillance capsule results; (c) remove instrument margins by relocating them to a licensee-controlled document, ''Pressure Temperature Limit Report;'' and (d) administratively delete certain unneeded footnotes that exist in the current figure.

2. Modify the actual surveillance capsule identification listed in Table 4.4-5, ''Reactor Vessel Material Surveillance Program - Withdrawal Schedule'' (for Unit 2 only) and update each unit—s lead factors and withdrawal time.

3. Revise the power-operated relief valve (PORV) setpoints in Section 3.4.9.3.a to less than or equal to 400 pounds per square inch gauge (psig) (as left calibrated), allowable value less than or equal to 425 psig (as found).

4. Make editorial changes to improve consistency among various TS sections to conform with the Westinghouse Improved Standard Technical Specifications, and update applicable Code references.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's analysis is presented below.

1. Will the changes involve a significant increase in the probability or consequences of an accident previously evaluated?No. No previously evaluated accident was considered to originate from use of the heatup curves (change 1. above), the testing and use of surveillance capsules (change 2. above), the setpoint of PORVs (change 3. above), and editorial changes to the TS. Also, these items did not have any role in previously analyzed accident scenarios and thus no impact on accident consequences. Therefore, these proposed changes will have

no impact on the consequences or probabilities of any type of previously evaluated accidents.

2. Will the changes create the possibility of a new or different kind of accident from any accident previously evaluated?

No. No actual plant equipment or operating procedure will be affected by the proposed changes. Hence, no new equipment failure modes or accidents from those previously evaluated will be created.

3. Will the changes involve a significant reduction in a margin of safety?

No. The margin of safety is associated with confidence in the design and operation of the plant. The changes to the TS do not involve any change to plant design or operation. Thus, the margin of safety previously analyzed and evaluated is maintained.

On the basis of this analysis, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina

Attorney for licensee: Mr. Paul R. Newton, Legal Department (PB05E), Duke Power Company, 422 South Church Street, Charlotte, North Carolina

NRC Project Director: Herbert N. Berkow

Florida Power Corporation, et al., Docket No. 50-302, Crystal River Nuclear Generating Plant, Unit No. 3, Citrus County, Florida

Date of amendment request: June 14, 1997

Description of amendment request: The proposed amendment would revise the technical specifications (TS) for the Crystal River Nuclear Electric Generating Plant Unit 3 (CR-3). The proposed TS changes reflect the operational limitations in mitigating certain Small break loss-of-coolant-accident (SBLOCA) events. The licensee also proposed changes to the associated licensing and design bases.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below. The proposed changes are addressed in three major parts: (1) SBLOCA Mitigation, (2) Emergency Diesel generator (EDG) upgrade and (3) EDG Load Rejection Test and Steady State Loads.

SBLOCA Mitigation

The licensee's revised SBLOCA analyses show that for certain sized breaks, a combination of emergency core cooling system (ECCS) flow to the reactor vessel and emergency feedwater (EFW) flow to the once through steam generators (OTSG) is needed to provide for adequate core decay heat removal. Due to load capacity limits on the —A— EDG, the length of time that the motor-driven emergency feed pump-1 (EFP-1) would be available is limited. To ensure adequate EFW system flow and core decay heat removal, several actions would have to be initiated. They include —A— EDG load management, and EFW flow through the turbine-driven emergency feedwater pump-2 (EFP-2) by opening the cross tie valve, flow through both the high pressure injection (HPI) pumps and EFP-1. The proposed TS changes reflect the operational limitations and other associated required actions to ensure adequate ECCS and EFW cooling capability remains. These changes for system cross train dependencies and EDG load management are required for the remainder of current Cycle 11 only.

1. The proposed Technical Specification changes, modifications, and operator actions involving SBLOCA mitigation will not result in a significant increase in the probability of an accident previously evaluated. In addition, the portions of the change involving cross-train dependencies and load management are being requested for the remainder of Cycle 11 only, which limits the impact on any previously established probabilities. The initiators of any design basis accident is not affected by the proposed Technical Specification changes, modifications, and operator actions involving SBLOCA mitigation. Consequently, there is no significant impact on any previously evaluated accident probabilities.

The proposed Technical Specification changes, modifications and operator actions involving SBLOCA mitigation do not result in a significant increase in the consequences of SBLOCA mitigation-related accidents previously evaluated. In this regard, the proposed Technical Specification changes, modifications and operator actions will not adversely affect the integrated ability of the EDGs and the EFW, SW [service water], RW [raw water], Control Complex Cooling, ECCS, DC [Decay Heat Closed Cycle Cooling Water System], Decay Heat Seawater, and Electrical Distribution Systems to perform their intended safety functions. Therefore, the combined ability of these components and systems and actions to mitigate the consequences of a SBLOCA will continue to be maintained. In fact, the collective impact of these Technical Specification changes, modifications and operator actions represents a restoration of the ability to mitigate the consequences of a SBLOCA, which are consistent with the consequences assumed in licensing and design basis for CR-3. For example, the installation of EFW cavitating venturis and the improved operational range of the turbine driven feedwater pump increase the ability of the EFW system to mitigate the consequences of a SBLOCA. In addition, the Technical Specification changes, modifications and operator actions do not significantly affect the onsite or offsite doses which remain a small fraction of 10 CFR Part 100 limits.

2. The proposed Technical Specification changes, modifications and operator actions do not create the possibility of a new or different kind of accident from any accident previously evaluated. The Technical Specification changes, modifications, and operator actions do not involve a different initiator for any design basis accident and do not create new design basis scenarios. SBLOCA mitigation, utilizing a combination of automatic and manual actions, is already part of the CR-3 licensing basis. Manual operator actions necessary for the mitigation of SBLOCAs are currently addressed or are being addressed in EOPs [emergency operating procedures]. Also, these Technical Specification changes, modifications and operator actions restore the ability to mitigate the impact of a SBLOCA, which is consistent with the CR-3 licensing and design basis. Based on the above, a new or different kind of accident does not result from this submittal.

3. The proposed Technical Specification changes, modifications and operator actions do not involve a significant reduction in the margin of safety for SBLOCA mitigation. The Technical Specification changes, modifications and operator actions for the EDGs and the EFW, SW, RW, Control Complex Cooling Systems represent a restoration of the overall margin of safety to a degree that it will be consistent with the existing plant design and licensing bases for SBLOCA mitigation.

EDG upgrade

This aspect of the proposed license amendment involves increases in the service ratings of the EDGs. The required amount of fuel oil in the EDG fuel day tank and fuel storage tank, and lube oil storage is being increased to ensure that adequate volume is available to support the new service ratings. The EDG refueling interval load test parameters are being revised to reflect the increased service ratings and to ensure that the minimum test load is equal to or greater than the expected maximum steady state accident load. Additionally, associated EDG Surveillance Requirements (SR) Bases are being revised.

1. The proposed Technical Specification changes, modifications and operator actions do not involve a significant increase in the probability of an accident previously evaluated because neither the EDGs nor the EDG—s fuel oil and lube oil systems serve as the initiator for any design basis accident and, therefore, do not significantly impact any previously evaluated accident probabilities.

The proposed Technical Specification changes, modifications and operator actions do not involve a significant increase in the consequences of an accident previously evaluated because the ability of the EDGs and the EDG fuel oil and lube oil to perform their intended safety function has not been adversely affected. The EDGs and the EDG fuel oil and lube oil systems remain fully capable of performing their safety function for all design basis accidents. The increase in loading permitted under these changes will reflect the manufacturer—s certified capabilities of the EDGs. Also, the increase in the required fuel remains within the capabilities of the fuel tanks. The same potential design basis failures that existed prior to the EDG upgrades will continue to

exist subsequent to the modifications. It follows that the consequences of such failures will remain a small fraction of 10 CFR Part 100 limits.

2. The proposed Technical Specification changes, modifications and operator actions do not create the possibility of a new or different kind of accident from any accident previously evaluated. Also, the proposed Technical Specification changes, modifications and operator actions do not involve any new accident initiators, or a new or different kind of accident from any previously evaluated. In addition, the configuration and basic function of the EDGs and EDG's fuel and lube oil systems are unaffected by the changes. In fact, the EDG upgrades ensure that the previously evaluated accidents are consistent with system and component capabilities and the current design and licensing bases.

3. The proposed Technical Specification changes, modifications and operator actions do not involve a significant reduction in the margin of safety. The EDGs and EDG—s fuel and lube oil systems will continue to able to be perform their safety function for all design basis accidents. There is an increase in the net margin of safety for fuel and lube oil storage since required volumes have been recalculated and increased, additional margin has been added to the calculated results, and the required volumes are based on usable tank volumes instead of tank capacity. These volumes continue to bound the postulated worse-case accident scenario. The increase in fuel storage required by the changes remains within the capacity of the storage tanks. The Technical Specification changes, modifications and operator actions further ensure that margins provided in current design and licensing bases are satisfied.

EDG Load Rejection Test and Steady State Loads

The proposed changes for this part affects the TS Bases. The basis of the EDG load rejection test is being revised to bound the largest single load. A description of ''steady state'' is being provided with examples of short duration loads and loads imposed by the starting of motors. Also, addressed is the licensee's conclusion that the refueling interval EDG load test is not invalidated by loads imposed by the starting of motors.

1. The proposed Technical Specification changes, modifications and operator actions do not involve a significant increase in the probability of an accident previously evaluated because the EDG load tests and load rejection test do not serve as the initiator for any design basis accident and, therefore, do not significantly impact any previously evaluated probabilities.

The proposed Technical Specification changes, modifications and operator actions do not involve a significant increase in the consequences of an accident previously evaluated because the changes do not affect the ability of the EDGs to perform their intended safety function. Rather, the Technical Specification changes, modifications and operator actions provide further assurance that the EDGs are capable of performing their safety function. Failure of an EDG has the same consequences as it would if the changes were not made. It follows that the 10 CFR Part 100 consequences of such failures has not changed.

2. The proposed Technical Specification changes, modifications and operator actions do not create the possibility of a new or different kind of accident from any accident previously evaluated because the changes do not affect the ability of the EDGs to perform their intended safety function. The configuration and basic function of the EDGs, including accurately describing the manufacturer certified EDGs service ratings and steady state loads, do no create a possibility for a new or different kind of accident. Although the load rejection test is for an increased EDG largest single load, the kind of accident addressed by both the load rejection test and the refueling load test remain the same.

3. The proposed Technical Specification changes, modifications and operator actions do not involve a significant reduction in the margin of safety. The calculated loads imposed by the starting of motors are short duration, have a low probability of occurrence, and are expected to be within the manufacturer limits. In fact, the margin confirmed by EDG refueling load testing and load rejection testing will demonstrate a restoration of design and licensing margin and confirm that the EDGs remain fully capable of performing their safety function for all design basis accidents.

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: Coastal Region Library, 8619 W. Crystal Street, Crystal River, Florida 34428

Attorney for licensee: R. Alexander Glenn, General Counsel, Florida Power Corporation, MAC - A5A, P. O. Box 14042, St. Petersburg, Florida 33733-4042

NRC Project Director: Frederick J. Hebdon

Northeast Nuclear Energy Company (NNECO), et al., Docket No. 50-336, Millstone Nuclear Power Station, Unit No. 2, New London County, Connecticut

Date of amendment request: September 16, 1997

Description of amendment request: The proposed changes to the Technical Specifications (TSs) would modify TS 3.7.1.1, ''Plant Systems Turbine Cycle Safety Valves.'' During its effort to verify the current design and licensing bases for Millstone, Unit 2, NNECO has determined that the maximum allowable power level high trip setpoints with inoperable steam line code safety valves specified in Table 3.7-1 of TS 3.7.1.1 are incorrect. The trip setpoints were not changed to be consistent with a previously approved reduction in the maximum power level high trip setpoint. In addition, NNECO is also in the process of reanalyzing the inadvertent closure of the main steam isolation valve (MSIV) and the loss of electrical load events. The results of the reanalysis indicate that the MSIV event results in the highest peak pressure in the secondary system and that the formula currently contained in the TS Bases for TS 3.7.1.1 may not result in the correct trip setpoints.

Specifically, NNECO proposes to: (1) delete TS Table 3.7.1 by not allowing operation in Mode 1 or 2 with inoperable steam line code safety valves, (2) modify the associated action statement in TS 3.7.1.1, and (3) update the TS Bases to reflect the proposed changes and update the amendment history numbers to reflect previously approved amendments.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed change does not involve an SHC [significant hazards consideration] because the changes would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

This proposed change will remove the ability to operate in Modes 1 or 2 with inoperable main steam line code safety valves. Operation in Mode 3 will be retained, provided no more than three main steam line code safety valves per steam generator are inoperable.

The primary function of the main steam line code safety valves is to prevent secondary system overpressurization. These valves will also provide reactor core heat removal and design basis accident mitigation. This proposed change does not affect the length of time the plant can operate with inoperable main steam line code safety valves before compensatory actions must be taken. (Four hours is still allowed to restore the valve(s) to operable status.) This proposed change does not affect the probability of occurrence of any design basis accident and does not affect how the main steam line code safety valves function to mitigate design basis accidents. Therefore, this change does not significantly increase the probability or consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change does not alter the way any structure, system, or component functions. The proposed change will conservatively change plant operation in Modes 1 and 2 by removing the ability to operate at power with inoperable main steam

line code safety valves as currently specified in Technical Specification 3.7.1.1. It does not introduce any new failure modes and does not alter any assumption made in the safety analysis.

Therefore, the change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Involve a significant reduction in a margin of safety.

This proposed change to Technical Specification 3.7.1.1 will remove the ability to operate in Modes 1 or 2 with inoperable main steam line code safety valves. Operation in Mode 3 will be retained, provided no more than three main steam line code safety valves per steam generator are inoperable. The operability of the main steam line code safety valves ensures that the secondary system pressure will be limited to within 110% (1100 psig) of the design pressure of 1000 psig during the most severe anticipated system operational transient. This change will not affect the operability requirements for the main steam line code safety valves and will not affect the length of time the plant can operate with inoperable main steam line code safety valves before compensatory actions must be taken. This will ensure the plant equipment required for design basis accident mitigation will be available. Therefore, there is no significant reduction in a margin of safety as defined in the Bases of Technical Specification 3.7.1.1.

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, Connecticut

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: August 29, 1997

Description of amendment request: Based on a review and subsequent calculations of the cold overpressurization protection (COPS) enabling temperature and the emergency core cooling system (ECCS)/charging system Mode 3 requirements, NNECO proposes to reduce the COPS enabling temperature. As a result, NNECO proposed the following Technical Specifications (TS) changes: new heatup and cooldown pressure/temperature limit curves and their associated requirements; new power operated relief valve (PORV) setpoint curves and their associated requirements; revisions to the reactor coolant loops and coolant circulation, ECCS, boration systems, and COPS to incorporate the lower enabling temperature and new restrictions for cold overpressure protection system (COPPS), PORV undershoot, and residual heat removal (RHR) relief valve bellows; addition of a footnote to allow a reactor coolant pump (RCP) to substitute for an RHR pump during heatup from Mode 5 to Mode 4, which is consistent with the improved standard technical specification (STS); reword TS 3/4.4.9.3 and its Bases section to be consistent with the improved STS; and revision of the affected Bases sections to be consistent with the proposed 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:

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.

Probability of Occurrence of Previously Evaluated Accidents

Since the PORV setpoints and the COPS enabling temperature have been calculated in accordance with 10CFR50, Appendix G and ASME [American Society of Mechanical Engineers] Section XI, the change will not alter the probability that an overpressurization event will result in a loss of RV [reactor vessel] integrity. The new PORV setpoint curves are lower than the current curves in certain temperature ranges (below approximately 130—F and above approximately 220°F), and therefore the operating window is slightly decreased. However, the reduced operating window is still sufficient for normal anticipated pressure fluctuations. Below 160°F, operation of Reactor Coolant Pumps are prohibited if the PORVs are armed for COPPS; therefore, PORV actuation will not occur below 160—F when the RCPs are running. In a water solid condition, RCS [reactor coolant system] pressure is maintained via the letdown low pressure control valve, which, when in automatic mode, maintains the RCS pressure in a relatively narrow range. When the RCPs are not running, the PORV COPPS system can be actuated. However, for this condition, the allowable pressure range is 0 to 418 psia [pounds per square inch atmospheric]. This pressure range is sufficient to accommodate normal anticipated pressure fluctuations.

Above 220°F, the minimum pressure range is from 300 psia to 595 psia; this range is sufficient to accommodate normal anticipated pressure fluctuations. In this temperature range, a pressurizer bubble is normally present, which will minimize any pressure fluctuations, thereby limiting the possibility of a PORV actuation. Based on this, it is concluded that the proposed change will not impact the probability of occurrence that a PORV will be challenged.

When the RHR relief valves are used for COPS there is no credible scenario which would result in excessive relief valve undershoot. This is because these valves are spring loaded relief valves which are designed to close whenever the RCS pressure decreases below the nominal setpoint of 440 psig [pounds per square inch gauge]. This provides assurance that there will be no damage to the seal of a running RCP.

The proposed changes to the heatup/cooldown curves and the reduction in the enabling temperature for COPS only affect operational limits and can not be initiators of an event. The restrictions on RC [reactor coolant], RHR and ECCS pump operation can not result in an event initiator. Two separate operator actions are required to start an ECCS or RC pump. These two necessary actions as well as procedural controls are sufficient to prevent an inadvertent ECCS or RC pump start. De-energizing the RCPs when returning a loop to service can not initiate an event.

The proposed change will provide an operable charging pump to ensure RCP seal flow and reactivity control will be available. When the RCP is in operation, the charging pump provides the preferred method for seal flow. The proposed change minimizes the time that this preferred method is interrupted. A loss of charging pump seal flow will not cause a malfunction of an RCP because the pump is designed to use RCS flow as an alternate method at these conditions. Not allowing two charging pumps to run simultaneously and requiring at least one pump to be in pull-to-lock, assures a second pump will not start on an inadvertent SI [safety injection] and exceed the assumptions in the Appendix G analysis or initiate a Boron Dilution or CVCS [chemical and volume control system] Malfunction event. If an operator were to inadvertently start the second pump, a failure of the charging throttle valve, FCV-121, and one relief valve credited for COPS would be necessary to exceed the assumptions in the Appendix G analysis. In addition, the actual time allowed for swapping the charging pumps is short. The remainder of the hour allows for documented verification of the disabling of the required pump. The proposed change will not change any control systems for these pumps or alter the system configuration that would affect the probability of an uncontrolled increase in charging flow. The procedure requirements to swap pumps and the likelihood of these

multiple failures occurring during the short duration allowed in this footnote provide adequate assurance that an overpressurization event will not occur. Maintaining at least one pump always operable makes the system more reliable for reactivity control than the current method which disables both pumps simultaneously.

The proposed change to maintain one charging pump operable in Mode 4 [cannot] initiate an event because of the stable reactivity condition of the reactor, the emergency power supply requirement for the operable charging pump, and the fact that the plant is procedurally required to be borated to the highest required boron concentration for Modes 3, 4, or 5 prior to entering Mode 4. These changes do not effectively change the availability of plant equipment or the way that the plant is operated.

The proposed change to substitute an RCS loop for an RHR loop during a planned heatup, can not initiate an event. The RCP will be verified as operating properly prior to stopping the RHR pump and as such will not initiate a loss of decay heat removal (by heating up to steam the SGs [steam generators])/loss of flow. While the RCP is in operation, it performs the RHR boron mixing function and the decay heat removal function is not required for heatup. Using the RCP to perform this function will not affect the probability that the RCP could fail because it will be operated within its normal operating design conditions. Aligning RHR in the ECCS lineup will not affect the probability of a RHR pump to start. The pump will be operable in this lineup. Currently in Mode 5, RHR is lost on a LOP [loss of offsite power] and is manually restarted once the diesel is running. With the proposed change, the RCP will be lost on a LOP and the RHR pump will have to be manually started. Thus, the proposed change does not affect the probability that the RHR pump could fail. Since the current response to a LOP is to manually restart the RHR pump, operator action is needed independent of this change. The proposed change allows normally open valves to be closed in Mode 5 to align RHR for ECCS injection. This introduces additional manual actions which could extend the time required to establish flow. In addition, if one diesel generator were to fail, manual operation of a valve in the ESF [engineered safety features] building would be necessary. The mechanistic 'failure to open' of valves that is introduced by the change as well as the need for manual operator action to realign these valves increases the time to establish heat removal. However, there is sufficient time to re-establish RHR because this note applies only for a heatup in which the plant will have been shutdown for at least several hours which causes decay heat to be low (as compared to high decay heat immediately following a plant trip). Thus, it is concluded that there is no impact on the probability of failure of RHR to perform its required function.

The proposed change to the ECCS wording does not result in any new failure modes that could initiate an event since manual realignment from the control room is currently allowed. Nor can the manual alignment of RHR valves initiate an event because this alignment is only for accident mitigation.

Therefore, the proposed changes do not increase the probability of occurrence of previously evaluated accidents.

Consequences of Previously Evaluated Accidents

The revised Pressure/Temperature curves were calculated in accordance with 10CFR50, Appendix G, ASME Section XI, and Regulatory Guide 1.99, Revision 2. This provides assurance that an inadvertent overpressurization event will not result in a loss of RV integrity. The restrictions on RCP operation and the requirement to de-energize the RCPs in Modes 5 and 6 when returning a loop to service are consistent with the assumptions made in this Appendix G analysis and the RCPs are not required for accident mitigation for any previously evaluated accidents and therefore do not affect the consequences.

The COPS relieving capability is greater than the maximum RCS pressurization rate resulting from any allowed pump combinations, and the PORV setpoints have been adjusted to take into account instrumentation effects. This will provide assurance that COPS will continue to perform its safety function. Since the COPS enabling temperature has been demonstrated to be conservative at 275—F, allowing SI pump operability above 275—F will have no impact on vessel non-ductile failure.

The restriction between 275—F and 350—F on the SI and charging pumps, has been appropriately moved to the reactor coolant loop section to provide protection for the RHR system (RCS protective boundary) and to the cold overpressure protection section to provide protection for the RHR relief valves and the RCP seals. By incorporating this requirement previously located in the ECCS TS, RCS integrity is ensured.

With the RCS less than 160—F, the consequences of the PORV undershoot from the proposed PORV setpoints are that the RCS pressures may drop below the minimum requirement for RCP seal integrity. However, no seal damage will occur since a requirement has been added prohibiting the operation of RCPs below 160°F with the PORVs not isolated while in the low setpoint mode. With cold overpressure relief valves in service above the COPS enable temperature (275°F), restrictions are placed on the startup of an RCP and the number of ECCS pumps capable of injecting into the RCS to prevent unacceptable mass or energy addition transients. This provides assurance that the RHR relief valve capacity will not be exceeded and that PORV undershoot will not challenge the RCP ι1 seal. The restriction on the maximum number of ECCS pumps ensures that the integrity of the RHR relief valve bellows and the RCP seals during mass injection transients (i.e., inadvertent SI).

The restrictions on RCS/SG secondary side temperature mismatch ensure that an unanalyzed energy addition event does not occur when an RCS loop is placed in operation.

The consequences of a small break LOCA [loss of coolant accident] in COPS Mode 4 are not affected because the plant will continue to maintain one charging pump operable in Mode 4. In addition, additional options are provided in the bases of TS 3/4.4.9.3 for disabling the required charging and SI pumps that will allow faster restoration if required to mitigate a LOCA or loss of RHR in Modes 4, 5 and 6.

An RHR pump will remain available in Mode 4 with manual realignment from the control room as required to perform its ECCS safety function. The changes have no impact on the capability of RHR to function in the ECCS mode. RHR is credited during a safety grade cold shutdown. The proposed change assures that the RHR system will be available to perform its heat removal function during a safety grade cold shutdown and thus, there is no change in the analysis assumptions or consequences.

The changes also eliminate an inconsistency between the charging system operability requirements for boration and the charging system operability requirements for cold overpressure protection. The requirement to maintain two charging pumps operable in Mode 4 will be reduced to one charging pump. As stated in the proposed basis section, a second method of boration is not required to be OPERABLE in Mode 4 for single failure considerations based on the stable reactivity condition of the reactor, the emergency power supply requirement for the operable charging pump, and the fact that the plant is procedurally required to be borated to the highest required boron concentration for Modes 3, 4, or 5 prior to entering Mode 4. This provides assurance that reactivity control will be maintained and stable while only one charging pump is operable for cold overpressure concerns. These changes do not effectively change the availability of plant equipment or the way that the plant is operated. The changes will not adversely impact the assumption for the limiting dilution flow path and flow rate and therefore, the consequences of a boron dilution event are not affected.

The proposed changes will maintain a charging pump operable for reactivity control while ensuring that the flow limits in the Appendix G analyses are not exceeded. Remaining within the bounds of the Appendix G limits ensures reactor vessel integrity in Mode 4. Since the change maintains the reactor vessel integrity, it does not introduce any means of releasing radionuclides post-accident. The consequences of a small break LOCA in Mode 4 are not affected because the plant will continue to maintain one charging pump operable in Mode 4. These changes are reflected in TS 3.1.2.1, 3.1.2.2, 3.1.2.3 and 3.1.2.4. Adequate protection is provided for reactor vessel integrity while maintaining reactivity control operability.

In Mode 5, RHR requirements are specified for decay heat removal in the case of a loss of offsite power but none are specified for ECCS accident mitigation. The first RHR train will be aligned for injection prior to taking the second train out of service. This provides assurance that this train will be available if needed in Mode 5. Currently in Mode 5, following a LOP the RHR system can be re-established by restarting the RHR pump once the diesel is running. No valve manipulations

are necessary. With the proposed change, when the operating RCP trips following a LOP, some of the RHR valves must be realigned from the ECCS to heat removal mode. If one diesel generator were to fail, manual operation of a valve in the ESF building would be necessary. Since this footnote is only applicable during a heatup, decay heat will be low. There is sufficient time to re-establish RHR even if action outside the control room is necessary. Since there are four operable RCS loops, a bubble drawn in the pressurizer and the RCS pressurized, the plant will heat up to Mode 4 and natural circulation will provide core cooling if the RHR system cannot be re-established. Thus, decay heat removal is assured and there is no affect on the consequences of a LOP.

Since the structural integrity of the RCS is maintained and adequate core cooling and reactivity control will be available for design basis events, the proposed changes will have no adverse impact on the consequences of previously evaluated accidents.

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 temperature/pressure limits will continue to meet the requirements of 10CFR50, Appendix G. Since the new limits continue to provide assurance of reactor vessel integrity, the proposed change does not create the possibility of an accident of a different type than previously evaluated. Adequate RCS pressure-relieving capabilities will continue to be maintained throughout the shutdown modes. No new malfunctions will be introduced which could result in a new accident postulated in Modes 3-5.

The restrictions on RCP operation do not create the potential for unanalyzed heat injection transient as a result of an inadvertent RCP start because two operator actions are required to start a pump. The requirement to have all RCPs de-energized, prior to unisolating a loop adds additional assurance that an energy addition transient will not occur.

The proposed change to allow 2 charging pumps to be operable does not create an accident of a different type because there will be adequate controls to ensure that the second pump does not inadvertently start and initiate an increase in RCS inventory or a boron dilution. Procedural controls will minimize the amount of time that both charging pumps are operable and at no time will two pumps be out of pull-to-lock.

The proposed footnote to TS 3.4.1.4.1 to remove RHR heat removal from operation allows normally open valves to be closed in Mode 5 to align RHR for ECCS injection. This introduces 'failure to open' as a potential mechanistic failure malfunction in the RHR system. This is a malfunction of a different type since previously stroking of these valves was not needed to establish RHR. The current response to a LOP is to manually restart the RHR pump only, with no valve manipulations required. The proposed change adds the manual action of realigning the valves. Since operator action to re-establish RHR following a LOP is required independent of the proposed changes, crediting operator action does not create the potential for a malfunction of a different type. Allowing both trains of RHR to be out of service does not create a different accident because additional requirements have been specified for RCS loop operability and at least one RHR pump is operable for ECCS when the core cooling requirement is being met by crediting RCS loop operability. Meeting the Mode 4 TS conditions prior to heatup, ensures two diesels are operable. As such, a single failure would only require one valve to be manually realigned in the ESF building. Adequate time is available to accomplish these actions since this note only applies during heatup, when decay heat is very low. Further, with four RCS loops operable and a bubble drawn in the pressurizer and the RCS pressurized, the steam generators can be used for core cooling via natural circulation once the plant heats up to Mode 4, in the event the RHR cannot be re-established. Since core cooling will be assured if a LOP occurred during heatup in Mode 5, the change in plant response to this event does not constitute an accident of a different type.

The proposed changes to TS 3.5.3.f to manually realign the ECCS valves is no different from what is currently evaluated. During a Mode 4 LOCA adequate procedural guidance is provided to ensure that RHR will be realigned for injection. The proposed change allows RHR to be aligned to perform its safety grade cold shutdown heat removal function.

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 new proposed curves raises the lower bound on RCS temperature, resulting in increased RCS ductility and therefore increased structural margin against non-ductile failure. The new curves take into account the dynamic pressure effects identified in NRC Information Notice 93-58 and are calculated in accordance with 10CFR50 Appendix G, ASME Section XI and Regulatory Guide 1.99, Revision 2. These changes to the P/T [pressure/temperature] limits are reflected in TS 3.4.9.1. Additional restrictions have been placed on RCP operation to ensure that assumptions used in developing the curves remain bounding. These are also reflected in TS 3.4.1.3, 3.4.1.4.1, 3.4.1.4.2 and 3.4.1.6. As such, the curves will continue to provide the required assurance for reactor vessel integrity.

The COPS enable temperature is proposed to be lowered from the current 350°F to 275°F which provides a margin of 31—F above that required by NRC Branch Technical Position RSB 5-2. The reduction of the COPS enabling temperature eliminates the need for COPS to be operable in Mode 3. This will simplify the transition between Mode 3 and Mode 4.

Additional changes have been made to the Overpressure Protection TS to ensure that the assumptions made in the Appendix G calculations remain bounding. These include additional restrictions on charging pump and SI pump operability and the modification of the PORV setpoints. The pump requirements have been transferred from the ECCS specification and expanded to cover Modes 4, 5 and 6. In addition, these same pump restrictions have been included in TS 3.4.1.3 whenever RHR is in service. This provides added assurance that the RHR piping will not be overpressurized by an inadvertent actuation of an SI or charging pump. Additional actions and surveillances have been provided to assure that assumptions on charging pump and SI pump operability will be met. The additional options for assuring the inoperability of the SI and charging pumps require two distinct operator actions to restore injection capability from these pumps. Thus, these options are equivalent in providing assurance that an inadvertent injection will not occur while at the same time allowing faster restoration if needed to mitigate a loss of RHR.

A requirement to have all RCPs de-energized, prior to unisolating a loop is added to TS 3.4.1.6.c, to ensure that loop flow will not be initiated which results in an energy addition transient from the secondary side of the SG being unisolated. This change will preclude RCS overpressurization when an idled loop is returned to service and SG secondary side temperature is greater than the RCS temperature.

The PORV setpoints were established to ensure that the P/T limit curves are not exceeded as a result of a single operator action or as a result of a single equipment malfunction, as required by the current system design basis criteria (i.e., SRP [standard review plan] Branch Technical Position RSB 5-2).

A clarification of the hydrostatic and leak test requirements ensures a uniform reactor vessel temperature for the test. A 72 hour time limit is placed on the performance of engineering evaluations of out of specification condition. This provides added assurance for RPV [reactor pressure vessel] integrity.

The changes also eliminate an inconsistency between the charging system operability requirements for boration and the charging system operability requirements for cold overpressure protection. These are reflected in TS 3.1.2.1, 3.1.2.2, 3.1.2.3 and 3.1.2.4. The Bases requirement to maintain two charging pumps operable in Mode 4 will be reduced to one charging pump. As stated in the proposed basis section, a second method of boration is not required to be OPERABLE in Mode 4 for single failure considerations based on the stable reactivity condition of the reactor, the emergency power supply requirement for the operable charging pump, and the fact that the plant is procedurally required to be borated to the highest required boron concentration for Modes 3, 4, or 5 prior to entering Mode 4. This provides assurance that reactivity control will be maintained and stable while only one charging pump is available. The additional options for disabling the charging pump (provided in the bases for TS 4.4.9.3.5) will allow for faster restoration when needed while maintaining two distinct operator

actions to prevent a second pump from being started. This provides added assurance that reactor vessel integrity will be maintained.

Procedures will minimize the amount of time that both charging pumps are operable and having at least one pump in pull-to-lock will ensure that the second pump does not inadvertently start and exceed the Appendix G analysis limits and thus, ensure reactor vessel integrity.

The TS bases for requiring RHR in Mode 5 is to remove decay heat and provide RCS circulation. Since the RCP can perform the RHR circulation function and the decay heat removal function is not required during heatup, the proposed change is consistent with the bases. Since this option is only allowed during heatup where decay heat is low, sufficient time will be available to re-establish RHR heat removal as required to mitigate a LOP in Mode 5. Further, with the RCS pressurized, four RCS loops operable and the SG filled, core cooling can be accomplished by the steam generators via natural circulation once the plant heats up to Mode 4, in the event that RHR cannot be re-established. Therefore, the design basis analyses remain limiting and the margin of safety is not reduced.

The original plant design allows the RHR pumps to be available for both heat removal while shutdown and ECCS. As such, an allowance, TS 3.5.3.f, was provided to allow manual realignment from heat removal to ECCS mode. The specific wording of TS 3.5.3.f implies that this realignment only involves the suction valves. Since discharge valves must also be realigned, the TS is being reworded to apply for the discharge as well as suction valves. Therefore, this change is a clarification of the existing TS.

The proposed changes do not impact the protective boundaries (reactor vessel integrity) nor any of the design basis accidents.

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

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NRC Deputy Director: Phillip F. McKee

Omaha Public Power District, Docket No. 50-285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of amendment request: July 25, 1997

Description of amendment request: The proposed amendment request would implement 10 CFR Part 50 Appendix J, Option B by revising the Technical Specifications (TS) to allow the frequency of conducting integrated leak rate testing (ILRT) and local leak rate testing (Type B and C) to be based on component performance.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change implements Option B of 10 CFR Part 50 Appendix J on performance-based containment leakage testing. The proposed change does not involve a change to the plant design or operation. As a result, the proposed change does not affect any parameters or conditions that contribute to the initiation of any accidents previously evaluated. The proposed change potentially affects the leak-tight integrity of the containment structure designed to mitigate the consequences of a Loss-of-Coolant Accident (LOCA). The function of the containment is to maintain functional integrity during and following the peak transient pressures and temperatures and limit fission product leakage following the design basis LOCA. Because the proposed change does not alter the plant design, only the frequency of measuring Type A, B, and C leakage, the proposed change does not directly result in an increase in containment leakage.

Test intervals will be established based on the performance history of components being tested. The frequency of monitoring the relatively few containment isolation valves and/or containment penetrations subject to above normal leakage will not decrease by implementing Option B of Appendix J. A performance based program will identify those valves and penetrations which must continue to be tested each refueling outage.

The risk resulting from the proposed changes is characterized as follows, based primarily on the results contained in NUREG-1493 ''Performance-Based Containment Leakage Test Program,'' the principal Technical Support Document used by the NRC as the basis for the Appendix J Final Rule:

Type A Testing

NUREG-1493 found that the effect of containment leakage on overall accident risk is minimal since risk is dominated by accident sequences that result in failure or bypass of the containment. Industry wide, Integrated Leak Rate Tests (ILRTs) have only found a small fraction of the leaks that exceed current acceptance criteria. Only three percent of all leaks are detectable only by ILRTs, and therefore, by extending the Type A testing intervals, only three percent of all leaks have a potential for remaining undetected for longer periods of time. In addition, when leakage has been detected by ILRTs, the leakage rate has been only marginally above existing requirements. The Fort Calhoun Station Unit No. 1 Type A testing confirms the industry-wide experience that a majority of the leakage experienced during Type A testing is through components tested by Type B and C tests.

NUREG-1493 found that these observations, together with the insensitivity of reactor accident risk to the containment leakage rate, show that increasing the Type A leakage test intervals would have a minimal impact on public risk.

Type B and C Testing

NUREG-1493 found that while Type B and C tests can identify the vast majority (greater than 95 percent) of all potential leakage paths, performance-based alternatives to current local leakage-testing requirements are feasible without significant risk impacts. The risk model used in NUREG-1493 suggests that the number of components tested would be reduced by about 60 percent with less than a three-fold increase in the incremental risk due to containment leakage. Since, under existing requirements, leakage contributes less than 0.1 percent of overall accident risk, the overall impact is very small. In addition, the NRC's Final Regulatory Impact Analysis concluded that while the extended testing intervals for Type B and C tests led to minor increases in potential offsite dose consequences, the beneficial expected decrease in onsite worker dose received during ILRT and local leak rate testing exceeds (by at least an order of magnitude) the potential off-site dose consequences.

Therefore, the proposed change will not result in a significant increase in the probability or consequences of any accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

There will be no physical alterations to the plant configuration, changes to setpoint values, or changes to the implementation of setpoints or limits as a result of this proposed change. As a result, the proposed change does not affect any of the parameters or conditions that could contribute to initiation of any accidents.

This change involves the reduction of Type A, B, and C test frequency. Except for the method of defining the test frequency, the methods for performing the actual tests are not changed. No new accident modes are created by extending the testing intervals. No safety-related equipment or safety functions are altered as a result of this change. Extending the test frequency has no influence on, nor does it contribute to, the possibility of a new or different kind of accident or malfunction from those previously analyzed. 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 only affects the frequency of Type A, B, and C testing. Except for the method of defining the test frequency, the methods for performing the actual tests are not changed.

The frequency of monitoring the relatively few containment isolation valves and/or containment penetrations subject to above normal leakage will not decrease by implementing Option B of Appendix J. A performance based program will identify those valves and penetrations which must continue to be tested each refueling outage. NUREG-1493 has determined that, under several different accident scenarios, the increased risk of radioactivity

release from containment is negligible with the implementation of these proposed changes.

The margin of safety that has the potential of being impacted by the proposed change involves the offsite dose consequences of postulated accidents which are directly related to containment leakage rate. The containment isolation system is designed to limit leakage to La, which is stated in the Fort Calhoun Station Unit No. 1 Technical Specifications to be 0.1 percent by weight of the containment air per 24 hours at 60 psig.

The limitation on containment leakage rate is designed to ensure that total leakage volume will not exceed the value assumed in the accident analyses at the peak accident pressure. The margin to safety for the offsite dose consequences of postulated accidents directly related to the containment leakage rate is maintained by meeting the 1.0 La acceptance criteria. The La value is not being modified by this proposed change.

Except for the method of defining the test frequency, no change in the method of testing is being proposed. The Type B and C tests will continue to be done at 60 psig or greater. Other programs are in place to ensure that proper maintenance and repairs are performed during the service life of the primary containment and systems and components penetrating the primary containment.

Therefore, the proposed change will not result in a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

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Attorney for licensee: Perry D. Robinson, Winston & Strawn, 1400 L Street, N.W., Washington, DC 20005-3502

NRC Project Director: William H. Bateman

Public Service Electric & Gas Company, Docket No. 50-354, Hope Creek Generating Station, Salem County, New Jersey

Date of amendment request: August 26, 1997

Description of amendment request: The proposed amendment would change Technical Specification (TS) 4.6.5.3.1b, for the Filtration, Recirculation and Ventilation System (FRVS), Ventilation Subsystem, and TS 4.6.5.3.2b for the FRVS Recirculation Subsystem. The revised TSs would state that the heaters should be ''operating (automatic heater modulation to maintain relative humidity)'' instead of ''on'' when performing the 10-hour, monthly test.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed TS revisions involve no hardware changes and no changes to existing structures, systems or components. Conducting TS Surveillance Requirements 4.6.5.3.1.b and 4.6.5.3.2.b with the FRVS recirculation unit and ventilation unit heaters in automatic modulation to maintain the relative humidity within the design requirements, meets the intent of the USNRC Regulatory Guide 1.52, position C.4.d, in reducing adsorber and HEPA filter moisture levels. In the unlikely event that the adsorber and HEPA filters, that are enclosed and isolated in a confined space should reach an equilibrium at the maximum design operating humidity level, the 10 hour run with heaters energized would reduce the humidity to acceptable levels. Therefore, the proposed changes do not change the post-accident performance characteristics of the FRVS adsorber or HEPA filters below the design requirements and does not increase the consequences of accidents previously identified. Since there are no changes to the operation of FRVS in normal or post-accident operating conditions, there is no increase in the probability of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes contained in this submittal will not adversely impact the operation of any safety related component or equipment. PSE&G has concluded that [the] method of performing the monthly FRVS recirculation unit and ventilation unit surveillances with the heaters modulating adequately maintains and demonstrates operability of FRVS. Since the proposed changes involve: 1) no hardware changes; 2) no changes to FRVS operation in normal operating or post-accident conditions; and 3) no changes to existing structures, systems or components, there can be no impact on the potential occurrence of any accident. Furthermore, there is no change in plant testing proposed in this change request which could initiate an event. Therefore, these changes will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The revisions to TS Surveillance Requirements 4.6.5.3.1.b and 4.6.5.3.2.b provide a more accurately defined basis for performing this surveillance test. The proposed changes reflect PSE&G's position on satisfying USNRC Regulatory Guide 1.52, position C.4.d. Since PSE&G has concluded that performing TS Surveillance Requirements 4.6.5.3.1.b and 4.6.5.3.2.b with the FRVS recirculation unit and ventilation unit heaters in automatic moduation [sic] [modulation] to maintain the relative humidity within the design requirements, adequately reduces adsorber and HEPA filter moisture levels, the proposed changes do not significantly reduce a margin of safety in FRVS. Since the FRVS recirculation units and ventilation units will continue to be tested with the heaters: 1) operable; and 2) set at the demand necessary to ''reduce the buildup of moisture,'' PSE&G believes that the proposed changes to clarify the TS are justified.

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.

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NRC Project Director: John F. Stolz

Rochester Gas and Electric Corporation, Docket No. 50-244, R. E. Ginna Nuclear Power Plant, Wayne County, New York

Date of amendment request: August 19, 1997

Description of amendment request: The proposed amendment would revise the Ginna Station Improved Technical Specifications (ITS) by revising the Emergency Core Cooling System Accumulators Surveillance Requirement 3.5.1.2 to correct the specified accumulator borated water volume values in order to match the associated accumulator percent level values.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the

issue of no significant hazards consideration, which is presented below:

1. Operation of Ginna Station in accordance with the proposed changes does not involve a significant increase in the probability or consequences of an accident previously evaluated. The change is only to correct a conversion error with respect to accumulator borated water volume. This does not increase the probability of any accident previously evaluated since the accumulator water volume provides mitigation capability only (i.e., does not initiate any accident). The affected accident analyses with respect to the accumulator (e.g., small and large [loss-of-coolant] LOCA and steam line break) have been re-evaluated using the correct accumulator water volume values with acceptable results. Therefore, these changes do not involve a significant increase in the probability or consequences of an accident previously analyzed.

2. Operation of Ginna Station in accordance with the proposed changes does not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed changes do not involve a physical alteration of the plant (i.e., no new or different type of equipment will be installed) or changes in the methods governing normal plant operation. Ginna Station operators verify accumulator water volume via percent level (versus cubic feet) which remains unchanged. Thus, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Operation of Ginna Station in accordance with the proposed changes does not involve a significant reduction in a margin of safety. The proposed changes only correct a conversion error. The error has been re-evaluated with acceptable results. As such, no question of safety is involved, and the change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Rochester Public Library, 115 South Avenue, Rochester, New York 14610

Attorney for licensee: Nicholas S. Reynolds, Winston & Strawn, 1400 L Street, NW., Washington, DC 20005

NRC Project Director: Alexander W. Dromerick, Acting Director

Southern Nuclear Operating Company, Inc, Docket Nos. 50-348 and 50-364, Joseph M. Farley Nuclear Plant, Units 1 and 2, Houston County, Alabama

Date of amendments request: February 14, 1997, as supplemented by letters dated June 20, August 5, and September 22, 1997

Description of amendments request: The proposed amendments would change the maximum reactor core power level for facility operation from 2652 megawatts thermal (MWt) to 2775 MWt in the Farley, Units 1 and 2, Facility Operating Licenses. In addition, the proposed amendments would involve the following Technical Specification (TS) changes.

The defined rated thermal power for Farley; departure from nucleate boiling (DNB) parameters for reactor coolant system (RCS) average temperature (T_{avg}); pressurizer pressure; and RCS flow would be changed.

The reactor trip system interlock setpoint for power range neutron flux (P-8) and engineered safety features (ESF) actuation trip setpoint for steam generator water high-high level for turbine trip and feedwater isolation (P-14), and ESF actuation system interlock for low-low T_{avg} (P-12) would be modified to reflect analytical results.

An evaluation of additional reactor trip system and ESF actuation system safety analysis limits and trip setpoints would result in changes to the allowable values for several functions.

On the basis of the results of new containment analyses, the maximum peak calculated containment internal pressure for a loss-of-coolant accident (LOCA) event would be revised. The main steamline isolation valve closure time requirement would be revised. Surveillance requirements for emergency core cooling systems (ECCS) would be modified to reflect reduced ECCS flows. The number of secondary system hydrostatic pressure tests (Table 5.7-1) would be increased. For Farley Unit 2 only, the steam generator F* distance would be revised.

Changes to the plant design features and administrative controls are also proposed. These changes would revise the RCS fluid volume contained in Section 5.4 and the addition of the NRC-approved references for best estimate LOCA listed in Section 6.9.1.

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:

DEFINITION, DESIGN FEATURE AND ADMINISTRATIVE CONTROL CHANGES

* * * *

1. The proposed changes to the rated thermal power definition, RCS fluid volume, and COLR [Core Operating Limit Report] references do not increase the probability or consequences of an accident previously evaluated in the FSAR [Final Safety Analysis Report]. The comprehensive analytical efforts performed to support the proposed uprating included a review and evaluation of all components and systems (including interface systems and control systems) that could be affected by this change. The revised power uprate value and RCS fluid volume were inputs to applicable safety analyses. All systems will function as designed, and all performance requirements for these systems have been evaluated and found acceptable. None of these proposed changes directly initiate any accident; therefore, the probability of an accident has not increased. All dose consequences have been analyzed or evaluated with respect to these parameters, and all acceptance criteria continue to be met. Therefore, the consequences of an accident previously evaluated in the FSAR have not increased.

2. The proposed changes do not create the possibility of a new or different kind of accident than any accident already evaluated in the FSAR. No new accident scenarios, failure mechanisms or limiting single failures are introduced as a result of the proposed changes. The proposed technical specification changes have no adverse effects on any safety-related system and do not challenge the performance or integrity of any safety-related system. Therefore, the possibility of a new or different kind of accident is not created.

3. The proposed operating license and technical specification changes do not involve a significant reduction in a margin of safety. All analyses supporting the proposed power uprate reflect the RCS fluid volume and rated thermal power values. The use of NRC approved BELOCA [best estimate LOCA] methodology must be referenced since BELOCA will now be the LBLOCA [large break LOCA] analysis licensing basis for FNP [Farley Nuclear Plant]. All acceptance criteria (including LOCA peak clad temperature, DNB criteria, containment temperature and pressure, and dose limits) continue to be met. Therefore, the proposed changes do not involve a significant reduction in the margin of safety.

DNB PARAMETERS CHANGES

* * * *

1. The proposed technical specification changes for DNB parameters do not involve a significant increase in the probability or consequences of an accident previously evaluated in the FNP FSAR. The mechanical design features associated with VANTAGE 5 fuel and the improved methodologies (such as Revised Thermal Design Procedure) provide capability for relaxation of analytical input parameters such that increased DNBR [DNB ratio] margin can be generated without violation of any acceptance criteria. The indicated DNB parameters bound the analytical values used to support the proposed uprating. In each case, the appropriate design and acceptance criteria are met. All performance requirements for any system or component have been evaluated and support the revised analysis assumptions. Overall plant integrity is not reduced. Furthermore, the parameter changes are associated with features used as limits or mitigators to assumed accident scenarios and are not accident initiators. Therefore, the probability of an accident has not significantly increased.

The radiological consequences of accidents previously evaluated in the FSAR have been assessed due to the proposed technical specification changes. Evaluations have confirmed that the doses remain within previously approved acceptable limits as well as those defined by 10 CFR [Part] 100. Therefore, the radiological consequences to the public resulting from any accident previously evaluated in the FSAR has not significantly increased.

2. The proposed technical specification changes do not create the possibility of a new or different kind of accident from any previously evaluated in the FSAR. No new accident scenarios, failure mechanisms, or limiting single failures are introduced as a result of the revised DNB parameters. The revised analytical assumptions have no adverse effect and do not challenge the performance of any other safety-related system. This has been verified in WCAP 12771, Rev. 1. Therefore, the possibility of a new or different kind of accident is not created.

3. The proposed technical specification changes do not involve a significant reduction in the margin of safety. The margin of safety for fuel-related parameters (such as DNB and Kw/ft) are defined in the Bases to the Technical Specifications. The uncertainties associated with the proposed DNB parameter changes are included in the core safety limits. Performance of analyses and evaluations with the reactor core safety limits defined by RTDP [Revised Thermal Design Procedure] have confirmed that the operating envelope defined by the Technical Specifications continues to be bounded by the revised analytical basis, which in no case exceeds the acceptance limits. Therefore, the margin of safety provided by the analyses in accordance with these acceptance limits is not reduced.

MISCELLANEOUS OPERATION AND MARGIN ENHANCEMENT CHANGES

* * * *

1. The proposed changes do not increase the probability or consequences of an accident previously evaluated in the FSAR. Explicit modeling of these parameters is included in the uprate analyses and evaluations. The comprehensive analytical effort performed to support the proposed uprating has included a review and evaluation of all components and systems (including interface systems and control systems) that could be affected by this change. In addition LOCA and non-LOCA analyses and evaluations have verified that all acceptance criteria continue to be met. All systems will function as designed. None of these proposed changes can directly initiate any accidents; therefore, the probability of an accident has not been increased. All dose consequences have been analyzed or evaluated with respect to these parameters, and all acceptance criteria continue to be met. Therefore, the consequences of an accident previously evaluated in the FSAR have not increased.

2. The proposed changes do not create the possibility of a new or different kind of accident than any accident already evaluated in the FSAR. No new accident scenarios, failure mechanisms or limiting single failures are introduced as a result of the proposed changes. The proposed technical specification changes have no adverse effects on any safety-related system and do not challenge the performance or integrity of any safety-related system. Therefore, the possibility of a new or different kind of accident is not created.

3. The proposed technical specification changes do not involve a significant reduction in a margin of safety. All analyses supporting the proposed power uprate reflect these proposed values. All acceptance criteria (including LOCA peak clad temperature, DNB criteria, containment temperature and pressure, and dose limits) continue to be met. Therefore, the proposed changes do not involve a significant reduction in the margin of safety.

ALLOWABLE VALUES AND TRIP SETPOINTS FOR REACTOR TRIP SYSTEM AND ESFAS [ENGINEERED SAFETY FEATURE ACTUATION SYSTEM]

* * * *

1. The proposed changes do not increase the probability or consequences of an accident previously evaluated in the FSAR. The comprehensive engineering effort performed to support the proposed uprating has included evaluations or reanalysis of all accident analyses including all dose related events. Setpoint calculations have verified acceptability of the proposed setpoints and allowable value changes. All systems will function as designed, and all performance requirements on these systems have been verified to be acceptable. Neither allowable values nor the setpoints initiate any accident; therefore, the probability of an accident has not been increased. All dose consequences have been analyzed or evaluated with respect to these parameters, and all acceptance criteria continue to be met. Therefore the consequences of an accident previously evaluated in the FSAR have not increased.

2. The proposed setpoints and allowable value changes do not create the possibility of a new or different kind of accident than any accident already evaluated in the FSAR. No new accident scenarios, failure mechanisms or limiting single failures are introduced as a result of the proposed changes. The proposed technical specification changes have no adverse effects on any safety-related system and do not challenge the performance of integrity of any safety-related system. The specified trip setpoints associated with the respective RTS [Reactor Trip System] and ESFAS functions ensure all accident analyses criteria continue to be met. Therefore, the possibility of a new or different kind of accident is not created.

3. The proposed technical specification changes do not involve a significant reduction in a margin of safety. All analyses supporting the proposed power uprate reflect these proposed values. Setpoint calculations demonstrate that margin exists between the setpoint and the corresponding safety analysis limits. The calculations are based on FNP instrumentation and calibration/functional test methods and include allowances for uprated power conditions. All acceptance criteria (including LOCA peak clad temperature, DNB criteria, containment temperature and pressure, and dose limits) continue to be 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 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Houston-Love Memorial Library, 212 W. Burdeshaw Street, Post Office Box 1369, Dothan, Alabama 36302

Attorney for licensee: M. Stanford Blanton, Esq., Balch and Bingham, Post Office Box 306, 1710 Sixth Avenue North, Birmingham, Alabama 35201

NRC Project Director: Herbert N. Berkow

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of amendment request: September 17, 1997 (TS 97-02)

Description of amendment request: The proposed changes would revise Section 4.6.2.1 of the Sequoyah Technical Specifications (TS) to change the parameters to be monitored during the inservice inspection surveillance testing of the containment spray system pumps. The changes would also adopt provisions in the Westinghouse Improved Standard TS (NUREG-1431) that affect that section of the Sequoyah 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:

A. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed revisions to the containment spray system surveillances for the pumps, valves, and nozzles do not change the intent of the current TS requirements. These revisions only affect the TS operability testing requirements without changing the system functions. These functions are not considered to be accident initiators. The proposed surveillance wording is not based on changes to the plant although a modification to flow orifices for the containment spray pumps created the need to revise the surveillance that verifies pump developed head. The revisions primarily provide flexibility for required methods to verify system operability as well as utilizing less prescriptive operability limits and conditions for testing. The testing flexibility and less prescriptive requirements do not

relax the intent to properly verify operability of the containment spray system but do allow for changes in testing that continue to ensure the appropriate operability requirements. Since these revisions are not directly related to modifications of the plant or result in different methods for operating the plant, there is no change that could increase the probability of an accident. In addition, the consequences of an accident are not increased because there has not been a change that would impact the safety functions of the containment spray system. These revisions will continue to properly verify the operability of the containment spray system.

B. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The containment spray system functions are not changed as discussed above and the operating practices for the plant remain the same. The testing methods can be modified as a result of the proposed revisions but will continue to maintain appropriate verifications of system operability. These testing methods as well as the containment spray system are not considered to be a potential initiator of accidents. Therefore, these revisions will not impact the operation of systems that could initiate an accident and the possibility of a new or different kind of accident is not created.

C. The proposed amendment does not involve a significant reduction in a margin of safety.

The proposed revisions do not directly change the limits for containment spray system operability although they do provide the flexibility to properly revise limits resulting from system modifications. This type of limit revision would be necessary to adequately verify system operability. The appropriate limits continue to be required by the proposed TS surveillance requirements. Therefore, the proposed revisions do not allow inappropriate changes to setpoints or operating requirements that maintain the margin of safety and no reduction in this margin is involved in this request.

The NRC has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 10H, 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 No. 1, Ottawa County, Ohio

Date of amendment request: August 26, 1997

Description of amendment request: The proposed amendment would change Technical Specification (TS) 3/4.2, ''Power Distribution Limits.'' The DNB Parameters Limiting Condition for Operation would be modified consistent with an industry notification.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The Davis-Besse Nuclear Power Station has reviewed the proposed changes and determined that a significant hazards consideration does not exist because operation of the Davis-Besse Nuclear Power Station, Unit No. 1, in accordance with these changes would:

1a. Not involve a significant increase in the probability of an accident previously evaluated because no accident initiators, assumptions or probabilities are affected by the proposed change. The proposed change corrects a nonconservative Technical Specification Action statement by removing provisions which allow continued Mode 1 plant operation in the event the Reactor Coolant System flow rate is less than the required value. Under the proposed change, a power reduction to less than 5 percent of rated thermal power (Mode 2) will be required if the Reactor Coolant System flow rate is less than the required Technical Specification value.

1b. Not involve a significant increase in the consequences of an accident previously evaluated because the proposed change does not affect any equipment, accident conditions, or assumptions which could lead to a significant increase in radiological consequences of an accident. The proposed change will ensure accident analyses remain valid if the Reactor Coolant System flow rate becomes less than the required value.

2. Not create the possibility of a new or different kind of accident from any accident previously evaluated because no new accident initiators will be introduced by the proposed change. No equipment or operations will be affected.

3. Not involve a significant reduction in a margin of safety because under the proposed Technical Specification Action statement a power reduction to less than 5 percent of rated thermal power (Mode 2) will be required if degraded Reactor Coolant System flow develops. The proposed Action statement ensures accident analyses' assumptions are maintained.

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

Vermont Yankee Nuclear Power Corporation, Docket No. 50-271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

Date of amendment request: August 22, 1997, as supplemented by letter dated September 18, 1997

Description of amendment request: The proposed amendment would revise the Vermont Yankee Technical Specifications (TSs) to address the new low pressure $C0_2$ suppression system for the East and West Switchgear Rooms and more clearly describe the separation of the rooms.

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 amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated:

The proposed changes support the use of a newly installed low pressure $C0_2$ suppression system for the East and West Switchgear Rooms, to meet the $C0_2$ concentration requirements of NFPA 12 (1993) following detection of a fire condition in one of the associated rooms. The new low pressure $C0_2$ system consists of a 6 ton storage tank, piping, valves, associated instrumentation and controls.

The FSAR [Final Safety Analysis Report] was reviewed for impact as a result of this proposed amendment with none being found. The initiators of the four design basis accidents, as defined in section 14.6 of the FSAR, were reviewed with respect to the new low pressure $C0_2$ system. The low pressure $C0_2$ system is not an initiator of any of the Chapter 14.6 accidents. The low pressure $C0^{T22}$ suppression system is classified as a Non Nuclear Safety (NNS) related system. However, the $C0_2$ dispersion headers have been seismically mounted to preclude the possibility of their failure affecting safety related equipment during a seismic event. Although the Switchgear Room (East and West) low pressure $C0_2$ system is not used as a mitigator of any accident listed in section 14.6 of the FSAR, the switchgear contained in the aforementioned rooms is used to

mitigate the consequences of the section 14.6 accidents.

The new low pressure $C0_2$ system, which meets NFPA 12 (1993), provides fire suppression for the affected room by raising the $C0_2$ concentration to a 50% level and maintains this concentration for a 20 minute duration upon initiation. As a result, this $C0_2$ system prevents a fire in the affected room from spreading to adjacent rooms and adversely impacting the adjacent room's safety related equipment. Consequently, the unaffected rooms and associated trains of equipment remain functional to perform their intended safety functions if required. The proposed amendment also reflects the separation of the switchgear room into two fire areas with equivalent detection and suppression.

Based on the above, use of the low pressure $C0_2$ system for East or West Switchgear Room fire suppression does not create new initiators, nor degrade the effectiveness of equipment relied upon to perform mitigative functions assumed for the previously evaluated design basis accidents. Therefore, the proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed amendment will not create the possibility of a new or different kind of accident from any previously evaluated:

The NNS low pressure $C0_2$ system, which meets NFPA 12 (1993), provides fire suppression for the East and West Switchgear Rooms by raising the $C0_2$ concentration to a 50% level and maintains this concentration for a 20 minute duration upon initiation. As a result, this $C0_2$ system prevents a fire in the affected switchgear rooms from spreading to adjacent rooms and adversely impacting the adjacent rooms associated equipment. The switchgear room is more clearly depicted as two separate fire areas in the proposed amendment with equivalent protection. The $C0_2$ suppression header piping located in the switchgear rooms is seismically supported, which precludes the possibility of this piping failing during a seismic event and affecting safety related equipment located nearby.

The new low pressure $C0_2$ system does not introduce new accident initiators. The low pressure $C0_2$ system is fulfilling the fire suppression function previously performed by the existing high pressure $C0_2$ system. The previous separation of the switchgear room into two separate fire areas, provides separation of redundant equipment and equivalent fire detection and suppression for that equipment. The low pressure $C0_2$ system consists of a 6 ton storage tank, piping, valves, and associated instrumentation and controls. There are no failure mechanisms, associated with the new low pressure $C0_2$ equipment, which cannot be categorized under at least one of the three failure mechanisms identified in section 14.4.3 of the FSAR. Consequently, the proposed amendment will not create the possibility of a new or different kind of accident from any previously evaluated.

3. The proposed amendment will not involve a significant reduction in a margin of safety.

Technical Specifications 3.13.D/4.13.D were reviewed with respect to the proposed amendment to determine if the changes would result in a reduction in a margin of safety. The proposed amendment, to allow use of a low pressure $C0_2$ suppression system for the East or West Switchgear Rooms, does not degrade the existing fire protection program. The level of protection provided by the switchgear room $C0_2$ fire protection system is enhanced by the introduction of the new low pressure system which meets NFPA 12 (1993) and provides fire suppression for the East or West Switchgear Rooms by raising the $C0_2$ concentration to a 50% level and maintains this concentration for a 20 minute duration upon initiation. Consequently, the pre-established levels of system operability in the event of a fire and the assurance of a safe reactor shutdown, as provided by the fire protection systems, have not been degraded. An analysis has been performed to ensure that either a failure of the low pressure $C0_2$ storage tank outside the switchgear rooms, or a continuous discharge of the entire tank contents within the switchgear room, will not adversely affect either control room habitability or emergency diesel operation. The designation of separate fire areas for the switchgear room with equivalent protection does not decrease safety for this equipment. As a result, the proposed amendment will not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on thisreview, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Brooks Memorial Library, 224 Main Street, Brattleboro, VT 05301

Attorney for licensee: R. K. Gad, III, Ropes and Gray, One International Place, Boston, MA 02110-2624

NRC Project Director: Ronald B. Eaton, Acting Project Director

Washington Public Power Supply System, Docket No. 50-397, Nuclear Project No. 2, Benton County, Washington

Date of amendment request: July 16, 1997

Description of amendment request: The proposed amendment would add new minimum reactor vessel pressure versus reactor vessel metal temperature (P/T) curves, applicable to 12 EFPY (effective full power years). These changes are necessary to support leak and hydrostatic testing in accordance with the American Society for Mechanical Engineers (ASME) Boiler and Pressure Vessel Code (Code) Section XI.

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 12 EFPY curve was developed using the same methodology as that used in the current 32 EFPY curve and the 8 EFPY curve. This methodology is consistent with the guidance provided in Regulatory Guide 1.99, Revision 2.

Assumptions and parameters were the same as those used in the 8 EFPY curve calculation. However, fluence values used in the calculation were those for 12 EFPY.

Use of the 12 EFPY curves on or before attainment of 12 EFPY of operation is equivalent to the previously approved use of the 32 EFPY curves on or before attainment of 32 EFPY of operation.

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.

The proposed change introduces no credible mechanism for unacceptable radiation release.

The proposed change does not require physical modification to the plant.

The 12 EFPY curves are consistent with the previously approved 32 and 8 EFPY curves.

Inservice hydrostatic or leak testing is not assumed to be an initiator of analyzed events. Since approval of the proposed amendment will ensure adequate protection of the reactor pressure vessel, it 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.

The accident analyses for the plant as described in the FSAR are not affected by this proposed change.

The 12 EFPY curves were developed using the same methodology as the 32 and 8 EFPY curves and thus involve no reduction in the margin of safety as previously evaluated.

The margin of safety, relative to the available heat sink in the Reactor Coolant System, is actually increased by the use of the proposed curves due to the lower allowed test temperature.

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 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: Richland Public Library, 955 Northgate Street, Richland, Washington 99352

Attorney for licensee: Perry D. Robinson, Esq., Winston & Strawn, 1400 L Street, N.W., Washington, D.C. 20005-3502

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.

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: August 6, 1997, as supplemented August 26, 1997

Brief description of amendments: The proposed amendments would address an unreviewed safety question associated with handling of the spent fuel shipping cask at the Brunswick Steam Electric Plant, Units 1 and 2.Date of publication of individual notice in **Federal Register:** September 17, 1997 (62 FR 48897)

Expiration date of individual notice: October 17, 1997

Local Public Document Room location: University of North Carolina at Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403-3297

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 application for amendment: August 26, 1997

Brief description of amendment request: The proposed amendments would approve a modification to the Diablo Canyon Power Plant, Unit Nos. 1 and 2 auxiliary saltwater (ASW) system to bypass approximately 800 feet of Unit 1 and 200 feet of Unit 2 Class 1 ASW pipe, a portion of which is buried below sea level in the tidal zone outside the intake structure. This modification was completed on Unit 1 during the refueling outage completed this year.Date of individual notice in **Federal Register:** September 16, 1997 (62 FR 48677)

Expiration date of individual notice: October 16, 1997

Local Public Document Room location: California Polytechnic State University, Robert E. Kennedy Library, Government Documents and Maps Department, San Luis Obispo, California 93407

Southern Nuclear Operating Company, Inc., et al., Docket No. 50-348, Joseph M. Farley Nuclear Plant, Unit No. 1, Houston County, Alabama

Date of amendment request: September 3, 1997

Description of amendment request: The proposed amendment would allow a reduction in the number of required available movable detector thimbles (flux map paths) for Cycle 15 operation.Date of publication of individual notice in Federal Register: September 10, 1997 (62 FR 47695)

Expiration date of individual notice: October 10, 1997

Local Public Document Room location: Houston-Love Memorial Library, 212 W. Burdeshaw Street, Post Office Box 1369, Dothan, Alabama

Southern Nuclear Operating Company, Inc., Docket Nos. 50-348 and 50-364, Joseph M. Farley Nuclear Plant, Units 1 and 2, Houston County, Alabama

Date of amendment request: September 17, 1997

Description of amendment request: The proposed amendments would modify Technical Specification 3/4.4.9, ''Specific Activity,'' and associated Bases to reduce the limit associated with dose equivalent iodine-131.Date of publication of individual notice in Federal Register: September 24, 1997 (62 FR 49998)

Expiration date of individual notice: October 24, 1997

Local Public Document Room location: Houston-Love Memorial Library, 212 W. Burdeshaw Street, Post Office Box 1369, Dothan, Alabama

The Cleveland Electric Illuminating Company, Centerior Service Company, Duquesne Light Company, Ohio Edison Company, OES Nuclear, Inc., Pennsylvania Power Company, Toledo Edison Company, Docket No. 50-440 Perry Nuclear Power Plant, Unit No. 1, Lake County, Ohio

Date of application for amendment: August 14, 1997

Brief description of amendment: The proposed amendment would change the Perry Nuclear Power Plant design basis as described in the Updated Safety Analysis Report. The change will add a description of the methodology utilized for determining the systems and components that are considered to require protection from tornado missiles.Date of individual notice in **Federal Register:** September 16, 1997 (62 FR 48674).

Expiration date of individual notice: October 16, 1997

Local Public Document Room location: Perry Public Library, 3753 Main Street, Perry, OH 44081

Notice Of Issuance Of Amendments To Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for

amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document rooms for the particular facilities involved.

Arizona Public Service Company, et al., Docket Nos. STN 50-528, STN 50-529, and STN 50-530, Palo Verde Nuclear Generating Station, Unit Nos. 1, 2, and 3, Maricopa County, Arizona

Date of application for amendment: December 27, 1996, as supplemented by letter dated August 22, 1997

Brief description of amendment: The amendments change Technical Specification 3/4.6.1.3.b and its associated Bases sections to reflect an increase in the peak containment internal pressure for the design basis loss-of-coolant accident (LOCA) from 49.5 psig to 52 psig.

Date of issuance: September 11, 1997

Effective date: September 11, 1997, to be implemented within 30 days from its date of issuance.

Amendment No.: Unit 1 - 113; Unit 2 - 106; Unit 3 - 85

Facility Operating License Nos. NPF-41, NPF-51, and NPF-74: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 21, 1997 (62 FR 27794) The August 22, 1997, supplemental letter provided additional clarifying information and did not change the staff's original no significant hazards consideration determination.The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 11, 1997.No significant hazards consideration comments received: No.

Local Public Document Room location: Phoenix Public Library, 1221 N. Central Avenue, Phoenix, Arizona 85004

Carolina Power & Light Company, et al., Docket Nos. 50-325 and 50-324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of application for amendments: July 8, 1997, as supplemented August 22, 1997

Brief description of amendments: These amendments remove the suppression chamber water volume band from Technical Specification 3.6.2.1.a.1 while retaining the equivalent water level band. The amendments additionally revised the volume band to account for the displacement of water due to the installation of larger emergency core cooling system suction strainers.

Date of issuance: September 17, 1997

Effective date: September 17, 1997

Amendment Nos.: 188 and 219

Facility Operating License Nos. DPR-71 and DPR-62: Amendments change the Technical Specifications

Date of initial notice in **Federal Register:** August 13, 1997 (62 FR 43366) The August 22, 1997, submittal provided a correction to the Bases to reflect a change authorized by a previous amendment and did not alter the initial no significant hazards determination. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 17, 1997.No significant hazards consideration comments received: No.

Local Public Document Room location: University of North Carolina at Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403-3297

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: July 1, 1997

Brief description of amendments: The amendments revise Technical Specification definition 1.4, Channel Calibration, to allow an alternative method of calibrating thermocouples and resistance temperature detector sensors. The amendments also make editorial and administrative corrections to TS Table 3.3.2-1, Table 3.3.6-1, and Bases Section 3/4.3.1.

Date of issuance: September 15, 1997

Effective date: Immediately, to be implemented within 60 days.

Amendment Nos.: 102 and 104

Facility Operating License Nos. NPF-11 and NPF-18: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 30, 1997 (62 FR 40848) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 15, 1997. No significant hazards consideration comments received: No.

Local Public Document Room location: Jacobs Memorial Library, Illinois Valley Community College, Oglesby, Illinois 61348

Duke Energy Corporation, Docket Nos. 50-269, 50-270, and 50-287, Oconee Nuclear Station, Units 1, 2, and 3, Oconee County, South Carolina

Date of application of amendments: October 30, 1996, as supplemented by letters dated April 22, July 2, September 3, and September 4, 1997

Brief description of amendments: The amendments revise the Reactor Building Structural Integrity Technical Specifications regarding the tendon surveillance program.

Date of Issuance: September 15, 1997

Effective date: The license amendments are effective as of the date of issuance and the change to the facilities shall be implemented prior to the Unit 1 end-of-cycle 17 outage. Implementation of the amendments shall include the provisions that the licensee provide in the facility Updated Final Safety Analysis Report (specifically the Selected Licensee Commitment Manual) the prescribed lower limit and the minimum required value of Reactor Building Post-Tensioning System tendon forces for each group of tendons prior to performing the seventh tendon surveillance for Unit 1. In addition, the portion of the Selected Licensee Commitment Manual related to the establishment of these limits will be submitted as soon as available.

Amendment Nos.: 225, 225, 222

Facility Operating License Nos. DPR-38, DPR-47, and DPR-55: The amendments revised the Technical Specifications, License Conditions, and Appendix C.

Date of initial notice in **Federal Register:** December 4, 1996 (61 FR 64383) The April 22, July 2, September 3, and September 4, 1997, letters provided clarifying information that did not change the scope of the October 30, 1996, application and the initial proposed no significant hazards consideration determination.The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 15, 1997.No significant hazards consideration comments received: No.

Local Public Document Room location: Oconee County Library, 501 West South Broad Street, Walhalla, South Carolina 29691

Duke Energy Corporation, Docket Nos. 50-269, 50-270, and 50-287, Oconee Nuclear Station, Units 1, 2, and 3, Oconee County, South Carolina

Date of application of amendments: June 12, 1997

Brief description of amendments: The amendments change the name ''Duke Power Company'' to ''Duke Energy Corporation'' in the Oconee facility operating licenses and Technical Specifications.

Date of Issuance: September 16, 1997

Effective date: As of the date of issuance to be implemented within 30 days

Amendment Nos.: 226, 226, 223

Facility Operating License Nos. DPR-38, DPR-47, and DPR-55: The amendments revised the Technical Specifications and Operating Licenses including Appendix C.

Date of initial notice in **Federal Register:** July 2, 1997 (62 FR 35849) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 16, 1997, and Environmental Assessment dated August 21, 1997 (62 FR 44495).No significant hazards consideration comments received: No.

Local Public Document Room location: Oconee County Library, 501 West South Broad Street, Walhalla, South Carolina 29691

Duquesne Light Company, et al., Docket Nos. 50-334 and 50-412, Beaver Valley Power Station, Unit Nos. 1 and 2, Shippingport, Pennsylvania

Date of application for amendments: September 6, 1996, as supplemented May 23, 1997 and August 13, 1997.

Brief description of amendments: These amendments revise Item 7.c of Beaver Valley Power Station, Unit No. 1 (BVPS-1) Technical Specification (TS) Table 3.3-3 and Item 7.d of Beaver Valley Power Station, Unit No. 2 (BVPS-2) TS Table 3.3-3 to reflect that a safety injection (SI) signal starts all auxiliary feedwater (AFW) pumps. The notation on BVPS-1 TS Table 3.3-5 is revised to state that the response time is for all AFW pumps on all SI signal starts. Items 7.d of BVPS-2 TS Tables 3.3-4 and 4.3-2 is revised to reflect that an SI signal starts all AFW pumps.

The amendments also revise and reformat TSs 3/4.7.1.2 to more closely resemble the wording contained in the NRC's ''Standard Technical Specifications Westinghouse Plant,'' (NUREG-1431, Revision 1). These changes require three AFW trains to be operable and describe what constitutes an operable train. The mode applicability for these TSs is expanded to include Mode 4 when the steam generator(s) is relied upon for heat removal.

Date of issuance: September 18, 1997

Effective date: Both units, as of the date of issuance, to be implemented within 60 days

Amendment Nos.: 206 and 85

Facility Operating License Nos. DPR-66 and NPF-73: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 19, 1996 (61 FR 58902) The May 23, 1997, and August 13, 1997, letters provided minor editorial changes that did not change the initial proposed no significant hazards consideration determination or expand the amendment request beyond the scope of the November 19, 1996, Federal Register notice. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 18, 1997.No significant hazards consideration comments received: No.

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, PA 15001

Florida Power and Light Company, et al., Docket Nos. 50-335 and 50-389, St. Lucie Plant, Unit Nos. 1 and 2, St. Lucie County, Florida

Date of application for amendment: May 29, 1997

Brief description of amendment: The amendments consist of changes to the Technical Specifications (TS) which correct typographical errors, remove outdated material, incorporate minor changes in text, make editorial corrections, and resolve other inconsistencies in the Unit 1 and 2 TS.

Date of Issuance: September 22, 1997

Effective Date: September 22, 1997

Amendment Nos.: 152 and 89

Facility Operating License Nos. DPR-67 and NPF-16: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 30, 1997 (62 FR 40849) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 22, 1997.No significant hazards consideration comments received: No.

Local Public Document Room location: Indian River Community College Library, 3209 Virginia Avenue, Fort Pierce, Florida 34981-5596

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 8, 1996

Brief description of amendments: The amendments allowed that the component cooling water system surge tank level instrumentation can be demonstrated operable, by performing a channel calibration test, during any plant mode of operation.Date of issuance: September 23, 1997

Effective date: September 23, 1997, to be implemented within 30 days of issuance.

Amendment Nos.: Unit 1 - Amendment No. 91; Unit 2 - Amendment No. 78

Facility Operating License Nos. NPF-76 and NPF-80: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 28, 1996 (61 FR 44358) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 23, 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: June 19, 1997

Brief description of amendment: Technical Specification 3/4.7.1.3 requires sufficient water to be available for the auxiliary feedwater 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 amendment increases the required volume of water when the demineralizer water storage tank and condensate storage tank are being credited, makes editorial changes, and expands the descriptions in Bases Sections 3/4.7.1.2 and 3/4.7.1.3.

Date of issuance: September 11, 1997

Effective date: As of the date of issuance, to be implemented within 60 days.

Amendment No.: 150

Facility Operating License No. NPF-49: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 30, 1997 (62 FR 40853) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 11, 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

Northern States Power Company, Docket Nos. 50-282 and 50-306, Prairie Island Nuclear Generating Plant, Unit Nos. 1 and 2, Goodhue County, Minnesota

Date of application for amendments: May 7, 1997, as supplemented May 30, July 29, and September 12, 1997

Brief description of amendments: The amendments revise Technical Specification (TS) 3.8, including TS 3.8.D.1 and TS 3.8.D.3, to change TS limitations on crane operations in the spent fuel pool enclosure relating to spent fuel pool special ventilation system operability. These changes are necessary to allow movement of loads over spent fuel stored in the spent fuel pool enclosure with the spent fuel pool special ventilation system inoperable. The staff denied the proposed change to TS 3.8.D.2. A separate notice of denial has been sent to the **Federal Register** for publication.

Date of issuance: September 15, 1997

Effective date: September 15, 1997, with full implementation within 30 days. License Condition 4 of Appendix B is effective immediately upon issuance of the amendments.

Amendment Nos.: 130 and 122

Facility Operating License Nos. DPR-42 and DPR-60: Amendments revised the Licenses and Technical Specifications.

Date of initial notice in **Federal Register:** July 2, 1997 (62 FR 35850) The July 29 and September 12, 1997, letters provided clarifying information within the scope of the original application and did not change the staff's initial proposed no significant hazards considerations determination. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 15, 1997.No significant hazards consideration comments received: No.

Local Public Document Room location: Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401

Public Service Electric & Gas Company, Docket No. 50-354, Hope Creek Generating Station, Salem County, New Jersey

Date of application for amendment: July 3, 1997

Brief description of amendment: This amendment makes changes to Technical Specification Table 3.6.3-1, ''Primary Containment Isolation Valves'' to add valves to the list, therein.

Date of issuance: September 15, 1997

Effective date: Effective as of the date of issuance, to be implemented within 60 days.

Amendment No.: 102

Facility Operating License No. NPF-57: This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 13, 1997 (62 FR 43375) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 15, 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 No. 50-354, Hope Creek Generating Station, Salem County, New Jersey

Date of application for amendment: July 7, 1997

Brief description of amendment: The amendment changes Technical Specification (TS) 3/4.8.4.2, ''Motor Operated Valves - Thermal Overload Protection (BYPASSED),'' to relocate the list of applicable valves (TS Table 3.8.4.2-1) to the Hope Creek Generating Station Updated Final Safety Analysis Report.

Date of issuance: September 16, 1997

Effective date: As of the date of issuance, to be implemented within 60 days.

Amendment No.: 103

Facility Operating License No. NPF-57: This amendment revised the Technical Specifications and the License.

Date of initial notice in **Federal Register:** August 13, 1997 (62 FR 43375) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 16, 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 No. 50-354, Hope Creek Generating Station, Salem County, New Jersey

Date of application for amendment: April 1, 1997, as supplemented by letter dated May 30, 1997

Brief description of amendment: The amendment changed Technical Specifications (TSs) 4.6.1.1, ''Primary Containment Integrity;'' 3/4.6.1.2, ''Primary Containment Leakage;'' 3/4.6.1.3, ''Primary Containment Air Locks;'' 4.6.1.5.1, ''Primary Containment Structural Integrity;'' and 4.6.1.8.2, ''Drywell and Suppression Chamber Purge System.'' This amendment also changed the Bases for 3/4.6.1.2, ''Primary Containment Leakage;'' 3/4.6.1.3, ''Primary Containment Air Locks;'' 3.4.6.1.5, ''Primary Containment Structural Integrity;'' Section 6, ''Administrative Controls;'' and License Condition 2.D of Facility Operating License NPF-57. A new TS, 6.8.4.f, ''Primary Containment Leakage Rate Testing Program,'' was added. These changes modify the TSs and the Facility Operating License to adopt the performance based containment leak rate testing requirements (Option B) of 10 CFR Part 50, Appendix J.Date of issuance: September 18, 1997

Effective date: As of the date of issuance, to be implemented within 30 days.

Amendment No.: 104

Facility Operating License No. NPF-57: This amendment revised the Technical Specifications and the License.

Date of initial notice in **Federal Register:** August 13, 1997 (62 FR 43375) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 18, 1997.No significant hazards consideration comments received: No.

Local Public Document Room location: Pennsville Public Library, 190 S. Broadway, Pennsville, NJ 08070

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50-395, Virgil C. Summer Nuclear Station, Unit No. 1, Fairfield County, South Carolina

Date of application for amendment: March 26, 1997

Brief description of amendment: The amendment changes the definition of ''Core Alteration.''

Date of issuance: September 17, 1997

Effective date: September 17, 1997

Amendment No.: 138

Facility Operating License No. NPF-12: Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** May 21, 1997 (62 FR 27800) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 17, 1997.No significant hazards consideration comments received: No.

Local Public Document Room location: Fairfield County Library, 300 Washington Street, Winnsboro, SC 29180

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: September 26, 1996, as supplemented on August 12, 1997 (TS 96-04)

Brief description of amendments: The amendments change the Technical

Specifications (TS) by relocating the fire protection program details to the Updated Final Safety Analysis Report and Fire Protection Plan in accordance with Generic Letters 86-10 and 88-12.

Date of issuance: September 23, 1997

Effective date: September 23, 1997

Amendment Nos.: 228 and 219

Facility Operating License Nos. DPR-77 and DPR-79: Amendments revise the TS.

Date of initial notice in **Federal Register:** July 2, 1997 (62 FR 35843)The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 23, 1997.No significant hazards consideration comments received: No.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402

Tennessee Valley Authority, Docket No. 50-390 Watts Bar Nuclear Plant, Unit 1, Rhea County, Tennessee

Date of application for amendment: April 30, 1997, as supplemented June 18, July 21 (3 letters), August 7 and 21, 1997

Brief description of amendment: The proposed amendment would change the design features section of the Technical Specifications (TS) to provide for insertion of Lead Test Assemblies containing Tritium Producing Burnable Absorber Rods in the Watts Bar Nuclear Plant reactor core during Cycle 2.

Date of issuance: September 15, 1997

Effective date: September 15, 1997

Amendment No.: 8

Facility Operating License No. NPF-90: Amendment revises the TS.

Date of initial notice in **Federal Register:** June 4, 1997 (62 FR 30644) The TVA letters dated June 18, July 21, August 7 and 21, 1997 provided clarifying information that did not change the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in an Environmental Assessment dated September 8, 1997, and in a Safety Evaluation dated September 15, 1997.No significant hazards consideration comments received: None.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, TN 37402

The Cleveland Electric Illuminating Company, Centerior Service Company, Duquesne Light Company, Ohio Edison Company, OES Nuclear, Inc., Pennsylvania Power Company, Toledo Edison Company, Docket No. 50-440 Perry Nuclear Power Plant, Unit 1, Lake County, Ohio

Date of application for amendment: January 16, 1996, supplemented December 6, 1996, and August 15, 1997

Brief description of amendment: The amendment extended the test interval for the drywell bypass leakage rate test from 18 months to 10 years. Also, some surveillances for the drywell air locks were increased from 18 months to 24 months.

Date of issuance: September 22, 1997

Effective date: September 22, 1997

Amendment No.: 88

Facility Operating License No. NPF-58: This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 2, 1996 (61 FR 3951) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 22, 1997.No significant hazards consideration comments received: No.

Local Public Document Room location: Perry Public Library, 3753 Main Street, Perry, Ohio 44081

The Cleveland Electric Illuminating Company, Centerior Service Company, Duquesne Light Company, Ohio Edison Company, OES Nuclear, Inc., Pennsylvania Power Company, Toledo Edison Company, Docket No. 50-440 Perry Nuclear Power Plant, Unit No. 1, Lake County, Ohio

Date of application for amendment: May 2, 1997

Brief description of amendment: The amendment revises an existing exception to Limiting Condition for Operation (LCO) 3.0.4 as it applies to LCO 3.6.1.9 for the main steam isolation valve (MSIV) leakage control system (LCS) by making the exception permanent and clarifying that it only applies for the inboard MSIV LCS subsystem.

Date of issuance: September 24, 1997

Effective date: September 24, 1997

Amendment No.: 89

Facility Operating License No. NPF-58: This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 18, 1997 (62 FR 33135) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 24, 1997.No significant hazards consideration comments received: No.

Local Public Document Room location: Perry Public Library, 3753 Main Street, Perry, Ohio 44081

Washington Public Power Supply System, Docket No. 50-397, Nuclear Project No. 2b, Benton County, Washington

Date of application for amendment: August 14, 1997

Brief description of amendment: The amendment revises Technical Specification (TS) 5.5.6 by adding a note that would extend the surveillance interval to perform the inservive testing (IST) full stroke exercise of primary containment isolation check valve TIP-V-6 until the 1998 refueling outage, scheduled to begin no later than May 15, 1998, or until a plant shutdown of sufficient duration occurs to allow TIP-V-6 testing, whichever occurs first.

Date of Issuance: September 18, 1997

Effective date: September 18, 1997, to be implemented within 30 days of issuance.

Amendment No.: 152

Facility Operating License No. NPF-21: The amendment revised the Technical Specifications.Public comments requested as to proposed no significant hazards consideration: Yes (62 FR 45280 dated August 26, 1997). The notice provided an opportunity to submit comments on the Commission's proposed no significant hazards consideration determination. No comments have been received. The notice also provided for an opportunity to request a hearing by September 25, 1997, but indicated that if the Commission makes a final no significant hazards consideration determination any such hearing would take place after issuance of the amendment. The Commission's related evaluation and final no significant hazards consideration determination are contained in a Safety Evaluation dated September 18, 1997.

Attorney for licensee: Perry D. Robinson, Esq., Winston & Strawn, 1400 L Street, N.W., Washington, D.C. 20005-3502

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: January 16, 1997 (TSCR-191), as supplemented on April 17, August 7, and August 27, 1997

Brief description of amendments: These amendments increase the minimum volume and boron concentration for the refueling water storage tanks and the boric acid storage tanks. Additionally, these amendments increase the minimum concentration of boric acid in the safety injection accumulator, the reactor coolant system during refueling operations, and the reactor coolant system during positive reactivity changes made when containment integrity is not maintained.

Date of issuance: September 23, 1997

Effective date: September 23, 1997, with full implementation within 45 days

Amendment Nos.: 180 and 184

Facility Operating License Nos. DPR-24 and DPR-27: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 23, 1997 (62 FR 19836) The April 17, August 7, and August 27, 1997, submittals provided clarifying information within the scope of the original application and did not change the staff's initial proposed no significant hazards considerations determination. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 23, 1997.No significant hazards consideration comments received: No.

Local Public Document Room location: The Lester Public Library, 1001 Adams Street, Two Rivers, Wisconsin 54241

Wolf Creek Nuclear Operating Corporation, Docket No. 50-482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: July 3, 1997

Brief description of amendment: The amendment changes the definition for an alteration of the reactor core to one that is consistent with the intent of the Improved Standard Technical Specifications.

Date of issuance: September 18, 1997

Effective date: September 18, 1997

Amendment No.: 109

Facility Operating License No. NPF-42: The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 30, 1997 (62 FR 40861) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 18, 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

Wolf Creek Nuclear Operating Corporation, Docket No. 50-482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: July 3, 1997

Brief description of amendment: The amendment modifies Technical Specifications 5.3.1, ''Fuel Assemblies'' and 6.1.9.6, ''CORE OPERATING LIMITS REPORT (COLR)'' to add ZIRLO as fuel material and the use of limited zirconium alloy filler rods in place of fuel rods.

Date of issuance: September 22, 1997

Effective date: September 22, 1997, to be implemented within 30 days of issuance.

Amendment No.: 110

Facility Operating License No. NPF-42: The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 30, 1997 (62 FR 40860) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 22, 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 LicensesAnd Final Determination Of No Significant Hazards ConsiderationAnd 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 November 7, 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 20555-0001, Attention: Rulemakings and Adjudications Staff 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 the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

Pennsylvania Power and Light Company, Docket No. 50-387, Susquehanna Steam Electric Station, Unit 1, Luzerne County, Pennsylvania

Date of application for amendment: September 15, 1997, as supplemented by letter dated September 16, 1997

Brief description of amendment: The amendment revised the applicability requirement in Technical Specifications (TSs) Sections 3.4.2, ''Safety/Relief Valves'' (Action c), 4.4.2, and 3.3.7.5, ''Accident Monitoring Instrumentation'' (TS Table 3.3.7.5-1, Action 80). The change to the referenced TSs adds the following applicability footnote: Compliance with these requirements for the ''S'' SRV acoustic monitor is not required for the period beginning September 12, 1997, until the next unit shutdown of sufficient duration to allow for containment entry, not to exceed the 10th refueling and inspection outage.

Date of issuance: September 23, 1997

Effective date: September 23, 1997

Amendment No.: 169

Facility Operating License No. NPF-14: This amendment revised the Technical Specifications.Public comments requested as to proposed no significant hazards consideration: No. On September 17, 1997, the staff issued a Notice of Enforcement Discretion, which was immediately effective and remained in effect until this amendment was issued.

The Commission's related evaluation of the amendment, finding of emergency circumstances, consultation with the State of Pennsylvania, and final no significant hazards consideration determination are contained in a Safety Evaluation dated September 23, 1997.

Attorney for licensee: Jay Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, PA 18701

NRC Project Director: John F. Stolz

Dated at Rockville, Maryland, this 1st day of October 1997.

For the Nuclear Regulatory Commission

John N. Hannon,

Acting Director, Division of Reactor Projects - III/IV, Office of Nuclear Reactor Regulation

[Doc. 97–26502 Filed 10–7–97; 8:45 am]

BILLING CODE 7590–01–F

NUCLEAR REGULATORY COMMISSION

Draft Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission has issued for public comment a proposed revision of a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public such information as methods acceptable to the NRC staff for implementing specific parts of the NRC's regulations, techniques used by the staff in evaluating specific problems or postulated accidents, and data needed by the staff in its review of applications for permits and licenses.

The draft guide is a proposed Revision 1 to Regulatory Guide 3.54, and it is temporarily identified as DG–3010, ''Spent Fuel Heat Generation in an Independent Spent Fuel Storage Installation.'' The guide is in Division 3, ''Fuels and Materials Facilities.'' This regulatory guide is being revised to present a method that is acceptable to the NRC staff for calculating heat generation rates for use as design input for an independent spent fuel storage installation. The procedures proposed in this guide, for both boiling water reactors and pressurized water reactors, are simpler and therefore are expected to be more useful to applicants and reviewers.

The draft guide has not received complete staff review and does not represent an official NRC staff position.

Public comments are being solicited on the guide. Comments should be accompanied by supporting data. Written comments may be submitted to the Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Copies of comments received may be examined at the NRC Public Document Room, 2120 L Street NW., Washington, DC. Comments will be most helpful if received by January 2, 1998.

Although a time limit is given for comments on this draft guide, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

You may also provide comments via the NRC's interactive rulemaking website through the NRC home page (http://www.nrc.gov). This site provides the availability to upload comments as files (any format), if your web browser supports that function. For information about the interactive rulemaking website, contact Ms. Carol Gallagher, (301) 415–5905; e-mail CAG@nrc.gov. The draft guide may also be viewed and downloaded at this interactive site.

Regulatory guides are available for inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC. Requests for single copies of draft or final guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Printing, Graphics and Distribution Branch; or by fax at (301) 415–5272. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

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

Dated at Rockville, Maryland, this 12th day of September 1997.

For the Nuclear Regulatory Commission.

Joseph A. Murphy,

Director, Division of Regulatory Applications, Office of Nuclear Regulatory Research.

[FR Doc. 97–26639 Filed 10–7–97; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application to Withdraw From Listing and Registration; (Anicom, Inc., Common Stock, $.001 Par Value) File No. 1–13642

October 1, 1997.

Anicom, Inc. (''Company'') has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to Section 12(d) of the Securities Exchange Act of 1934 (''Act'') and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified security (''Security'') from listing and registration on the Chicago Stock Exchange, Inc. (''CHX'' or ''Exchange'').

The reasons cited in the application for withdrawing the Security from listing and registration include the following:

The Board of Directors of the Company believes that maintenance of the dual listing on both the Chicago Stock Exchange and the Nasdaq National Market is not in the best interests of the Company's stockholders. No trading of the Company's Security has taken place on the CHX since May 1995. All of the trading activity in the Security has taken place on the Nasdaq National Market. Accordingly, the Board of Directors believes that the costs of maintaining a listing on the CHX do not justify the Company's continued listing on the CHX given the lack of trading on the Exchange.

By letter dated September 10, 1997, the CHX states that the Company has complied with the Exchange's rules relating to the delisting of the Company's Security.

Any interested person may, on or before October 23, 1997, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

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

Jonathan G. Katz,

Secretary.

[FR Doc. 97–26572 Filed 10–7–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application to Withdraw From Listing and Registration; (Apollo Eye Group, Common Stock, $0.001 Par Value and Redeemable Warrants) File No. 1–12812

October 1, 1997.

Apollo Eye Group (''Company'') has filed an application with Securities and Exchange Commission (''Commission''),

pursuant to Section 12(d) of the Securities Exchange Act of 1934 (''Act'') and Rule 12d–2(d) promulgated thereunder, to withdraw the above specified securities (''Securities) from listing and registration on the Boston Stock Exchange, Inc. (''BSE'' or ''Exchange'').

The reasons cited in the application for withdrawing the Securities from listing and registration include the following:

According to the Company, the Company's Common Stock is listed on the Nasdaq Bulletin Board and is held of record by less than one hundred (100) holders. The Company's Warrants are held by record by twenty-six (26) holders, and are quoted on Nasdaq.

The Company cannot justify the expense of being listed in more than one market and thereby, wishes to withdraw from the BSE.

By letter dated April 1, 1997, the BSE informed the Company that it had no objection to the withdrawal of the Company's Securities for listing on the Exchange.

Any interested person may, on or before October 23, 1997, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application for the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegate authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 97–26575 Filed 10–7–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application to Withdraw From Listing and Registration; (Mid-Atlantic Realty Trust, Common Shares of Beneficial Interest Par Value $0.01; 7.625% Convertible Subordinated Debentures due 2003) File No. 1–12286

October 1, 1997.

Mid-Atlantic Realty Trust (''Company'') has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to Section 12(d) of the Securities Exchange Act of 1934 (''Act'') and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified securities (''Securities'') from listing and registration on the American Stock Exchange, Inc. (''Amex'' or ''Exchange'').

The reasons cited in the application for withdrawing the Securities from listing and registration include the following:

The Company has complied with Rule 18 of the Amex by filing with such Exchange a certified copy of preambles and resolutions adopted by the Company's Board of Directors authorizing the withdrawal of its Securities from listing on the Amex and by setting forth in detail to such Exchange the reasons for such proposed withdrawal, and the facts in support thereof.

In making the decision to withdraw its Securities from listing on the Amex, the Company considered the following:

The Company has been advised by its underwriters and financial advisers to list its Shares and Debentures on the New York Stock Exchange (''NYSE''); that such listing will help facilitate a distribution in an offering; that listing on the NYSE is beneficial to the Company in connection with a distribution of the Company's Securities overseas and on foreign exchanges; that such listing would help facilitate a distribution of the Company's Securities to institutional investors; and the underwriters have required that such listing be accomplished prior to any proposed public offering by the Company. The Company's Securities began trading on the NYSE at the opening of business on September 18, 1997.

By letter dated September 17, 1997, the Amex informed the Company that the Exchange would not object to the Company's filing of an application to withdraw its Securities from listing on the Amex.

Any interested person may, on or before October 23, 1997, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

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

Jonathan G. Katz,

Secretary.

[FR Doc. 97–26573 Filed 10–7–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application to Withdraw From Listing and Registration; (Scudder Spain and Portugal Fund, Inc., Common Stock, $0.01 Par Value) File No. 1–9719

October 1, 1997.

Scudder Spain and Portugal Fund, Inc. (''Company'') has filed an application with Securities and Exchange Commission (''Commission''), pursuant to Section 12(d) of the Securities Exchange Act of 1934 (''Act'') and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified security (''Security'') from listing and registration on the American Stock Exchange, Inc. (''Amex'' or ''Exchange'').

The reasons cited in the application for withdrawing the Security from listing and registration include the following:

Pursuant to the rules of the Amex regarding de-listing, and in particular Rule 18 of the Amex, the Company has transmitted to the Amex a certified copy of resolutions adopted by its Board of Directors (''Board'') authorizing the withdrawal of the Security from listing on the Amex.

The Board and management of the Company have determined that listing the Security on the New York Stock Exchange (''NYSE'') may provide potential benefits to the Company and the Company's stockholders, including increased market visibility and increased exposure of the Company among the financial community, and a potential for increased trading volume for the Security, which, if realized, could provide increased liquidity and a decrease in the discount in the market price of the Security as compared to the Company's net asset value per share of Security. The Company's Security began trading on the NYSE on July 30, 1997.

By letter dated July 18, 1997, the Amex informed the Company that the Exchange would not object to the Company's filing of the application to be removed from listing and registration on the Exchange.

Any interested person may, on or before October 23, 1997, submit by letter to the Secretary of the Securities and

Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

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

Jonathan G. Katz,

Secretary.

[FR Doc. 97–26574 Filed 10–7–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39187; File No. SR–BSE–97–04]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto by the Boston Stock Exchange, Inc., Relating to Stop Orders and Stop Limit Orders in Solely Listed Issues

October 1, 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 September 4, 1997, the Boston Stock Exchange, Inc. (''BSE'' 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. On September 15, 1997, the Exchange submitted to the Commission an amendment to the proposed rule change.[3][1] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. § 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The amendment revised the text of the proposed supplementary material to Section 3 of Chapter 1 of the Exchange Rules to clarify that it only applies to the trading of issues listed solely on the Exchange and that the proposal also applies to stop limit orders. *See* letter from Karen A. Aluise, Assistant Vice President, BSE, to Michael Walinskas, Senior Special Counsel, Division of Market Regulation, Commission (Sept. 15, 1997) (''Amendment No. 1'').

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange seeks to adopt a new Supplementary Material to Section 3 of Chapter 1 of the Exchange Rules to govern the activation criteria for stop orders and stop limit orders in sole listed issues where reported executions occur away from the Exchange.

The text of the proposed rule change is available at the Office of the Secretary, BSE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to guide Exchange specialists and customers in the appropriate activation of stop orders and stop limit orders in sole listed issues. Due to the frequency with which the Exchange's sole listed issues trade in the Nasdaq market,[4] it is likely that transactions will occur in that market at prices which would activate Exchange resident stop orders and stop limit orders, were such transactions to occur in the Exchange's market. At such times customers may look for an execution report based on trading that occurs in Nasdaq market. In these circumstances, Exchange specialists may be placed at significant market risk if a customer is permitted to determine after the fact that a stop order or stop limit order in a solely listed issue was, or was not, due based on a sale reported in the Nasdaq market. The proposed interpretation will remove any ambiguity regarding the appropriate activation of stop orders and stop limit orders in solely listed issues by necessitating the inclusion of reported regular way round-lot sales in the Nasdaq market in determining the activation of Exchange resident stop orders and stop limit orders in solely listed issues.

[4] Generally, the Exchange's solely listed issues trade on the Nasdaq SmallCap Market. Here, however, the exchange uses the term ''Nasdaq market'' to include both Nasdaq SmallCap and OTC Bulletin Board. Telephone Conversation between Karen Aluise, Assistant Vice President, BSE, and Christine Richardson, Law Clerk, Division of Market Regulation, Commission, on September 23, 1997.

2. Statutory Basis

The Exchange represents that the proposed rule change is consistent with Section with Section (6)(b)(5) of the Act[5] in that it is designed 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 implements 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; and is not designed to permit unfair discrimination between customers, issuers, brokers or dealers.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

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

[5] 15 U.S.C. § 78f(b).

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 also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–BSE–97–04 and should be submitted by October 29, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–26648 Filed 10–7–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39179; File No. SR–CBOE–97–47]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Incorporated Relating to Option Trading Permit Bid Fee

October 1, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1], notice is hereby given that on September 18, 1997, the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CBOE. 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 CBOE is proposing to amend the manner in which it assesses the Exchange fee that is charged when a person submits a bid to receive an Option Trading Permit (''OTP'') from the OTP lease pool.

The text of the proposed rule change is available at the Office of the Secretary, CBOE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CBOE 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 CBOE 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

CBOE Rule 3.27(a)(3) provides for the creation of an OTP lease pool to be administered by the Exchange. The procedures for the administration of this lease pool were previously filed with and approved by the Commission.[2] Under these procedures, the Exchange conducts an auction every six months during which members and non-members who have qualified for membership may submit bids equal to the monthly rent that the bidder is willing to pay for a month-to-month OTP lease. Upon the close of the bidding period, OTPs in the pool are awarded to the highest bidders in a number equal to the total number of OTPs in the lease pool at that time. The monthly rent to be paid by a lessee is the dollar value of the bid submitted by that lessee. Following each auction, the Exchange continues to accept bids for OTP leases. Should any OTP lessee desire to give up that lessee's OTP prior to the next auction, the OTP is transferred to the highest bidder at a monthly lease price equal to the new lessee's bid for the remainder of the six month auction cycle.

The procedures for the administration of the OTP lease pool also provide that a non-refundable $500 fee will be assessed by the Exchange any time an OTP bid is submitted. This fee is intended to cover Exchange costs in connection with its administration of the OTP lease pool.

The Exchange proposes to amend the manner in which it assesses the $500 OTP bid fee. Specifically, the Exchange proposes not to charge the fee to any current OTP lease pool lessee who submits a bid in connection with one of the Exchange's bi-annual OTP lease pool auctions. The $500 OTP bid fee would continue to be assessed to anyone who submits a bid in connection with one of the Exchange's bi-annual OTP lease pool auctions and is not currently an OTP lease pool lessee. In addition, the $500 OTP bid fee would continue to be assessed to anyone who is not currently an OTP lease pool lessee and submits an OTP bid during a six month OTP lease cycle and not in connection with one of the Exchange's bi-annual OTP lease pool auctions.

The Exchange has determined that it is not necessary to assess a $500 OTP bid fee to a current OTP lease pool lessee in connection with a bi-annual OPT lease auction because that person will have already paid a $500 OTP bid fee to the Exchange.[3]

The Exchange also proposes to amend the procedures for the administration of the OTP lease pool to clarify that the $500 OTP bid fee is not assessed when a bid is canceled or replaced with another bid. The Exchange is not waiving the $500 OTP bid fee for an OTP lease pool lessee who terminates his or her OTP lease and later submits another bid for an OTP in the lease pool because there is administrative work involved in processing a change in OTP lessees.

The proposed rule change is consistent with Section 6(b) of the Act, in general, and furthers the objectives of Section 6(b)(4) of the Act in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

[6] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. § 78s(b)(1).

[2] The procedures for the administration of the OTP lease pool were filed with the Commission in SR–CBOE–97–14. SR–CBOE–97–14 provided for the issuance of OTPs in connection with the transfer of the options business of the New York Stock Exchange, Inc. to CBOE and defined the rights and obligations associated with OTPs. SR–CBOE–97–14 was approved by the Commission in Securities Exchange Act Release No. 38541 (April 23, 1997), 62 FR 23516 (April 30, 1997).

[3] It should be noted that a current OTP lease pool lessee may not submit an OTP bid during the six month OTP lease cycle (except for a bid that is in connection with the next bi-annual OTP lease pool auction). This is the case because in order for a person to submit an OTP bid, that person must be immediately eligible to become an OTP lease pool lessee. A current OTP lease pool lessee is not immediately eligible to become an OTP lease pool lessee for another OTP because that person is already leasing an OTP from the lease pool, and a person can only lease one OTP from the lease pool at a time.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change establishes or changes a due, fee, or other charge imposed by the Exchange and therefore, has become effective pursuant to Section 19(b)(3)(A)(ii)[4] of the Act and Rule 19b-4(e)(2)[5] thereunder. At any time within 60 days of the filing of a rule change, the Commission may summarily abrogate the rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, 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 Room. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR–CBOE–97–47 and should be submitted by October 29, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–26576 Filed 10–7–97; 8:45 am]

BILLING CODE 8010–01–M

[4] 15 U.S.C. § 78s(b)(3)(A)(ii).

[5] 17 CFR 240.19b–4(e)(2).

[6] 17 CFR 200.30-3(a)(12).

SMALL BUSINESS ADMINISTRATION

[License No. 02/72–0576]

Early Stage Enterprises, L.P.; Notice of Issuance of a Small Business Investment Company License

On July 19, 1996, an application was filed by Early Stage Enterprises, L.P., at 221 Nassau Street, 3rd Floor, Princeton, New Jersey 08542 with the Small Business Administration (SBA) pursuant to Section 107.300 of the Regulations governing small business investment companies (13 C.F.R. 107.300 (1997)) for a license to operate as a small business investment company.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 02/72–0576 on September 26, 1997, to Early Stage Enterprises, L.P. to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: October 2, 1997.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 97–26689 Filed 10–7–97; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice 2613]

Determination on Export-Import Bank Support for the Sale to the Commonwealth of the Bahamas of Defense Articles or Services to be Used Primarily for Counter-Narcotics Purposes

Pursuant to section 2(b)(6) of the Export-Import Bank Act of 1945, as amended, and Executive Order 11958 of January 18, 1977, as amended by Executive Order 12680 of July 5, 1989, I hereby determine that:

(1) The defense articles and services for which the Government of the Commonwealth of The Bahamas has requested Export-Import Bank financial guarantees, two (2) 60 meter patrol craft, are being sold primarily for anti-narcotics purposes;

(2) The sale of such defense articles and services would be in the national interest of the United States;

(3) The requirement for a determination that the Commonwealth of The Bahamas has complied with all restrictions imposed by the United States on the end use of defense articles or services for which the Export-Import Bank has provided guarantees or insurance under section 2(b)(6) of the Export-Import Bank Act is inapplicable because the pending financing will be the first Ex-Im Bank transaction with The Bahamas made under section 2(b((6) of the Act.

(4) The requirement for a determination that the Commonwealth of The Bahamas has not used defense articles or services for which the Export-Import Bank has provided guarantees or insurance under section 2(b)(6) of the Export-Import Bank Act to engage in a consistent pattern of gross violations of international recognized human rights is inapplicable because the pending financing will be the first Ex-Im Bank transaction with The Bahamas made under section 2(b)(6) of the Act.

The determination shall be reported to the Congress and shall be published in the **Federal Register**.

Dated: September 24, 1997.

Strobe Talbott,

Acting Secretary of State.

Justification for Determination

Pursuant to Section 2(b)(6) of the Export-Import Bank Act of 1945, as amended, and E.O. 12680 of July 5, 1989, I have made the determination required to authorize financing by the Export-Import Bank of the United States of defense articles or services to be used by the Government of the Commonwealth of The Bahamas primarily for counter-narcotics purposes.

The defense articles to be financed are two (2) 60 meter patrol boats built by Halter Marine, Gulfport, Mississippi. The new boats, by giving The Bahamas a better means for patrolling its large territorial waters, will further the joint U.S.-Bahamas effort (''Operation Bahamas and Turks (OPBAT)'') to curtail the northward flow of cocaine, marijuana and other illegal substances from their production centers to the south.

Based on assurances from the Government of the Commonwealth of The Bahamas and the assessment of our Embassy in The Bahamas, I have determined that the vessels to be financed by the Export-Import Bank will be used primarily for counter-narcotics purposes. I have also determined that the sale will enhance U.S. Bahamas counter-narcotics cooperation and is therefore in the national interest. The Bahamas is a major drug transit country that the President has certified has cooperated fully with the United States

or taken adequate steps on its own to achieve fully compliance with the goals and objectives established by United Nations Convention Against Illicit Trafficking in Narcotic Drugs and Psychotropic Substance. The Bahamas is a stale parliamentary democracy,

Since this is the first financing by the Export-Import Bank of defense items or services to the Commonwealth of The Bahamas under section 2(b)(6) of the Export-Import Bank Act, the other determinations required by the Act are inapplicble.

[FR Doc. 97–26569 Filed 10–7–97; 8:45 am]
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OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Report on Trade Expansion Priorities Pursuant to Executive Order 12901 (''Super 301'')

AGENCY: Office of United States Trade Representative.

ACTION: Notice.

SUMMARY: Notice if hereby given that the United States Trade Representative (USTR) has submitted the report on United States trade expansion priorities published herein to the Committee on Finance of the United States Senate and the Committee on Ways and Means of the United States House of Representatives pursuant to the provisions (commonly referred to as ''Super 301'') set forth in Executive Order 12901 of March 3, 1994, as extended by Executive Order No. 12973 of September 27, 1995.

DATE: The report was submitted on October 1, 1997.

FOR FURTHER INFORMATION CONTACT: Irving Williamson, Chairman, Section 301 Committee, Office of the U.S. Trade Representative, 600 17th Street, N.W., Washington, DC 20508, (202) 395–3432.

SUPPLEMENTARY INFORMATION: The text of the USTR report is as follows.

Identification of Trade Expansion Priorities Pursuant to Executive Order 12901

October 1, 1997.

This report is submitted pursuant to Executive Order No. 12901 of March 3, 1994, as extended by Executive Order No. 12973 of September 27, 1995, regarding the ''Super 301'' annual review. Under the Executive Order the United States Trade Representative (USTR) is required, by September 30, 1997, to ''review United States trade expansion priorities and identify priority foreign country practices, the elimination of which is likely to have the most significant potential to increase United States exports, either directly or through the establishment of a beneficial precedent.''

Keeping America growing and creating good high-wage jobs by tearing down foreign barriers to American goods and services continues to be President Clinton's top trade expansion priority. For this reason the President has asked Congress to renew fast track procedures to negotiate tough new trade agreements that break down trade barriers and unfair trade restrictions in key areas, such as in agriculture, information technology, telecommunications, automobiles, medical equipment, environmental technology and services, and the creative power of our entertainment and software industries. Fast track would enable the United States to complete the built-in agenda of the World Trade Organization (WTO) by concluding major trade negotiations that were deferred at the end of the Uruguay Round and by participating in negotiations mandated by the Uruguay Round agreements in areas ranging from rules to origin to services. Fast track would enable the United States to pursue market-opening initiatives in sectors where the United States either leads the world or is a powerful competitor, and where extraordinary potential for growth exists. Fast track is also essential if the United States is to negotiate more comprehensive market access agreements with individual countries, as well as on a regional basis.

The Clinton Administration intends to concentrate on the fastest growing markets in the world in Latin America and Asia. These markets are growing three times faster than our own. Without fast track, our competitors will continue to negotiate trade agreements that benefit their products at the expense of our own. Fast track is necessary, not only to promote our own economic well-being, but to enable us to continue to play a leadership role in advancing the cause of freedom and prosperity in the world.

The Administration is addressing the most significant foreign trade barriers through an ongoing strategy of vigorous monitoring and enforcement of trade agreements, strategic application of U.S. trade laws, active use of the dispute settlement provisions of our trade agreements, and continued engagement in multilateral, sectoral, regional and bilateral negotiations. Through this strategy the Administration has used the trade law tools and dispute settlement mechanisms at its disposal on more than 70 occasions so far to enforce U.S. rights. As a result of the 1997 review of priorities, the Administration has identified one priority foreign country practice and will proceed under WTO dispute settlement procedures in four cases.

Priority Foreign Country Practice

- *Korea—barriers to auto imports.* Specific Korean practices of concern include an array of cumulative tariff and tax disincentives that disproportionately affect imports; onerous and costly auto standards and certification procedures; auto financing restrictions; and a climate of bias against imported vehicles that Korean officials have not effectively addressed. While some of these barriers were addressed in the 1995 bilateral agreement, implementation of that agreement has been disappointing, especially as new practices have been introduced that undermine the 1995 agreement. Meanwhile, Korean auto manufacturers are expanding domestic capacity, which is forecast to rise from 2.8 to over 5 million units by the year 2000.

Although some progress was made during recent bilateral negotiations to improve market access in Korea for foreign automobiles, Korea was not prepared to undertake the reforms which are necessary for real opening of its autos market. In light of the foregoing, the USTR has decided to identify Korea's barriers to imported automobiles as a priority foreign country practice under the Executive Order and will initiate a section 301 investigation of Korea's practices. The United States continues to hope that it can reach an agreement with Korea that will effectively address U.S. concerns.

Strategic Enforcement

Enforcing our trade agreements and our trade laws is among the Administration's top trade expansion priorities. A critical part of our job is what happens after an agreement is signed. The Administration's trade policy recognizes that the best way to build confidence in trade agreements is to enforce them. Vigorous enforcement is critical to ensuring good agreements.

The Administration has assigned top priority to monitoring implementation of its trade agreements, especially the WTO agreements and NAFTA to ensure that signatories live up to their commitments and comply with the rules. In the course of these monitoring efforts, the Office of the United States Trade Representative, in cooperation with the Departments of Commerce and Agriculture, has focused in particular on foreign practices that could pose serious problems to the international trading

system if they proliferate in many markets. Therefore, the Administration has adopted a strategic enforcement plan—aimed not only at challenging existing barriers but also at preventing the future adoption of similar barriers around the world.

The Administration will continue to make vigorous use of the dispute settlement provisions in trade agreements to ensure compliance with the terms of those agreements. Since the inception of the WTO the United States has invoked the WTO dispute settlement procedures far more than any other member. The new WTO dispute settlement procedures have already yielded positive results—both in terms of reduced barriers and increased export opportunities.

Efforts to enforce the WTO agreements include not only dispute settlement, but also making use of the various oversight committees of the WTO that ensure implementation of WTO agreements, especially those agreements that address the mechanics of getting goods to the marketplace; rules on technical barriers to trade (standards, certification, testing requirements); sanitary and phytosanitary measures; import licensing requirements; customs valuation procedures; rules of origin; and preshipment inspection procedures.

New Cases to be Launched

As a result of this year's review of its trade expansion priorities, and its monitoring of compliance with U.S. trade agreements, the Administration will take the following actions to enforce U.S. rights under those agreements, with heavy emphasis on challenging foreign government actions that appear to circumvent the WTO rules on export subsidies.

- *Japan—Market Access Barriers to Fruit.* USTR will initiate a section 301 investigation and in that context, request the establishment of a WTO panel to challenge the Japanese government requirement of separate efficacy testing of certain quarantine treatments for each variety of imported fruit, even where the same treatment has been accepted by Japan as effective for another variety. Although the fruit of immediate export concern is apples, Japan's requirement operates as a significant import barrier to nectarines, cherries, and other fruits that are of export interest to the United States. The United States and Japan have already completed consultations on this matter pursuant to WTO dispute settlement procedures, so the United States will proceed directly to request a panel.
- *Canada—Export Subsidies and Import quotas on Dairy Products.* USTR will invoke WTO dispute settlement procedures in the context of a section 301 investigation to challenge practices that subsidize exports of dairy products from Canada, and Canadian implementation of its import quotas on milk. The U.S. dairy industry has petitioned USTR to initiate this investigation on the grounds that both of these practices are inconsistent with Canada's WTO obligations and adversely affect U.S. exports.
- *EU—Circumvention of Export Subsidy Commitments on Dairy Products.* USTR also will invoke WTO dispute settlement procedures in the context of a section 301 investigation to challenge practices by the European Union (EU) that circumvent the EU's commitments under the WTO to limit subsidized exports of processed cheese and adversely affect U.S. exports to third markets. The EU is counting these exports against its limits on powdered milk and butterfat to avoid the limits on subsidies of cheese. USTR will also closely monitor EU compliance with its WTO agricultural subsidy commitments on all other agricultural products.
- *Australia—Export Subsides on Automotive Leather.* Following bilateral and multilateral consultations, Australia agreed to eliminate export subsidies for leather used in automobiles. However, Australia's subsequent package of assistance for its industry (comprised of a sizable loan and grant), has raised similar concerns regarding consistency with WTO subsidies rules. While some progress has been made in recent months, these concerns have not yet been adequately addressed. Thus USTR will invoke WTO dispute settlement procedures, but remains hopeful that a solution satisfactory to both countries can be reached during consultations.

Recent Enforcement Actions

During the past year, USTR has invoked WTO dispute settlement procedures to challenge a wide variety of foreign government practices, covered by the broad range of agreements administered by the WTO, seeking to enforce the rules on tariffs, agriculture, services, intellectual property rights, antidumping measures, and sanitary and phytosanitary measures. Those complaints include challenges of:

- *Argentina's* import duties on footwear, textiles, and apparel that exceed the maximum to which Argentina is committed under WTO tariff rules:
- licensing requirements in *Belgium* that discriminate against U.S. suppliers of commercial telephone directory services;
- *Brazilian* government measures that give certain benefits to manufacturers of motor vehicles and parts, conditioned on compliance with average domestic content requirements, trade-balancing and local content requirements with regard to inputs;
- the failure of *Denmark* to provide adequate measures to enforce intellectual property rights;
- reclassification by the *European Union, the United Kingdom, and Ireland* of certain computers and computer-related equipment to different tariff categories with higher tariff rates;
- import restrictions on more than 2700 agricultural, textile and industrial products imposed by *India* for which India can no longer claim a justification for balance-of-payments reasons;
- *Indonesia's* programs granting preferential tax and tariff benefits to producers of automobiles based on the percentage of local (Indonesian) content of the finished automobile;
- *Ireland's* failure to expeditiously bring its copyright laws into compliance with the WTO agreement on intellectual property rights;
- *Japan's* barriers to market access for photographic film and paper, and barriers to distribution and retail services in Japan;
- *Korea's* taxes on Western-style distilled spirits that are higher than those assessed on the traditional Korean-style spirit soju;
- an antidumping action by *Mexico* of high-fructose corn syrup imports from the United States that does not conform to WTO procedures;
- a licensing system in *the Philippines* that discriminates against U.S. exports of pork and poultry; and
- the failure of *Sweden* to provide adequate measures to enforce intellectual property rights.

In addition to using dispute settlement procedures strategically, the Administration has continued to use the leverage of U.S. trade laws to obtain market access for U.S. goods and services and to encourage other countries to ensure adequate protection of intellectual property rights:

- *Japan—port practices.* Restrictive practices in Japanese ports have caused serious difficulties for U.S. shipping companies for many years. After initial consultations with Japan failed to resolve these problems, on September 4, 1997, the Federal Maritime Commission imposed sanctions of $100,000 per voyage on container vessels owned or operated by Japanese companies entering the United States. Consultations to remove the restrictive practices which impede open and

efficient business operations of our carriers continue.

• *Argentina—patent protection.* On January 15, 1997, the Administration decided to withdraw 50 percent of Argentina's tariff benefits under the Generalized System of Preferences as a result of its continued delay in providing adequate patent legislation, particularly for pharmaceutical products.

• *Bulgaria—intellectual property protection.* The ''Special 301'' provisions of U.S. trade law have been used to obtain progress in improving the legislative framework for protecting intellectual property rights and enforcing those rights in Bulgaria. Just prior to the April 1997 Special 301 announcement, Bulgaria adopted amendments to expand the scope of protection for computer software.

• *Korea—telecommunications.* In 1996, Korea was identified as a Priority Foreign Country under the Telecommunications Trade Act of 1988. Year-long negotiations bore fruit in July 1997, with commitments by Korea to ensure that U.S. telecommunications equipment suppliers would be treated fairly in areas including procurement, certification, type approval, protection of intellectual property and technology transfer.

• *Mexico—telecommunications.* In the 1996 review under the Telecommunications Trade Act of 1988, USTR cited Mexico for not fulfilling its NAFTA obligation to accept other parties' laboratory or test facility test data relating to product safety in certifying telecommunications equipment for safe use. An agreement reached in April 1997 established procedures to resolve this issue, which will further facilitate the export of U.S. telecommunications products to Mexico.

• *Honduras—piracy.* In response to the failure of Honduras to address effectively the unauthorized broadcasting of pirated U.S. videos and the rebroadcasting of U.S. satellite-carried programming, the Administration is taking steps to withdraw some of the tariff benefits accorded Honduras under the Generalized System of Preference and Caribbean Basin Initiative programs.

Bilateral Market Access Issues

Through bilateral negotiations as well as through enforcement actions, the Administration continues to monitor progress made toward increasing market access for U.S. exports of goods and services to key markets.

Japan

A top priority of the Administration has been to increase access to the Japanese market. The Administration has negotiated 31 market-opening agreements with Japan since 1993. The most recent of these was concluded on September 30, 1997, when agreement was reached to extend and improve the bilateral agreement on procurement by Nippon Telegraph and Telephone Company, commonly referred to as the NTT agreement. This agreement will provide U.S. telecommunications suppliers with improved access to NTT's $13 billion market.

Bilateral agreements, combined with enforcement of U.S. trade laws, use of the WTO dispute settlement process, and regional and multilateral initiatives, have helped to increase significantly U.S. exports to Japan. U.S. exports to Japan increased 41 percent from 1993 to 1996.

Nevertheless, the Administration is increasingly concerned that Japan's progress in opening its market has slowed. Market access problems persist and U.S. companies in a wide range of sectors continue to face serious impediments that hinder their ability to compete in the Japanese market. These barriers include a closed distribution system, nontransparent regulations, discriminatory procurement policies, and restrictive business practices.

Meanwhile, the Japanese economy is weaker than expected and Japan's current account surplus is increasing, reaching 2.6 percent of GDP in the second quarter of this year. Prime Minister Hashimoto has publicly articulated the objective of ''promoting strong, domestic demand-led growth in Japan and avoiding a significant increase in the external surplus.'' It is essential that Japan take seriously its responsibilities to generate domestic demand-led growth and open its markets to competitive goods and services from the United States and other countries.

Our objectives correspond closely with key elements of the Japanese Government's economic agenda. Resolution of such issues as reform of Japan's port practices, significant opening of Japan's civil aviation market, and improved market access for U.S. autos and auto parts are early tests of the Japanese Government's commitment to deregulation and market opening. The deregulatory measures implemented by the Government of Japan in the sectors included in the Enhanced Deregulation Initiative agreed to by President Clinton and Prime Minister Hashimoto at the G–8 Summit last June—including telecommunications, housing, pharmaceuticals/medical technology, and financial services—will also serve as early indications of the seriousness of Japan's commitment to deregulation.

• Japan—Market Access for Autos and Auto Parts. The United States and Japan concluded an agreement in 1995 on the full range of market access barriers facing sales of autos and auto parts in Japan and to Japanese companies outside Japan. Noteworthy progress was made during the first year of the agreement, with sales of North American-made big Three vehicles up 34 percent last year and sales of U.S.—made auto parts up 20 percent in 1996. However, during the first six months of 1997, sales of North American-made Big Three vehicles have declined 17 percent over 1996 levels. Moreover, although U.S. auto parts exports increased 14 percent during the first six months of 1997, foreign access to this market remains limited. In light of these trends, increased focus on implementation is necessary. Of particular importance is improved access of U.S. and other competitive foreign firms to Japan's automotive distribution system, including to new and existing dealerships. With respect to auto parts, continued progress will depend on further meaningful deregulation of the replacement market. The United States and Japan will meet in early October 1997 to access progress based on the quantitative and qualitative indicators in the agreement and to discuss concrete actions for improving market access in this important sector.

• Japan—Market Access for Flat Glass. Implementation of the 1995 U.S.-Japan Flat Glass Agreement proceeded well in the first year, but early progress has not been sustained. While a major objective of the agreement was to provide foreign companies access to distributors controlled by the three major Japanese glass companies, the increase in volume of foreign glass within the Japanese glass distribution system continues to be very limited, and major Japanese distributors are not carrying foreign glass in any meaningful quantities. There also has been virtually no increase in the overall use of insulated glass and a decline in the use of safety glass, even though the Agreement provided that Japan was to promote actively the use of both types of glass. Among the promotion measures Japan agreed to undertake was the issuance of new standards to promote the use of insulated glass in residential and commerical construction. The United States and Japan will hold consultations in late October to discuss

our market access concerns. The United States will continue to press Japan to take actions to ensure that genuine market access is achieved under the agreement.

• Japan—Market Access for Paper and Paper Products. Despite continued U.S. efforts in the part year, structural barriers continue to impede U.S. industry's access to Japan's paper market. In the first six months of 1997, Japan's paper and paperboard imports fell by more than 20 percent and import penetration declined further to 4.3 percent. The United States seeks agreement with Japan on a joint work program designed to provide substantially increased market access for foreign paper and paperboard products. Such a program would lead to a reduction in structural barriers and exclusionary business practices and will result in meaningful access to distribution channels and end users.

China

The Administration is actively pursuing a broad range of market opening initiatives with China. Through active leadership in multilateral WTO accession talks and pursuit of a full bilateral agenda, we are seeking the elimination of China's multiple and overlapping barriers to U.S. exports of industrial goods, agricultural products and U.S. services. Despite China's actions to liberalize its economy, many aspects of its economic and legal regime are inconsistent with international norms. While our large and growing trade deficit with China is the result of many factors, China's trade and economic policies are a significant contributor to that deficit. Opening China's market and brining China's policies into conformity with international norms are the Administration's key objectives in the trade area and the best means to address the trade deficit.

Given the size and potential of China's market and the nature of China's trade regime, negotiating the terms of China's membership in the WTO will continue to be a major focus of U.S. efforts to open China's markets. The WTO accession negotiations represent an important opportunity to work with our trading partners and with the Chinese government to develop an accession package that opens markets and commits China to create an environment conducive to international trade, requiring compliance with WTO rules and internationally accepted trade norms of transparency, predictability and the rule of law.

The United States supports China's accession to the WTO on the basis of commercially meaningful commitments that provide market access for U.S. goods, agriculture and services. China has, in the context of the Asia Pacific Economic Cooperation Forum (APEC), taken some recent steps towards liberalizing its trade regime. Effective October 1, 1997, China will cut its average tariffs to 17 percent as a step towards meeting its APEC commitment of a 15 percent average tariff by the year 2000. This is a welcome step, but more is needed in the context of WTO accession. The Administration is, for example, committed to eliminating quotas, licensing requirements and other barriers affecting U.S. exports and investment in the WTO Accession.

The united States is pursuing a program of vigorously monitoring compliance with existing agreements and addressing new market access barriers. During the Clinton Administration, we have reached important agreements on intellectual property rights (IPR) protection, textiles and market access. Concluding these agreements, however, was only a first step. We have continually worked with China to ensure that implementation problems are addressed.

• *China—IPR Enforcement.* We have seen progress through closure of 58 pirate compact disc production lines and the establishment of an infrastructure for enforcement of IPRs. Continuing problems exist regarding computer software piracy and trademark counterfeiting, however, since Chinese authorities often fail to impose penalties sufficient to deter illegal activities. U.S. negotiators are continuing to work with Chinese authorities to improve compliance with our IPR agreements.

• *China—Sanitary and Phytosanitary Measures.* Progress has been achieved in opening China's market to U.S. agriculture for products such as live cattle, bovine embryos, cherries and applies from Washington, and most recently grapes from California. Serious problems still remain. We have, for example, serious objections to China's unjustified sanitary and phytosanitary (SPS) restrictions. China bans imports of U.S. oranges, lemons, grapefruit, plums and Pacific Northwest (PNW) wheat based on SPS concerns. The United States believes that China's concerns lack a scientific basis and are unjustified. The United States exports these products globally. U.S. negotiators are now working to reach agreement with China's experts on the conditions for importation of U.S. citrus, PNW wheat and plums.

• *China—Meat Imports.* While China has begun a one-year experiment to allow U.S. meat imports for general consumption, China has only certified a handful of U.S. beef, pork and poultry processing plants. Given the continued application of high tariffs, however, certification of plants has yet to result in increased market access for our meat exports. These are products in which the United States is highly competitive and enjoys a large global trade.

• *China—Financial Information Providers.* We are nearing an interim solution of a longstanding problem concerning registration of foreign financial information providers like Dow Jones and Reuters. China's plan to authorize China's main financial data provider and competitor to U.S. companies, Xinhua, to regulate foreign economic information providers was challenged by the United States from its inception. This interim solution will permit U.S. firms to continue their operations in China while the United States seek more comprehensive commitments from China on market access and national treatment for financial service providers and online data processing in the negotiations on China's accession to the WTO.

• *China—Insurance Providers.* Foreign insurers' access to the Chinese market is severely restricted. U.S. insurers must first establish a representative office for two years before applying for a license. If China grants the company a license, numerous non-prudential restrictions apply on doing business, including restrictions on the form of investment, scope of business lines, and geographic location. We are seeking elimination of these non-prudential restrictions.

Korea

The Administration is focused on eliminating barriers to entry and distribution of U.S. products in Korea—The United States' fifth largest export market overall, and fourth largest market of agricultural and food products. This year, the Administration made solid progress toward opening the Korean market through the use of U.S. trade laws and WTO dispute settlement procedures, negotiation and enforcement of bilateral trade agreements, and close coordination with other countries on U.S. trade initiatives regarding Korea, particularly in the OECD and the WTO. Specifically, the United States negotiated a bilateral settlement addressing restrictive Korean telecommunications practices; reached agreement on an IPR action plan; and used WTO procedures to improve Korean market access for U.S. food and agricultural products.

The Administration is committed to continuing its varied and

comprehensive efforts to tackle commercial barriers in what U.S. industry still describes as one of the toughest markets in the world for doing business. Korea must begin to take actions and accept the responsibilities commensurate with its new international position as a developed nation. Our priority will be on achieving systemic changes to trade-restricting procedures and rules in Korea, including those affecting market access for automotive products, cosmetics, and food and agricultural goods.

- *Korea—Impediments to Entry and Distribution of Cosmetics.* The Korean government uses measures that restrict the entry and distribution of cosmetics including: restrictions on sales promotions (premiums), including changes to the valuation methodology; delegation of authority to a Korean industry association to screen advertising and information brochures prior to use; mandatory provision of proprietary information on imports to Korean competitors; redundant testing; unreasonable prior-approval requirements on cosmetic tester labels; and burdensome import authorization and tracking requirements. After bilateral talks with U.S. officials, Korea stated its intention to change some of these measures, but the Korean government still has not fully addressed U.S. concerns, including those relating to implementation of relevant provisions in international agreements. The Administration will continue to pursue unimpeded trade in cosmetics with Korea over the coming year and will review the situation again in January 1998.
- *Korea—Import Clearance Procedures.* After WTO dispute settlement consultations with Korea on its long, burdensome, and non-science-based import clearance procedures, the Korean government made changes, including expediting clearance for fresh fruits and vegetables; instituting a new sampling, testing, and inspection regime; eliminating some phytosanitary requirements; and starting the process of updating Korean Food Additives Code standards.

However, Korean port inspectors have failed to implement changes to which the Korean government has committed, including the elimination of requirements for proprietary information (on manufacturing process and ingredient listing by percentage) and for sorting of produce. Also, some of the changes Korean officials are implementing do not adequately address U.S. concerns. The United States will raise this issue at the October meeting of the WTO SPS Committee and has proposed consultations on the Korean Food Additives Code. The United States will take further action under WTO dispute settlement procedures if its concerns are not addressed fully.

- *Korea—Steel Subsidies.* The United States is concerned that the Korean government may have provided large subsidies for the establishment and expansion of Hanbo Iron and Steel, and directed the banking industry to continue to extend credits beyond what is financially prudent. U.S. industry is concerned that such measures may be subsidies that are creating unfair competition through price undercutting and displaced U.S. exports to Korea and to third country markets. We have sought further information from the Korea government, both bilaterally and in the WTO Subsidies Committee, and will examine Korea's practices in light of its WTO obligations.

Problems Requiring Special Attention

As traditional barriers to market access have been reduced at the border, the increase in the application of government measures under the guise of technical requirements has increased. These are problems that are being given special attention by the Administration, and that may warrant enforcement action in the future if they are not resolved satisfactorily.

Sanitary and Phytosanitary Measures

Numerous U.S. agricultural exports have been denied import approval or have faced costly import quarantine requirements due to sanitary and phytosanitary (SPS) barriers to trade that lack a scientific basis and appear to discriminate arbitrarily or unjustifiably against U.S. agricultural exports. The Administration has implemented an aggressive agenda to address unjustified SPS barriers, including high-level technical talks with our trading partners, raising these issues in the WTO SPS Committee to apply multilateral pressure, and resorting to WTO dispute settlement procedures where necessary.

As a result of intense efforts in the past year, the Administration has resolved technical issues bilaterally to permit exports of tomatoes to Japan, table grapes to China, lemons, table grapes, kiwis, oranges and grapefruit to Chile, sweet cherries to Mexico, rough rice to Honduras, live swine to Argentina and Peru, and live cattle to Peru.

The Administration will continue to press our trading partners to remove unjustified SPS barriers facing U.S. agricultural exports, including:

- *EU–Specified Risk Material (SRM) Ban and Cosmetics Directive.* Two recent directives approved by the European Commission prohibiting the sale in the EU of cosmetic products containing tallow and its derivatives, and governing the production of certain materials, due to concerns regarding the transmission of Bovine Spongiform Encephalopathy (BSE), raise concerns with respect to the EU's WTO obligations. The directives fail to recognize that BSE is not known to occur in the United States and that the United States maintains an aggressive surveillance program for BSE that exceeds international standards. The EU has failed to provide a scientific basis for these requirements, and both directives are expected to have severe negative effects on U.S. exports of pharmaceutical, cosmetic and tallow products; and the potential impact on the international availability of essential pharmaceutical products also raises serious public health concerns.
- *France—Pet Food Imports.* In September 1996, France adopted new requirements for pet food production, restricting the use of certain animal products or proteins and prohibiting the use of certain material. The regulation requires that manufacturers exclude materials from the rendering process that are commonly considered safe by renderers and this has effectively stopped all U.S. pet food exports to France. France has not demonstrated the scientific principle underlying the restriction of non-mammalian material as a protective measure against any risk factor. This issue was raised by the United States at the July 1997 meeting of the WTO SPS Committee.
- *Australia—Pest Risk Analyses.* For a number of years, and in a variety of fora, the United States has requested entry into Australia's market for stone fruit, shelled almonds, Florida citrus fruit and California grapes. The United States has submitted several pest lists to enable Australia to complete its WTO-required risk assessments. To date, Australia has provided no scientific basis for its prohibitions on U.S. exports of these products, nor has it provided pest risk analyses.

The delays experienced on these issues have seriously hampered the approval process for U.S. exports of these commodities.

Technical Barriers to Trade

Technical barriers to trade are of particular concern in our important relationship with the EU. In successive meetings of the WTO Committee on Standards, and other WTO bodies, the United States and other nations have

flagged concerns that standards, certification, and testing requirements in the EU can sometimes pose serious technical barriers to trade. The U.S.–EU trade and investment relationship is the largest and most complex in the world. Sophisticated business interactions across the Atlantic are affected to a significant degree by standards, technical regulations and conformity assessment procedures. While the recent U.S.–EU mutual recognition agreement on conformity assessment, covering six industrial sectors, should help reduce standards-related barriers, U.S. companies continue to be concerned about certain aspects of EU standards-related practices that could inhibit U.S. exports.

• *EU –Design Restrictive Standards.* U.S. firms continue to encounter difficulty in obtaining market access for certain products in Europe due to design-restrictive standards that may have no bearing on the safety and performance of the product. While U.S. companies with U.S. Government assistance may achieve some success in addressing problems in individual national markets, market access becomes even more difficult if a European regional standards body decides to develop a European-wide standard. The initiation of work on a regional standard results in a standstill on related work in individual member States and thus can delay or, if unnecessarily restrictive standards are finally adopted, prevent improved access to EU markets. The United States continues to raise its concerns, both bilaterally and in the WTO, with the standards making process in the EU and design-restrictive standards and has in particular sought to address the problems encountered by a U.S. manufacturer of gas connectors.

• *EU Ecolabeling Directive.* The EU Ecolabeling Directive sets forth a scheme whereby EU Member States will grant voluntary environmental labels based on criteria approved by the European Commission for products in specific sectors. The United States affirms its support for the concept of ecolabeling and has previously expressed appreciation for the EU's attempts to address problems raised by the United States regarding its ecolabeling program. However, while improvements in the transparency of procedures and opportunity for foreign participation in the EU's ecolabeling program have been reported, concern remains that the EU ecolabeling program favors European industry, thus leading to trade concerns.

• *EU Units of Measurement Directive.* The EU plans to implement a directive requiring that after December 31, 1999, the only indications of measurement that can be used on product labels will be metric units. Currently, labels may include other units (e.g., inches, pounds) in addition to metric units. Such a step is unnecessary and burdensome, and will affect many U.S. companies, particularly in those industries where packaging and labeling are key aspects of placing a product on the market (e.g., food products, consumer goods and cosmetics).

Other Bilateral Issues

• *Argentina—Footwear Import Restrictions.* After the United States initiated WTO panel proceedings to determine whether Argentine import duties on textiles, apparel and footwear are within Argentina's maximum permissible rate, Argentina revoked its challenged duties on footwear and replaced them with similar duties in the guise of an emergency import relief measure. On September 1, 1997, Argentina notified the WTO that this so-called safeguard measure would be extended for three years. The United States is reviewing this action in light of Argentina's obligations under the WTO agreement on safeguard measures.

• *Brazil—Import Financing Measures.* On March 25, 1997, Brazil imposed new import financing rules that are adversely affecting a wide range of U.S. exports to Brazil. The measure, which requires importers to purchase foreign exchange to pay for imports upon importation or 180 days in advance rather than when payment is due under their contract, effectively increases the cost of many imports by eliminating or reducing supplier credits of less than one year. The United States is consulting with Brazil bilaterally and is reviewing the matter in light of Brazil's WTO obligations.

• *Taiwan—Market Access for Pharmaceuticals.* U.S. pharmaceutical companies are increasingly concerned about discriminatory aspects of Taiwan's reference pricing system for pharmaceuticals. This system, as applied by Taiwan's Bureau of National Health Insurance, appears to be inconsistent with national treatment principles. Taiwan authorities have agreed to consultations on this problem in the near future.

Multilateral Priorities

Within the next three years the United States will participate in a number of major WTO negotiations in areas where we are a top global competitor. As a result of the Uruguay Round, the United States has a broad agenda in the WTO to pursue further negotiations and strengthen existing agreements. Among others, WTO negotiations are scheduled to open further the $600 billion global agriculture market beginning in 1999; to further open the $1.2 trillion global services market; and to review the Agreement on Trade-Related Intellectual Property Rights (TRIPs) which protects a variety of U.S. intellectual property right holders, including U.S. copyright holders whose foreign sales and exports exceed $53 billion a year. Also included is the two-pronged agenda to negotiate improvements to the current reciprocal Agreement on Government Procurement and to conclude an agreement obligating all WTO members to maintain transparent procurement practices, thereby enabling U.S. companies to compete in the trillion-dollar global government procurement market. We will also review the WTO Dispute Settlement Understanding that has already enabled us to open many new markets in the last two years. As illustrated by most of the comments received from the public by USTR in preparing this report, high tariffs—especially in the agricultural sector—continue to block U.S. exports to a number of markets. Fast track procedures are essential if we are going to capitalize on the additional market opportunities presented by the WTO negotiations.

Our most immediate goal is to obtain significantly improved commitments from our trading partners that will allow us to conclude successfully the WTO financial services negotiations by the end of this year. These negotiations represent an important opportunity to reach a successful agreement that opens new opportunities for U.S. financial services providers in the key emerging markets around the world and furthers the integration of national financial systems needed for a more interconnected global economy in the 21st century.

Adding New Markets to the Rules-based Trading System. The United States continues to place high priority on ensuring that its trading partners accept the rule of law as it applies to trade—ensuring that their trade and economic policies are consistent with international trade practices and norms, such as those of the WTO. A principal means of ensuring that new entrants into the international trading system accept the rule of law is through the negotiation of the terms and conditions of an applicant's WTO membership. New members must be prepared to implement WTO obligations and to grant commercially meaningful market access commitments and concessions, on both goods and services, as well as

make specific commitments to limit agricultural subsidies. There are presently 29 applicants negotiating to become members of the WTO, including China, Russia, Taiwan, Ukraine, and Saudi Arabia.

Sectoral Priorities

The Administration will continue to ensure that U.S. industries that are competitive global leaders enjoy export success commensurate with their competitive position. In the last year we have taken major steps forward in advancing this goal with the Information Technology Agreement (ITA) and the Agreement on Basic Telecommunications. The ITA will reduce tariffs to zero in a $500 million global market in which the United States is the world's largest single exporter. The Agreement on Basic Telecommunications ensures that U.S. companies can compete against and invest in all existing carriers around the world. U.S. companies will now have access to markets accounting for over 95 percent of global telecommunications revenue and will be in the best position to take advantage of a $600 billion industry that is expected to double or even triple in the next 10 years. The agreement provides U.S. companies market access for local, long-distance and international service and the ability to establish or hold a significant stake in telecommunications companies around the world. Sixty-five countries adopted procompetitive regulatory principles based on landmark U.S. legislation, the 1996 Telecommunications Act.

We are seeking to build on our success to pursue market-opening sectoral agreements in areas where the United States can capitalize further on its global competitive advantage if market access barriers are reduced, including in areas such as trade in chemicals, environmental technology and services, medical equipment and services, oilseeds and oilseed products, and wood and paper products. Fast track procedures are essential to ensure that the United States can continue to play the critical role in negotiations that reduce such barriers.

Regional Priorities

The *Asia Pacific region* contains the fastest growing economies in the world. Reaching the goal of open markets with the members of the Asia Pacific Economic Cooperation Forum (APEC) would increase U.S. global exports of goods alone by 13 percent or $80 billion a year. As a step toward that goal, market opening agreements in key sectors would provide important new opportunities for U.S. exporters.

Latin America and the Caribbean are the fastest growing markets for U.S. merchandise exports. During the first six months of 1997, our exports to the region grew more than twice as fast as our exports to the rest of the world. At the recent meeting of the Trade Ministers of the nations participating in the Free Trade Area of the Americas (FTAA) in Belo Horizante, Brazil, the Ministers agreed that FTAA negotiations should be launched at the Second Summit of the Americas in April 1998. The negotiations will address the full range of issues from tariff reductions to agriculture to structural issues such as intellectual property rights protection and government procurement. We remain fully committed to negotiating a comprehensive free trade agreement with Chile.

In addition, we are continuing intensive discussion with our partners in Western Europe to complete commercially significant sectoral market-enhancing commitments in the context of the Transatlantic agenda. The United States and the EU are participating in a joint study of high priority sectors where we can progressively eliminate or reduce barriers. In June 1997 the United States and the EU concluded negotiations on a mutual recognition agreement that facilities U.S. exports to the EU in sectors such as telecommunications equipment, pharmaceuticals, and medical devices, by allowing U.S. manufacturers to have conformity assessment procedures, such as testing and inspection, conducted in the United States. This agreement will reduce costs for both manufacturers and regulators alike, and will help harmonize standards in certain sectors.

Finally, through President Clinton's ''Partnership for Economic Growth and Opportunity in Africa'' initiative, we seek to strengthen the process of economic and political reform and encourage the further opening of *African markets* and the maintenance of open markets through the assumption of increased WTO obligations. Increased African participation in the international trading system should benefit American and African exporters alike and lay the foundation for eventual free trade agreements between African countries and the United States.

Appendix—Successfully Enforcing WTO Agreements

Early victories. The United States has won the first five cases that it has taken through the WTO dispute settlement panel process.

- *Japan-liquor taxes.* The United States—joined by the EU and Canada—successfully challenged a discriminatory Japanese tax scheme that placed high taxes on whisky, vodka, and other Western-style spirits, while applying low taxes to a traditional Japanese spirit (shochu). This was an important victory for the U.S. distilled spirits industry, whose exports to Japan have reached $100 million per year even in spite of the heavy Japanese taxes. Japan has already enacted legislation that is a major step toward eliminating the problem. The excise taxes on whisky and other brown spirits are being dramatically reduced, starting in October 1997, and the excise tax on shochu will be increased. The result will be a drastic tax cut for our brown spirits exports.
- *Canada-restrictions on magazines.* The United States successfully challenged a recently enacted Canadian law that placed a high tax on American magazines containing advertisements directed at a Canadian audience. This tax, which was the latest in a series of Canadian government measures designed to protect the Canadian magazine industry from U.S. competition, was specifically calculated to put the Canadian edition of Sports Illustrated, published by the Canadian subsidiary of Time Warner, Inc., out of business. By ruling in favor of the United States, this case makes clear that WTO rules prevent governments from using ''culture'' as a pretense for discriminating against imports.
- *EU—banana imports.* The United States joined Ecuador, Guatemala, Honduras, and Mexico in challenging an EU import program that gave French and British companies a big share of the banana distribution services business in Europe that U.S. companies had built up over the years. Ruling against the EU, the WTO panel and Appellate Body found that the EU banana import rules violated both the General Agreement on Trade in Services and the General Agreement on Trade in Goods by depriving U.S. banana distribution services companies and Latin American banana producers of a fair share of the EU market.
- *EU—hormone ban.* Both the United States and Canada challenged Europe's ban on the use of six hormones to promote the growth of cattle, and a WTO panel agreed that the EU has no scientific basis for blocking the sale of American beef in Europe. This is a sign that the WTO dispute settlement system can handle complex and difficult disputes where a WTO member attempts to justify trade barriers by thinly disguising them as health measures. The panel affirmed the need for food safety measures to be based on

science, as they are in the United States. In addition to potentially affecting over $100 million in U.S. beef exports annually, this ruling sets an important precedent that will act to protect other U.S. exporters from unscientific and unjustified trade barriers in the future.

• *India—patent law.* The United States recently obtained a panel ruling against India for failing to provide procedures for filing patent applications for pharmaceuticals and agricultural chemicals, as required by the WTO agreement on intellectual property protection. Besides serving notice that the United States expects all WTO members, including developing countries, to carry out their WTO obligations concerning intellectual property rights, this case also demonstrates that the WTO dispute settlement mechanism can play an important role in protecting American rights and interests in this field.

Significant settlements. The WTO agreements and the new dispute settlement rules are already paying dividends by helping us increase jobs and exports. The new dispute settlement rules often make it possible for us to enforce WTO agreements without ever having to reach a panel decision. The fact that the WTO can and will authorize us to retaliate pays off in earlier settlements opening markets for more of our exports. We have already used the WTO procedures to obtain favorable settlements in some important cases:

• *Korea—shelf-life requirements.* Consultations under WTO procedures resulted in a commitment by Korea to phase out its shelf-life restrictions on food products—which removed a major barrier to US exports of beef, pork, poultry and frozen products.

• *EU—grains imports.* By demonstrating our resolve to refer the matter to a panel, we succeeded in pushing the EU to implement a settlement agreement on grains that benefits U.S. exports of rice and malting barley.

• *Japan—sound recordings.* In only a matter of months after we held WTO consultations, the Government of Japan amended its law to provide U.S. sound recordings with retroactive protection, as required by the WTO agreement on intellectual property rights.

• *Portugal—patent law.* After the United States requested WTO consultations, Portugal agreed to revise its patent law to provide a 20-year term to old, as well as new, patents, as required by the WTO agreement on intellectual property rights.

• *Pakistan—patent law.* After the United States requested the establishment of a WTO panel to enforce the WTO intellectual property rights agreement, Pakistan implemented the requirements of that agreement to provide procedures for filing patent applications and preserving exclusive marketing rights to protect pharmaceuticals and agricultural chemicals.

• *Turkey—film tax.* The United States has used the WTO dispute settlement process to convince the Government of Turkey to eliminate discriminatory tax treatment currently given to box office receipts from exhibition of foreign films. Turkey has agreed to change its practice.

• *Hungary—agricultural export subsidies.* The United States, joined by Argentina, Australia, Canada, New Zealand, Thailand, and Japan, used the WTO dispute settlement procedures to address Hungary's lack of compliance with its commitments on agricultural export subsidies. The result was a settlement agreement in which Hungary will have to cut its current export subsidy levels by more than 65%.

Irving A. Williamson,

Chairman, Section 301 Committee.

[FR Doc. 97–26565 Filed 10–7–97; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aircraft Accident Liability Insurance; Notice of Request for Extension of a Previously Approved Collection

AGENCY: Office of the Secretary, DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended), this notice announces the Department of Transportation's (DOT) intention to request the extension of a previously approved collection.

DATES: Comments on this notice must be received by December 8, 1997.

ADDRESSES: Comments should be directed to the Air Carrier Fitness Division (X–56), Office of Aviation Analysis, Office of the Secretary, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Carol A. Woods, Air Carrier Fitness Division (X–56), Office of Aviation Analysis, Office of the Secretary, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366–9721.

SUPPLEMENTARY INFORMATION:

Title: Aircraft Accident Liability Insurance.

OMB Control Number: 2106–0030.

Expiration Date: February 28, 1998.

Type of Request: Extension of a previously approved collection.

Abstract: 14 CFR Part 205 contains the minimum requirements for air carrier accident liability insurance to protect the public from losses, and directs that certificates evidencing appropriate coverage must be filed with the Department.

Respondents: U.S. and foreign air carriers.

Estimated Number of Respondents: 4,250 (avg. 1.3 responses per respondent per year).

Average Annual Burden per Respondent: .67 hour (.5 hours per response).

Estimated Total Burden on Respondents: 2,762.5 hours.

This information collection is available for inspection at the Air Carrier Fitness Division (X–56), Office of Aviation Analysis, DOT, at the address above. Copies of 14 CFR Part 205 can be obtained from Ms. Carol Woods at the address and telephone number shown above.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (b) the accuracy of the Department's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Issued in Washington, DC on October 1, 1997.

John V. Coleman,

Director, Office of Aviation Analysis.

[FR Doc. 97–26617 Filed 10–7–97; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of The Secretary

Reports, Forms and Recordkeeping Requirements Agency Information Collection Activity Under OMB Review

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces that the Information Collection Requests (ICRs) abstracted below have been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICRs describe the nature of the information collection and its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection was published on February 19, 1997 [62 FR 7638–7648].

DATES: Comments on this notice must be received on or before November 7, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Delmer Billings, Information Collection Clearance Officer, Office of Hazardous Materials Standards (DHM–10), Research and Special Programs Administration, Room 8102, 400 Seventh Street, SW., Washington, DC 20590, Telephone: (202) 366–4482.

SUPPLEMENTARY INFORMATION:

Research and Special Programs Administration (RSPA)

Title: Cargo Tank Motor Vehicles in Liquified Compressed Gas Service.

OMB Control Number: 2137–0595.

Affected Public: Each motor carrier using a cargo tank motor vehicle which does not conform to 49 CFR 178.337–11(a)(1)(I) to carry liquefied compressed gas products.

Abstract: The reason for this information collection activity and burden is to ensure the safe operation of certain cargo tank motor vehicles used in the transportation of liquefied compressed gases. Based on information that emergency discharge shut-off features on these types of cargo tanks do not operate properly in emergency situations, RSPA requires that motor carrier and cargo tank operators develop emergency operating procedures for manually shutting off the flow of product in the event of an emergency and that a copy of the procedure be displayed in or on each cargo tank motor vehicle. The information collection and recordkeeping burdens are imposed on motor carriers and operators of these cargo tank motor vehicles.

Estimated Annual Burden Hours: 18,573.

Number of Respondents: 6,800.

Total Annual Responses: 25,000.

Frequency of Collection: Procedures are developed on a one-time basis and are maintained on a vehicle on a continuing basis while the vehicle is in use.

Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention DOT Desk Officer. Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC on October 1, 1997.

Vanester M. Williams,

Clearance Officer, United States Department of Transportation.

[FR Doc. 97–26615 Filed 10–7–97; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms and Recordkeeping Requirements Agency Information Collection Activity Under OMB Review

AGENCY: Office of the Secretary, DOT.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection(ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on May 29, 1997, [62 FR 29181].

DATES: Comments must be submitted on or before November 7, 1997.

FOR FURTHER INFORMATION CONTACT: Judith Street, ABC–100; Federal Aviation Administration; 800 Independence Avenue, SW.; Washington, DC 20591; Telephone number (202) 267–9895.

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Office of the Associate Administrator for Comercial Space Transportation: Request for Evaluation of Customer Service Standards (Survey).

OMB Control Number: 2120–0611.

Type Of Request: Extension of currently approved collection.

Affected Public: Approximated 50 representatives of the U.S. commercial launch industry and other industry representatives from related industries such as U.S. satellite manufacturers and users, as well as representatives from businesses and associations which have an interest in our business-related concerns with the U.S. commercial launch industry.

Abstract: In accordance with the Government Performance and Results Act of 1993 (GPRA) and Executive Order No. 12862, which mandate surveying customer satisfaction, the Associate Administrator for Commercial Space Transportation (AST) is proposing to disseminate the ''AST Customer Service Survey'' to obtain industry input on the Customer Service Standards published and disseminated by AST.

Annual Estimated Burden Hours: 25.

Addressee: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention DOT Desk Officer.

Comments are Invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC on October 1, 1997.

Vanester M. Williams,

Clearance Officer, United States Department of Transportation.

[FR Doc. 97–26616 Filed 10–7–97; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–97–49]

Petitions For Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before October 27, 1997.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, D.C. 20591.

Comments may also be sent electronically to the following internet address: 9–NPRM–CMNTS@faa.dot.gov.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Heather Thorson (202) 267–7470 or Angela Anderson (202) 267–9681 Office of Rulemaking (ARM–1), Federal Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on September 30, 1997.

Michael E. Chase,

Acting Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: 28976.
Petitioner: Cessna Aircraft Co.
Sections of the FAR Affected: 14 CFR 25.677(b).
Description of Relief Sought: Petitioner requests exemption from the requirements of § 25.677(b) for a visual trim device position indicator, by electing not to install a horizontal stabilizer (actuation system dependent) position indicator on the Cessna Citation model 560XL. The Cessna 560XL will incorporate a two position horizontal stabilizes with its position governed by the selected trailing edge flap deflection; the Cessna 560XL meets all Part 25 handling characteristics and pilot control force limits with any combination of trailing edge flap deflection and horizontal stablizer position.

Dispositions of Petitions

Docket No.: 27001.
Petitioner: British Aerospace Regional Aircraft.
Sections of the FAR Affected: 14 CFR 25.562(c)(5) and 25.785(a).
Description of Relief Sought/Disposition: Grants relief from compliance with the Head Injury Criteria of FAR part 25 for the front row passengers of the Jetstream Model 4101 airplane. *Grant, 9/15/97, Exemption No. 5587E.*

Docket No.: 27372.
Petitioner: Fly BVI.
Sections of the FAR Affected: 14 CFR 61.89(a)(5).
Description of Relief Sought/Disposition: To permit Fly BVI's student pilots to fly between Tortola, British Virgin Islands, and the airports of the U.S. Virgin Islands and Puerto Rico while fulfilling the cross-country requirements for a private pilot certificate. *Grant, 9/15/97, Exemption No. 4796B.*

Docket No.: 25120.
Petitioner: Singapore Airlines Limited.
Sections of the FAR Affected: 14 CFR 21.197(c).
Description of Relief Sought/Disposition: To allow the issuance of a special flight permit with a continuing authorization for three U.S.-registered Boeing B–747–312 aircraft (Serial No. 23033, Registration No. N122KH; Serial No. 23243, Registration No. N123KJ; and Serial No. 23244, Registration No. N124KK) on lease to SIA. *Grant, 9/15/97, Exemption No. 6680.*

Docket No.: 28998.
Petitioner: Trans Continental Airlines, Inc.
Sections of the FAR Affected: 14 CFR 21.93(b)(2)(iii).
Description of Relief Sought/Disposition: To permit TCA to operate its DC–8 airplane (Registration Number N183SK, Serial Number 45904) until November 18, without the State 3 Forward Bifurcated Fan Air Ducts (Bi-Duct R.H. S/N 3529). *Grant, 9/15/97, Exemption No. 6676.*

Docket No.: 28940.
Petitioner: Polar Air Cargo, Inc.
Sections of the FAR Affected: 14 CFR 121.470 and 121.471(a)(3).
Description of Relief Sought/Disposition: To permit Polar Air To schedule pilots to fly up to 34 hours in 7 days in connection with flight segments of international operations conducted within the continental United States. *Denial, 9/15/97, Exemption No. 6681.*

Docket No.: 28718.
Petitioner: Goodyear Tire & Rubber Company.
Sections of the FAR Affected: 14 CFR 21.325(b)(3).
Description of Relief Sought/Disposition: To permit the issuance of U.S. export airworthiness approvals for Class II and Class III products manufactured and located at its Bangkok, Thailand, facility, which is operated by the petitioner in connection with its U.S. Technical Standard Order (TSO) authorization. *Grant, 9/24/97, Exemption No. 6682.*

Docket No.: 23685.
Petitioner: Department of the Navy.
Sections of the FAR Affected: 14 CFR 101.23(b) and (c).
Description of Relief Sought/Disposition: To permit the Navy, specifically, the United States Marine Corps (USMC) at Marine Corps Air Station (MCAS) Beaufort, South Carolina, to use Missile Plume Simulator GTR–18 Class B Fireworks within controlled firing area (CFA) at MCAS Beaufort, South Carolina and at Beaufort County Airport, South Carolina. *Grant, 9/18/97, Exemption No. 3938D.*

Docket No.: 25245.
Petitioner: Department of the Air Force.
Sections of the FAR Affected: 14 CFR 91.215(b) and (c).
Description of Relief Sought/Disposition: To permit permits the Air Force to conduct certain military training flight operations in designated airspace above 10,000 feet mean sea level without being required to operate the aircraft transponders, subject to certain conditions and limitations. *Grant, 9/18/97, Exemption No. 4633G*

Docket No.: 28261.
Petitioner: Ameriflight, Inc.
Sections of the FAR Affected: 14 CFR 91.205(d)(6).
Description of Relief Sought/Disposition: To permit Ameriflight to conduct instrument flight rule (IFR) operations with inoperative aircraft clocks installed in its aircraft. *Senial, 9/23/97, Exemption No. 6686.*

Docket No.: 27306.

Petitioner: NockAir Helicopters, Inc.

Sections of the FAR Affected: 14 CFR 133.43 (a) and (b).

Description of Relief Sought/ Disposition: To permit NockAir to use its helicopters to perform aerial trapeze acts without using an approved external-load attachment or quick-release device for carrying a person on a trapeze bar. *Grant, 9/23/97, Exemption No. 6885.*

Docket No.: 23455.

Petitioner: Reeve Aleutain Airways.

Sections of the FAR Affected: 14 CFR 121.574(a) (1), (3), and (4).

Description of Relief Sought/ Disposition: To permit RAA to carry and operate onboard its aircraft certain oxygen storage, generating, and dispensing equipment for medical use by patients requiring medical attention when the oxygen and equipment is furnished and maintained by hospitals, clinics, or municipal medical services within the State of Alaska. *Grant, 9/23/97, Exemption No. 6684.*

Docket No.: 28260.

Petitioner: Emery Worldwide Airlines.

Sections of the FAR Affected: 14 CFR 121.503, 121,505, and 121.511.

Description of Relief Sought/ Disposition: To permit Emery to conduct all of its part 121 all-cargo operations in the 48 contiguous states in accordance with all of the provisions of § 121.471. *Grant, 9/23/97, Exemption 6184A.*

Docket No.: 28361.

Petitioner: Valujet Airline, Inc.

Sections of the FAR Affected: 14 CFR 91.203 (a) and (b).

Description of Relief Sought/ Disposition: To permit ValuJet to temporarily operate its aircraft following incidental loss or mutilation of the airworthiness or registration certificate, or both. *Grant, 9/23/97, Exemption No. 6395A.*

Docket No.: 28053.

Petitioner: Federal Express Corporation.

Sections of the FAR Affected: 14 CFR 121.401(c), 121.433(c)(1)(iii), 121.441 (a)(1) and (b)(1), and appendix F.

Description of Relief Sought/ Disposition: To permit FedEx to combine recurrent flight and ground training and proficiency checks for FedEx's pilots in command, seconds in command, and flight engineers in a single annual training and proficiency evaluation program. *Grant, 9/23/97, Exemption No. 6152B.*

[FR Doc. 97–26609 Filed 10–7–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent to Rule on Application to Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Central Illinois Regional Airport, Bloomington, Illinois

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Intent to Rule on Application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Central Illinois Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before November 7, 1997.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Chicago Airports District Office, 2300 E. Devon Ave., Room 201, Des Plaines, Illinois 60018.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to the Bloomington-Normal Airport Authority at the following address: Mr. Michael La Pier, Executive Director, Central Illinois Regional Airport, 2901 East Empire, Suite 200, Bloomington, Illinois 61704.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Bloomington-Normal Airport Authority under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Denis Rewerts, Civil Engineer, Chicago Airports District Office, Room 201, 2300 E. Devon Ave., Des Plaines, IL 60018, (847) 294–7195. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Central Illinois Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On September 19, 1997, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Bloomington-Normal Airport Authority was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than December 5, 1997.

The following is a brief overview of the application.

PFC application number: 97–02–C–00–BMI.

Level of the proposed PFC: $3.00.

Proposed charge effective date: December 1, 2010.

Proposed charge expiration date: November 1, 2021.

Total estimated PFC revenue: $5,752,503.

Brief description of proposed project(s):

Impose and Use Projects

PFC program development, Runway 20 FAR Part 150 land acquisition, terminal building addition, terminal jetway facility, purchase mobile air stairs, extend Runway 2/20 to 7000′×100′, purchase new airfield deicing truck, purchase two communal walks, expand auto parking facilities, baggage claim improvements, purchase passenger lift device.

Impose Only Project

Construct New Terminal Area

Class or classes of air carrier which the public agency has requested not be required to collect PFCs: Air taxi/ commercial operators filing FAA Form 1800–31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Central Illinois Regional Airport, 2901 East Empire, Suite 200, Bloomington, Illinois 61704.

Issued in Des Plaines, Illinois on September 26, 1997.

Benito De Leon,

Manager, Planning and Programming Branch Airports Division, Great Lakes Region.

[FR Doc. 97–26608 Filed 10–7–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent to Rule on Application (#97–04–C–00–EGE) to Impose a Passenger Facility Charge (PFC) and Use the Revenue From a PFC at Eagle County Regional Airport, Submitted by Eagle County, Eagle, Colorado

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use PFC revenue at Eagle County Regional Airport under the provisions of 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulations (14 CFR 158).

DATES: Comments must be received on or before November 7, 1997.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Alan Wiechmann, Manager; Denver Airports District Office, DEN–ADO; Federal Aviation Administration; 26805 E. 68th Avenue, Suite 224; Denver, CO 80249–6361.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Jim Elwood, A.A.E., Airport Manager, at the following address: Eagle County Regional Airport, P.O. Box 850, Eagle, Colorado 81631.

Air Carriers and foreign air carriers may submit copies of written comments previously provided to Eagle County Regional Airport, under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Christopher Schaffer, (303) 342–1258; Denver Airports District Office, DEN–ADO; Federal Aviation Administration; 2608 E. 68th Avenue, Suite 224; Denver, CO 80249–6361. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application (#97–04–C–00–EGE) to impose and use PFC revenue at Eagle County Regional Airport, under the provisions of 49 U.S.C. 40117 and Part 158 of the Federal Aviation Regulations (14 CFR part 158). On October 1, 1997, the FAA determined that the application to impose and use the revenue from a PFC submitted by Eagle County, Eagle County Regional Airport, Eagle, Colorado, was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than December 31, 1997.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: March 1, 1998.

Proposed charge expiration date: July 1, 2012.

Total requested for use approval: $300,000.00.

Brief description of proposed project: Snow removal equipment.

Class or classes of air carriers which the public agency has requested not to be required to collect PFC's: None.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Airports Office located at: Federal Aviation Administration, Northwest Mountain Region, Airports Division, ANM–600, 1601 Lind Avenue S.W., Suite 540, Renton, WA 98055–4056.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Eagle County Regional Airport.

Issued in Renton, Washington on October 1, 1997.

David A. Field,

Manager, Planning, Programming and Capacity Branch, Northwest Mountain Region.

[FR Doc. 97–26669 Filed 10–7–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application to Use a Passenger Facility Charge (PFC) at Portland International Airport, Portland, Oregon; Correction

SUMMARY: This correction incorporates information from the public agency's application which further defines the ''Class or classes or air carriers which the public agency has requested not be required to collect PFC's''. The public agency's definition has been added to the previously published excluded class.

In notice document 97–24256 beginning on page 48128 in the issue of Friday, September 12, 1997, make the following correction:

In the first column: Class or classes of air carriers which the public agency has requested not be required to collect PFC's: On demand, non scheduled Air Taxi/Commercial Operators. Further defined by Ordinance 359 of the Port of Portland as: The carriage in air commerce of persons for compensation or hire as a commercial operator, but not an air carriers, of aircraft having a maximum seating capacity of less than twenty passengers or a maximum payload capacity of less than 6,000 pounds. ''Air Taxi/Commercial Operator'' shall also include, without regard to number of passengers or payload capacity, revenue passengers transported for student instruction, nonstop sightseeing flights that begin and end at the same airport and are conducted within a 25 mile statute radius of the Airport, ferry or training flights, aerial photography or survey charters, and fire fighting charters.

Issued in Renton, Washington on September 30, 1997.

David A. Field,

Manager, Planning, Programming and Capacity Branch, Northwest Mountain Region.

[FR Doc. 97–26670 Filed 10–7–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent to Rule on Application (97–02–U–00–AVP) to Use the Revenue From a Passenger Facility Charge (PFC) at the Wilkes-Barre Scranton International Airport, Wilkes-Barre, Pennsylvania

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Intent to Rule on Application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to use the revenue from a PFC at the Wilkes-Barre Scranton International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before November 7, 1997.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Mr. John Carter, Acting Manager, Harrisburg Airports District Office, 3911 Hartzdale Dr., suite 1, Camp Hill, PA 17011.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Barri Centini, Airport Director of the Luzerme

& Lackawana Counties Bi-County Board of Commissioners at the following address: Wilkes-Barre Scranton International Airport, 100 Terminal Road, Avaco, Pennsylvania 18641.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Luzerme & Lackawana Counties Bi-County Board of Commissioners under § 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: John Carter, Acting Manager, Harrisburg Airports District Office, 3911 Hartzdale Dr., suite 1, Camp Hill, PA 17011. 717–782–4548. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to use the revenue from a PFC at the Wilkes-Barre Scranton International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On October 1, 1997, the FAA determined that the application to use the revenue from a PFC submitted by the Luzerme & Lackawana Counties Bi-County Board of Commissioners was substantially complete within the requirements of section 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in Part, no later than January 2, 1998.

The following is a brief overview of the application.

Application number: 97–02–U–00–AVP.

Level of the proposed PFC: $3.00.

Proposed charge effective date: December 1, 1993.

Proposed charge expiration date: December 1, 1998.

Total estimated PFC revenue: $3,312,694.

Brief description of proposed project:

—Design Passenger Terminal Building
—Design Passenger Terminal Apron
—Design ARFF Building
—Construct Parallel Taxiway—Runway 10/28
—Construct Phase I—Cargo and General Apron
—Construct ARFF Building

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Part 135 on-demand Air Taxi/Commercial Operators.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA regional Airports office located at: Fitzgerald Federal Building, John F. Kennedy International Airport, Jamaica, New York, 11430.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Luzerme & Lackawana Counties Bi-County Board of Commissioners.

Issued in Jamaica, New York on October 1, 1997.

Thomas Felix,

Grant-In-Aids Program Manager.

[FR Doc. 97–26668 Filed 10–7–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33408]

Gateway Western Railway Company—Lease Exemption—The Burlington Northern and Santa Fe Railway Company

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice of exemption.

SUMMARY: Under 49 U.S.C. 10502, the Board exempts from the requirements of 49 U.S.C. 11323–25 the lease by Gateway Western Railway Company of The Burlington Northern and Santa Fe Railway Company's Coburg Line, extending a distance of 5.45 miles between milepost 0.0 at the Sheffield interlocking and milepost 5.45 near BV Junction, in Kansas City, Jackson County, MO, subject to standard labor protective conditions.

DATES: The exemption will be effective November 7, 1997. Petitions to stay must be filed by October 23, 1997. Petitions to reopen must be filed by November 3, 1997.

ADDRESSES: An original and 10 copies of all pleadings referring to STB Finance Docket No. 33408 must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001; in addition, a copy of all pleadings must be served on petitioner's representative: William C. Sippel, Oppenheimer Wolff & Donnelly, Two Prudential Plaza, 45th Floor, 180 North Stetson Avenue, Chicago, IL 60601.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon (202) 565–1600. [TDD for the hearing impaired: (202) 565–1695.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision. To purchase a copy of the full decision, write to, call or pick up in person from: DC NEWS & DATA INC., 1925 K Street, N.W., Suite 210, Washington DC 20006. Telephone: (202) 289–4357. [Assistance for the hearing impaired is available through TDD services (202) 565–1695.]

Decided: September 29, 1997.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 97–26672 Filed 10–7–97; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33460]

4 States Railway Service, Inc., d/b/a West Chester Railroad Co.; Lease and Operation Exemption; Borough of West Chester

4 States Railway Service, Inc., d/b/a West Chester Railroad Co., a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to sublease and operate 6.405 miles of rail line from the Borough of West Chester (Borough)[1] between milepost 27.4 +/−, at Station 1386+06, in West Chester, Chester County, PA, and milepost 20.995+/, at Glen Mills Station, Glen Mills, Delaware County, PA.

The transaction was scheduled to be consummated on or after September 22, 1997.

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33460, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on John K. Fiorilla, Esq., Watson, Stevens, Fiorilla & Rutter, 390 George Street, P.O. Box 1185, New Brunswick, NJ 08903.

Decided: September 30, 1997.

[1] The owner of the property is Southeastern Pennsylvania Transportation Authority (SEPTA). On December 31, 1996, SEPTA leased the line to the Borough for tourist railroad operations.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 97–26675 Filed 10–7–97; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–487 (Sub–No. 2X)]

Pittsburg & Shawmut Railroad, Inc.—Abandonment Exemption—in Jefferson County, PA

On September 18, 1997, Pittsburg & Shawmut Railroad, Inc. (PSRR), filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to abandon a line of railroad known as the Conifer Branch, extending from milepost 0.00 (milepost 24.29 on the main line of the Shawmut Subdivision), located south of Norman, PA, to milepost 5.08, located at or near Conifer, PA, which traverses U.S. Postal Service ZIP Code 15825, a distance of 5.08 miles, in Jefferson County, PA. The line includes the stations of Stanton, located at milepost 0.04; McGareys, located at milepost 0.06; Conifer, located at milepost 0.08; and End Conifer, located at milepost 0.10.

The line does not contain federally granted rights-of-way. Any documentation in the railroad's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by January 6, 1998.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each OFA must be accompanied by the filing fee, which currently is set at $900. *See* 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than October 28, 1997. Each trail use request must be accompanied by a $150 filing fee. See 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB–487 (Sub-No. 2X) and must be sent to: (1) Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001; and (2) Sebastian Ferrer, Gollatz, Griffin & Ewing, P.C., 213 West Miner Street, P.O. Box 796, West Chester, PA 19381–0796.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565–1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565–1545. [TDD for the hearing impaired is available at (202) 565–1695.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

Decided: October 1, 1997.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 97–26673 Filed 10–7–97; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–487 (Sub-No. 4X)]

Pittsburg & Shawmut Railroad, Inc.—Abandonment Exemption—in Armstrong County, PA

On September 18, 1997, Pittsburg & Shawmut Railroad, Inc., filed with the Surface Transportation Board a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to abandon a line of railroad known as the Widnoon Branch, extending from railroad milepost 0.00 (milepost 60.42 on the mainline of the Shawmut Subdivision), located at or near Dee, PA, to milepost 3.14, located at or near Widnoon, PA, which traverses U.S. Postal Service ZIP Codes 16261 and 16259, a distance of 3.14 miles, in Armstrong County, PA. The line includes the station of Widnoon at milepost 0.03.

The line does not contain federally granted rights-of-way. Any documentation in the railroad's possession will be made available promptly to those requesting it. The interest of railroad employees will be protected by *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by January 6, 1998.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each OFA must be accompanied by the filing fee, which currently is set at $900. *See* 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than October 28, 1997. Each trail use request must be accompanied by a $150 filing fee. *See* 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB–487 (Sub-No. 4X) and must be sent to: (1) Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001, and (2) Sebastian Ferrer, Gollatz, Griffin & Ewing, P.C., 213 West Miner Street, P.O. Box 796, West Chester, PA 19381–0796.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565–1592 or refer to the abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565–1545. [TDD for the hearing impaired is available at (202) 565–1695.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS).

EAs in these abandonment proceedings normally will be available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

Decided: September 30, 1997.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 97–26674 Filed 10–7–97; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–487 (Sub–No. 1X)]

Pittsburg & Shawmut Railroad, Inc.; Abandonment Exemption; in Jefferson County, PA

On September 18, 1997, Pittsburg & Shawmut Railroad, Inc. (PSRR), filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to abandon its line of railroad known as the Brockway to Brookville Branch, extending from railroad milepost 2.0 located at or near Brockway to milepost 19.0 located at or near Brookville, a distance of 17.0 miles, in Jefferson County, PA. The line traverses U.S. Postal Service Zip Codes 15824, 15825 and 15851, and includes the stations of Beechton, milepost 6; Sugar Hill, milepost 7; Reitz, milepost 9; and Allens Mills, milepost 10.

The line does not contain federally granted rights-of-way. Any documentation in PSRR's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by January 6, 1998.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each OFA must be accompanied by a $900 filing fee. See 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than October 28, 1997. Each trail use request must be accompanied by a $150 filing fee. See 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB–487 (Sub-No. 1X) and must be sent to: (1) Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001; and (2) Eric M. Hocky and Sebastian Ferrer, Gollatz, Griffin & Ewing, P.C., 213 West Miner Street, P. O. Box 796, West Chester, PA 19381–0796.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565–1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565–1545. [TDD for the hearing impaired is available at (202) 565–1695.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

Decided: September 29, 1997.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 97–26676 Filed 10–7–97; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Customs Service

Performance Review Board; Appointment of Members

AGENCY: U.S. Customs Service, Department of the Treasury

ACTION: General Notice.

SUMMARY: This Notice announces the appointment of the members of the United States Customs Service Performance Review Boards (PRB's) in accordance with 5 U.S.C. 4313(c)(4). The purpose of the PRB's is to review senior executives' performance appraisals and make recommendations regarding performance appraisals and performance awards.

EFFECTIVE DATE: October 1, 1997

FOR FURTHER INFORMATION CONTACT: Robert M. Smith, Personnel Director, Office of Human Resources Management, United States Customs Service, 1301 Constitution Avenue, N.W., (Gelman Building, Room 6100), Washington, D.C. 20229; Telephone (202) 634–5270.

Background

There are two (2) PRB's in the U.S. Customs Service.

Performance Review Board 1

The purpose of this Board is to review the performance appraisals of senior executives rated by the Acting Commissioner of Customs. The members are:

W. Ralph Basham, Assistant Director, Office of Administration, U.S. Secret Service

Elisabeth A. Bresee, Deputy Assistant Secretary (Enforcement), Department of the Treasury

John C. Dooher, Director, Washington Center, Federal Law Enforcement Training Center General Office

Mitchell A. Levine, Assistant Commissioner, Management and Chief Financial Officer, Financial Management Service

Jane L. Sullivan, Director, Information Resources Management, Department of the Treasury

Performance Review Board 2

The purpose of this Board is to review the performance appraisals of all senior executives *except* those rated by the Acting Commissioner of Customs. All are Assistant Commissioners of the U.S. Customs Service. The members are:

Assistant Commissioners

Douglas M. Browning, Office of International Affairs

Vincette L. Goerl, Office of Finance

Edward F. Kwas, Office of Information & Technology

Stuart P. Seidel, Office of Regulations and Rulings

Deborah J. Spero, Office of Human Resources Management

Bonni G. Tischler, Office of Investigations

Robert S. Trotter, Office of Field Operations

Homer J. Williams, Office of Internal Affairs

Charles W. Winwood, Office of Strategic Trade

Dated: September 24, 1997.

Samuel H. Banks,

Acting Commissioner of Customs.

[FR Doc. 97–26663 Filed 10–7–97; 8:45 am]

BILLING CODE 4820–02–P

Corrections

Federal Register

Vol. 62, No. 195

Wednesday, October 8, 1997

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–828]

Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Static Random Access Memory Semiconductors From the Republic of Korea

Correction

In notice document 97–25942, beginning on page 51437, in the issue of Wednesday, October 1, 1997, make the following correction:

On page 51438, in the second column, in the fifth paragraph, in the seventh line, ''125'' should read ''135''.

BILLING CODE 1505-01-D

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 274a

[INS No. 1818-96]

RIN 1115-AE94

Interim Designation of Acceptable Documents for Employment Verification.

Correction

In rule document 97–25920 beginning on page 51001 in the issue of Tuesday, September 30, 1997, make the following corrections:

1. On page 51001, in the first column, under the heading ''SUMMARY'', in the sixth line from the bottom, ''notice'' should read ''action''.

2. On page 51001, in the third column, in the first paragraph, in the seventeenth line, ''this'' should read ''that''.

3. On page 51002, in the first column, under the heading ''**Background on Document Reduction**'', in the eleventh line, ''and'' should read ''or''.

4. On page 51002, in the same column, under the same heading, in the thirteenth line, ''9 CFR'' should read '' 8 CFR''.

5. On page 51002, in the same column, under the same heading, in the fourteenth line, ''and'' should read ''the''.

6. On page 51002, in the second column, in the second paragraph, in the second line, ''and'' should read ''or''.

7. On page 51002, in the third column, in paragraph (A)(4), in the fourth line, ''766)'' should read ''766''.

8. On page 51003, in the first column, in the second paragraph, in the third line from the bottom, ''to'' should read ''not''.

9 On page 51003, in the second column, in the first complete paragraph, in the third line, ''conditions on''specific document'' should read ''conditions on'' a specific document''.

10. On page 51004, in the first column, in the second line, ''numbered'' should read ''number''.

11. On page 51004, in the second column, under the heading ''Interim Rule'', in the fifteenth line, ''that'' should read ''the''.

12. On page 51004, in the second column, in the paragraph 2(1)(a), in the ninth line, ''its'' should read ''is''.

13. On page 51005, in the second column, under the heading ''Executive Order 12866'', in the third line, ''service,'' should read ''Service,''.

14. On page 51005, in the third column, under the heading ''**PART 274a--CONTROL OF EMPLOYMENT OF ALIENS**'', in paragraph 2(c), in line one, ''(b)(11)((vi)'' should read ''(b)(1)(vi),''.

BILLING CODE 1505-01-D

Federal Register

Wednesday
October 8, 1997

Part II

Environmental Protection Agency

40 CFR Parts 52, 60, 264, and 265
Project XL Site-Specific Rulemaking for Merck & Co., Inc. Stonewall Plant; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52, 60, 264 and 265

[FRL–5905–3]

Project XL Site-specific Rulemaking for Merck & Co., Inc. Stonewall Plant

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is implementing a project under the Project XL program for the Merck & Co., Inc. (Merck) Stonewall Plant, in Elkton, Virginia. The terms of the project are defined in a Final Project Agreement (FPA) which is available in the docket for this action. In addition, EPA is promulgating today a site-specific rule, applicable only to the Merck Stonewall Plant, to facilitate implementation of the project.

This site-specific rule provides regulatory changes under the Clean Air Act and the Resource Conservation and Recovery Act (RCRA) to implement Merck's XL project, which will result in superior environmental performance and, at the same time, provide Merck with greater operational flexibility. The site-specific rule changes the requirements under the Clean Air Act which apply to the Merck Stonewall Plant for the prevention of significant deterioration of air quality and certain new source performance standards. EPA also is promulgating a site-specific rulemaking under RCRA to provide regulatory changes pertaining to air emissions standards.

DATES: This rule is effective on October 8, 1997.

ADDRESSES: *Docket.* A docket containing supporting information used in developing this rulemaking is available for public inspection and copying at U.S. EPA, Region III, 841 Chestnut Street, Philadelphia, PA, 19107–4431, (215) 566–2064, during normal business hours, and at EPA's Water docket (Docket name ''XL-Merck''); 401 M Street, SW, Washington, DC 20460. For access to the Water docket materials, call (202) 260–3027 between 9:00 a.m. and 3:30 p.m. (Eastern time) for an appointment. A reasonable fee may be charged for copying. A docket is also available for public inspection at the Virginia Department of Environmental Quality, Valley Regional Office, 4411 Early Road, P.O. Box 1129, Harrisonburg, Virginia 22801–1129, (540) 574–7800.

FOR FURTHER INFORMATION CONTACT: Ms. Robin Moran, U.S. Environmental Protection Agency, Region III, Air, Radiation & Toxics Division, 841 Chestnut Street (3AT23), Philadelphia, PA, 19107–4431, (215) 566–2064.

SUPPLEMENTARY INFORMATION:

Outline of This Document

I. Authority

This regulation is being promulgated under the authority of sections 101(b)(1), 110, 111, 161–169, 169A, and 301(a)(1) of the Clean Air Act, and sections 1006, 2002, 3001–3007, and 3010 of the Solid Waste Disposal Act of 1970, as amended by the Resource Conservation and Recovery Act, as amended (42 U.S.C. 6905, 6912, 6921–6927, and 6930). EPA has determined that this rulemaking is subject to the provisions of section 307(d) of the Clean Air Act.

II. Background

A. Overview of Project XL

This site-specific rule is designed to implement a project developed under Project XL, an important EPA initiative to allow regulated entities to achieve better environmental results at less cost. Project XL—for ''excellence and leadership''—was announced on March 16, 1995, as a central part of the National Performance Review's and EPA's effort to reinvent environmental protection. See 60 FR 27282 (May 23, 1995). Project XL provides a limited number of private and public regulated entities an opportunity to develop their own pilot projects to provide regulatory flexibility that will result in environmental protection that is superior to what would be achieved through compliance with current and reasonably anticipated future regulations. These efforts are crucial to the Agency's ability to test new regulatory strategies that reduce regulatory burden and promote economic growth while achieving better environmental and public health protection. The Agency intends to evaluate the results of this and other Project XL projects to determine which specific elements of the project, if any, should be more broadly applied to other regulated entities to the benefit of both the economy and the environment.

In Project XL, participants in four categories—facilities, industry sectors, governmental agencies and communities—are offered the flexibility to develop common sense, cost-effective strategies that will replace or modify specific regulatory requirements, on the condition that they produce and demonstrate superior environmental performance. To participate in Project XL, applicants must develop alternative pollution reduction strategies pursuant to eight criteria—superior environmental performance; cost savings and paperwork reduction; local stakeholder involvement and support; test of an innovative strategy; transferability; feasibility; identification of monitoring, reporting and evaluation methods; and avoidance of shifting risk burden.[1] They must have full support of affected Federal, state and tribal agencies to be selected.

The XL program is intended to allow EPA to experiment with untried, potentially promising regulatory approaches, both to assess whether they provide benefits at the specific facility affected, and whether they should be considered for wider application. Such pilot projects allow EPA to proceed more quickly than would be required to undertake changes on a nationwide basis. As part of this experimentation, EPA may try out approaches or legal

[1] For more information about the XL criteria, readers should refer to the May 23, 1995 **Federal Register** notice (60 FR 27282) and the December 1, 1995 ''Principles for Development of Project XL Final Project Agreements'' document, both contained in the docket for this action.

interpretations that depart from or are even inconsistent with longstanding Agency practice, so long as those interpretations are within the broad range of discretion enjoyed by the Agency in interpreting statutes that it implements. EPA may also modify rules that represent one of several possible policy approaches within a more general statutory directive, so long as the alternative being used is permissible under the statute.

Adoption of such alternative approaches or interpretations in the context of a given XL project does not, however, signal EPA's willingness to adopt that interpretation as a general matter, or even in the context of other XL projects. It would be inconsistent with the forward-looking nature of these pilot projects to adopt such innovative approaches prematurely on a widespread basis without first finding out whether or not they are viable in practice and successful in the particular projects that embody them. Furthermore, as EPA indicated in announcing the XL program, the Agency expects to adopt only a limited number of carefully selected projects. These pilot projects are not intended to be a means for piecemeal revision of entire programs. Depending on the results in these projects, EPA may or may not be willing to consider adopting the alternative interpretation again, either generally or for other specific facilities.

EPA believes that adopting alternative policy approaches and interpretations, on a limited, site-specific basis and in connection with a carefully selected pilot project, is consistent with the expectations of Congress about EPA's role in implementing the environmental statutes (so long as the Agency acts within the discretion allowed by the statute). Congress' recognition that there is a need for experimentation and research, as well as ongoing re-evaluation of environmental programs, is reflected in a variety of statutory provisions, such as sections 101(b) and 103 of the Clean Air Act. In some cases, as in this XL project, such experimentation requires an alternative regulatory approach that, while permissible under the statute, was not the one adopted by EPA historically or for general purposes.

B. Overview of the Merck XL Project

1. Introduction

This site-specific rule supports a proposed permit and Project XL Final Project Agreement (FPA) that have been developed by the Merck XL stakeholder group, namely Merck, EPA, Virginia Department of Environmental Quality (VADEQ), U.S. Department of the Interior (DOI)/National Park Service (NPS), and community representatives. On March 31, 1997, EPA published a notice of proposed rulemaking to seek public comment on the proposed site-specific rule. See 62 FR 15304–15322. In this notice, EPA also sought public comment on the proposed FPA and the project generally. At the request of the Southern Environmental Law Center, a public hearing was held on April 14, 1997, in Harrisonburg, Virginia. The comment period closed on May 15, 1997. EPA received 60 comment letters during the public comment period, and 8 comment letters after the close of the comment period. EPA's response to the key issues raised by commenters is contained in Section IV of this preamble. A separate Response to Comments Document, which fully addresses the comments, is contained in the docket for this action and is available on the world wide web at http://www.epa.gov/ProjectXL.

The FPA and proposed permit are contained in the docket for today's action and also are available on the world wide web at http://www.epa.gov/ProjectXL. The FPA outlines how the project addresses the Project XL criteria, in particular how the project will produce, measure, monitor, report, and demonstrate superior environmental benefits.

The Commonwealth of Virginia conducted the official comment period for the proposed PSD permit. The Commonwealth's public comment period for the proposed PSD permit and a proposed variance began on January 28, 1997, and closed on May 30, 1997. The VADEQ held a public hearing to solicit comment on the proposed permit and variance on February 27, 1997. The VADEQ plans to request the State Air Pollution Control Board (Board) to adopt the variance in the near future.

In the near future, EPA plans to delegate, with EPA oversight, the authority to implement and enforce the PSD site-specific rule (40 CFR 52.2454) to the Commonwealth of Virginia. This delegation would authorize the VADEQ to issue the PSD permit to Merck. The VADEQ expects to issue the PSD permit after the Board approves the variance, and after EPA's delegation of authority is effective.

2. Merck XL Project Description

The Merck XL project was described in detail in the preamble to the proposed site-specific rulemaking. See 62 FR 15305–15306 (March 31, 1997). The goal of the Merck XL project is to develop a regulatory structure for the Merck Stonewall Plant that both facilitates flexible manufacturing operations and achieves superior environmental performance. Merck's XL project seeks to replace the current air permitting system with a simpler system of compliance with criteria air pollutant regulations. Through a site-specific rulemaking and enforceable permit conditions, the facility's total emissions of criteria pollutants (except lead)[2] would be capped below the level at which the plant operated over recent years (at approximately 1500 tons per year (TPY)). Within the site-wide total emissions cap, the facility will also be subject to individual pollutant caps (subcaps), established near or below recent actual emission levels, for sulfur dioxide (SO_2), nitrogen oxides (NO_X), and particulate matter with an aerodynamic diameter less than 10 microns (PM_{10}). In addition to accepting these site-wide emissions caps, Merck will modify its existing coal-burning powerhouse to burn natural gas, a cleaner burning fuel that generates substantially fewer emissions than coal. Either propane or number 2 fuel oil would be used as a backup fuel. This multi-million dollar project is not otherwise required by regulations and the boilers do not need to be replaced for other reasons (e.g., operation, age or capacity). The powerhouse conversion would result in an up-front estimated reduction of over 900 TPY of actual criteria air pollutants, primarily SO_2 and NO_X emissions. After this powerhouse conversion, Merck would reduce its total emissions cap by 20 percent, thereby permanently retiring at least 300 TPY of criteria pollutant emissions. Further, Merck also will reduce the pollutant-specific subcaps for SO_2 and NO_X by 25 percent and 10 percent, respectively.

Merck's XL project will be implemented through issuance of a site-wide PSD permit, authorized by this site-specific rulemaking. Under the site-specific rule and permit, the Merck Stonewall Plant will be required to maintain its emissions below the total emissions cap, as well as the subcaps for SO_2, NO_X and PM_{10}. Under the site-

[2] The criteria pollutants included in the total emissions cap are sulfur dioxide, nitrogen oxides, carbon monoxide, ozone (using volatile organic compounds as a surrogate), and particulate matter with aerodynamic diameter less than 10 microns (PM_{10}). Thus, the total emissions cap includes all existing criteria pollutants except lead. Merck will comply directly with any applicable requirements for the control of lead emissions. Merck currently emits a very low amount of lead emissions (0.3 tons per year), which will be virtually eliminated when the facility converts the coal-burning powerhouse to natural gas. Merck also will comply directly with any applicable requirements for $PM_{2.5}$ or new criteria pollutants which are not included in the total emissions cap.

wide emissions caps, changes or additions to facility operations would no longer need prior approval under PSD or NSR. The subcaps will keep SO_2 and NO_X emissions below recent actual emission levels and PM_{10} emissions will not significantly increase above the recent actual emissions level. The statutory PSD requirements for the VOC and CO emission increases that are possible under the total emissions cap will be satisfied pursuant to this site-specific rule and the PSD permit. So long as the facility complies with the total emissions cap, subcaps, and other permit requirements, it would have the flexibility to make modifications and to operate in a manner that supports Merck's objective to deliver high quality products quickly and efficiently to improve human and animal health without undergoing permit review for each modification.

As an alternative to the current PSD permitting system, the total emissions cap and subcaps will provide an incentive for Merck to identify and promptly implement ongoing emission reductions at the facility to provide operating room under the cap for future modifications and expansions. The XL project also provides an additional incentive for Merck to minimize emissions—a system of ''tiered'' monitoring, recordkeeping and reporting requirements. The permit provides that the monitoring, recordkeeping and reporting requirements become more stringent as the facility's actual emissions approach the total emissions cap. This tiered monitoring system provides Merck another built-in incentive to minimize emissions and to find opportunities to implement emission reductions.

3. Environmental Benefits

The Merck XL Project is designed to deliver superior environmental performance while allowing flexible operations at the facility. The site-specific rule and simplified air permit would provide significant benefits to the environment by substantially reducing pollutant emissions near the Shenandoah National Park and the surrounding community.

The Merck Stonewall Plant is located within 2 kilometers of Shenandoah National Park, a Federal Class I area. The facility's proximity to this nationally significant resource highlights the need for serious consideration of opportunities for better protection of the environment. Certain criteria pollutants have been demonstrated to have a significant adverse effect on the environmental quality of the Shenandoah National Park. In particular, SO_2 emissions contribute to visibility problems in the region, and NO_X emissions combine with other chemicals in the atmosphere to form ground-level ozone, which has been determined to cause vegetation damage. Emissions of SO_2 and NO_X also contribute to the formation of acid rain and associated adverse impacts. Merck's powerhouse conversion will achieve an up-front reduction of these pollutants—SO_2 emissions are expected to decrease by 679 TPY (94 percent) and NO_X emissions are expected to decrease by 254 TPY (87 percent), from baseline actual emission levels. After the powerhouse conversion, the total emissions cap and subcaps will ensure a continuing, permanent reduction of these pollutants, as well as provide an ongoing incentive to minimize actual emissions to preserve the operating margin under the caps. Besides the significant reduction in criteria pollutants resulting from the project, the conversion to natural gas also will result in a reduction of about 47 TPY (65 percent) of hazardous air pollutants (HAPs), specifically hydrogen chloride and hydrogen fluoride. These two HAPs are generated by burning coal and are also associated with the formation of acid rain. Reducing emissions of these chemicals also will contribute to efforts to improve air quality in the Shenandoah National Park and the surrounding community.

Although the facility's VOC and CO emissions would be allowed to increase above recent actual emission levels (but within the total emissions cap), there are no identified adverse effects from the maximum allowable levels of these pollutants under the total emissions cap. Moreover, the statutory PSD requirements for VOC and CO will be satisfied pursuant to this site-specific rulemaking and issuance of the PSD permit. See the preamble to the proposed site-specific rule (62 FR 15309–15312, March 31, 1997).

III. Summary of Regulatory Requirements for the Merck XL Project

A. Clean Air Act

The alternate regulatory system that is established under this site-specific rule and the permit addresses the existing criteria pollutants (and does not include lead). Merck will fully comply with all requirements for the control of HAPs, including the forthcoming Maximum Achievable Control Technology (MACT) standard for the pharmaceutical industry. Merck also will comply with all existing and future environmental requirements not specifically amended pursuant to EPA's site-specific rulemaking for this project or pursuant to the variance expected to be approved by the Commonwealth of Virginia.

EPA emphasizes that the alternative approaches to compliance with Clean Air Act requirements adopted in this rule are being adopted only for this facility, on a pilot project basis. The approach is not available to other facilities, and the decision to make it available at this facility is linked to the full set of the facility's obligations in this project. Based on the experience in this project, EPA could propose to adopt such an approach more widely at some future time, but today's rule is limited to the Merck Stonewall Plant and should not be interpreted as a more general revision of regulations, or even as initiating a process toward such a general revision.

1. Prevention of Significant Deterioration

In today's action, EPA is promulgating a site-specific PSD rule for the Merck Stonewall Plant in order to implement the XL project for the site. See 40 CFR 52.2454. This site-specific rule replaces (in most circumstances) the existing PSD rules at 40 CFR 52.21 for the Merck Stonewall Plant only, and establishes the legal authority to issue the PSD permit to the Merck Stonewall Plant. The site-specific PSD requirements were described in detail in the preamble to the proposed rulemaking. See 62 FR 15309–15312 (March 31, 1997).

The Merck Stonewall Plant is located in an area that currently meets the NAAQS for all criteria air pollutants (attainment area) and, thus, the PSD program under part C of title I of the Act applies. The site-specific rule would authorize a permit to be issued to Merck based, in part, on the establishment of a site-wide emissions cap for criteria air pollutants (total emissions cap). The criteria pollutants included in the total emissions cap are SO_2, NO_X, PM_{10}, CO and ozone (using VOC as a surrogate). Thus, all existing criteria pollutants except lead are included in the total emissions cap. Merck would comply directly with any applicable requirements, including the existing PSD regulations at 40 CFR 52.21,[3] for the control of lead emissions, $PM_{2.5}$,[4] and any new criteria pollutants promulgated by EPA. If in the future EPA were to promulgate standards for other forms of fine particulates (e.g., $PM_{1.0}$), Merck also would be required to comply directly with any associated

[3] The Commonwealth of Virginia currently implements 40 CFR 52.21 under a delegation of authority from EPA. See 40 CFR 52.2451.

[4] Particulates with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers.

applicable requirements. Further, Merck will comply with any applicable requirements, including the existing PSD regulations at 40 CFR 52.21 for emissions of non-criteria air pollutants (e.g., hydrogen sulfide, total reduced sulfur).[5]

Merck will be allowed to vary its emission levels under the total emissions cap, constrained by the individual pollutant subcaps. Changes at the facility that might otherwise be considered to result in emission increases would no longer need prior approval by the permitting authority under PSD or minor NSR, based on the facility's site-wide, federally-enforceable emission limitations. The emission limitations would keep SO_2 and NO_X emissions well below recent actual emissions. The emission limitations for PM_{10} will not significantly increase above the recent actual emissions level. Emissions of VOC and CO will not have subcaps, however, the statutory PSD requirements for increases of VOC and CO are satisfied pursuant to this site-specific rulemaking.

The site-specific PSD rule (40 CFR 52.2454) is being promulgated as proposed, with the exception of a clarification that the site-specific rule does not apply in lieu of the PSD regulations at 40 CFR 52.21 for $PM_{2.5}$. See 40 CFR 52.2454(a)(2). This revision to the final rule is described further in Section IV.C.3 of this preamble. In response to public comments, the proposed PSD permit has been changed to address issues regarding requirements for the control of $PM_{2.5}$, RCRA hazardous waste accumulation and/or storage vessels, and monitoring device data availability. These issues and associated permit changes are described in sections V.C, VI, and VIII.D, respectively, of the Response to Comments Document (contained in the docket and on the world wide web at http://www.epa.gov/ProjectXL).

2. New Source Performance Standards

EPA also is promulgating a site-specific rule which establishes an alternative means of compliance for the Merck Stonewall Plant for two New Source Performance Standards (NSPS)—Subpart Db (Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units) and Subpart Kb (Standards of Performance for Volatile Organic Liquid Storage Vessels). See 40 CFR 60.1(d); 40 CFR 60.49b(u); and 40 CFR 60.112b(c). For NSPS other than Subpart Kb that may become applicable to the site in the future, EPA is promulgating an alternative compliance provision that would allow the facility the option of complying with the NSPS by reducing its site-wide emissions caps. However, under this latter approach, EPA has an opportunity to require Merck to comply directly with the applicable NSPS. These alternate compliance provisions are necessary to implement a simpler compliance approach for the facility that is more consistent with the principles of the site-wide emissions caps. The NSPS alternative means of compliance is described in detail in the preamble to the proposed site-specific rulemaking. See 62 FR 15314–15315 (March 31, 1997).

The NSPS site-specific rule is being promulgated as proposed, with the exception of a correction to a citation. In 40 CFR 60.49b(u)(1) (pertaining to alternate compliance for the new natural gas-fired boilers), EPA has corrected an error in the citation contained in the proposed rule such that the second sentence now reads, ''The requirements of this paragraph shall apply, and the requirements of 40 CFR 60.40b through 60.49b(t) shall not apply, to the natural gas-fired boilers installed pursuant to 40 CFR 52.2454(g).'' The proposed rule cited 40 CFR 60.49b, rather than 40 CFR 60.49b(t), which would have mistakenly included as not applicable the new paragraph 40 CFR 60.49(u).

3. State Implementation Plan Requirements

On January 28, 1997, VADEQ requested public comment on a proposed variance for the Merck Stonewall Plant, pursuant to section 10.1–1307 of the Virginia Air Pollution Control Law.[6] The VADEQ plans to request that the State Air Pollution Control Board approve the variance for Merck in the near future. Among other things, the variance would provide Merck an alternate means of compliance with newly-applicable criteria pollutant regulations promulgated by the VADEQ. This alternate compliance option would allow Merck in most situations either to comply with new criteria pollutant regulations as written, or to reduce the total emissions cap (or subcaps, depending on the pollutant) by an equivalent amount of emission reductions. VADEQ also plans in the future to promulgate a source-specific regulation for the Merck XL project that would serve as an alternate to the regulations cited in the permit. EPA understands that VADEQ plans to submit this regulation to the EPA for approval as a source-specific SIP revision. EPA would then take action on the expected source-specific SIP revision in a future rulemaking action. For a further description of Merck's compliance with SIP requirements under this XL project, see the preamble to the proposed site-specific rule (62 FR 15313, March 31, 1997).

B. Resource Conservation and Recovery Act

In addition to Clean Air Act requirements, today EPA also is establishing alternate regulatory requirements for the RCRA air emission standards for the Merck Stonewall Plant. The RCRA subpart AA, BB, and CC air emission standards under 40 CFR parts 264 and 265 are applicable to certain existing hazardous waste units at the Merck Stonewall Plant. These standards also may be applicable to equipment brought into hazardous waste service in the future. The RCRA air standards contain both substantive emission control requirements and administrative requirements (e.g., reporting and recordkeeping) applicable to certain hazardous waste management units. Under this XL project, the Merck Stonewall Plant will be subject to a site-specific exemption from the RCRA air emission standards under 40 CFR parts 264 and 265. Under this XL Project, the hazardous waste management units at the Merck Stonewall Plant that would otherwise be subject to those 40 CFR parts 264 and 265 standards will be regulated through an enforceable PSD permit and a preventive maintenance program. See 62 FR 15315 (March 31, 1997).

For hazardous waste tanks and containers located at the Merck Stonewall Plant, the proposed PSD permit includes air emission control requirements that are identical to the substantive requirements under the RCRA air standards. For process vents that would otherwise be subject to the subpart AA process vent regulations, and for equipment that would otherwise be subject to the subpart BB equipment leak regulations, the Merck Stonewall Plant will implement air emission control requirements that are similar, though not identical, to those that are included in the nationwide standards.

[5] If Merck were to emit significant quantities of non-criteria air pollutants regulated under 40 CFR 52.21, Merck would be required to comply directly with any applicable requirements for these pollutants. For the Merck Stonewall Plant only, EPA extends the policy set forth in the October 16, 1995 policy memorandum entitled ''Definition of Regulated Pollutant for Particulate Matter for Purposes of Title V,'' which is contained in the docket for this rulemaking, to consider PM_{10} as the regulated form of particulate matter for purposes of PSD applicability; however, this rulemaking does not extend the policy to $PM_{2.5}$.

[6] This variance provision previously has been approved into the Virginia SIP at 40 CFR 52.2420(c)(15) and (89).

For all affected hazardous waste equipment, today's site-specific regulation will exempt the Merck Stonewall Plant from the administrative requirements of the RCRA air standards; the proposed PSD permit and a future the Clean Air Act (CAA) Title V permit, will subject the plant to alternative administrative requirements. The nationwide RCRA air standards contain an allowance that a unit operated with air emission controls, in compliance with a CAA standard in 40 CFR parts 60, 61, or 63, is exempt from the RCRA standards. Among other requirements, this nationwide allowance exempts a unit from the administrative requirements of the RCRA air standards, provided that the air emission controls on that unit are operated in compliance with the requirements of the CAA part 60, 61, or 63 standard, including administrative requirements. See 40 CFR 265.1080(b)(7); 61 FR 59971 (November 25, 1996). In such cases, the administrative requirements would ultimately be enforceable through a CAA permit. Under this XL project, the Agency is allowing the Merck Stonewall Plant to comply with the administrative requirements that will be contained in the facility's CAA PSD and Title V permits, which is analogous to the existing nationwide RCRA air standards provision that allows facilities the alternative to operate air emission controls in compliance with standards under 40 CFR parts 60, 61 or 63. Thus, the Agency considers the administrative requirements under this XL project for affected hazardous waste management units at the Merck Stonewall Plant to be equivalent to the administrative requirements of the nationwide RCRA air standards.

The Agency continues to consider the requirements contained in the proposed PSD permit to be a viable approach to addressing organic air emission from hazardous waste units at the Merck Stonewall Plant. Therefore, the site-specific exemption from requirements of 40 CFR parts 264 and 265 is being finalized today exactly as it was proposed. See 62 FR 15303 (March 31, 1997). The Response to Comments Document describes a change to the proposed PSD permit that was made to address a commenter's question about the permit requirements for RCRA hazardous waste accumulation and/or storage vessels. This comment and the associated change to the proposed PSD permit are described in Section VI of the Response to Comments Document (contained in the docket).

IV. Summary of Response to Key Public Comments

EPA received 60 comment letters on the proposed Merck XL project during the public comment period. An additional eight comment letters were received after the close of the comment period. These letters primarily reflected comments similar to those received during the comment period; therefore, EPA's response to comments generally addresses issues raised in the late comments as well. In the following section, the Agency responds to several of the key issues raised by commenters. A comprehensive response to comments is contained in a separate document, ''Merck XL Site-Specific Rulemaking—Response to Comments Document'' which is contained in the docket and available on the world wide web at http://www.epa.gov/ProjectXL.

A. General Support of Project

General support for the Merck XL project was expressed by several citizens, government officials, industry associations, state environmental agencies, businesses, and the Merck workers union. Several citizens commented that Merck is a good environmental steward and a good corporate neighbor. Some commenters expressed that, besides the project's immediate benefits to environmental quality in the area, the project will further benefit the community by making the Stonewall Plant more attractive as a site for product expansion and new product introduction, resulting in increased employment opportunities for people living in the Shenandoah Valley. Many comments also supported the simplified regulatory process and increased operational flexibility afforded to Merck. Two state environmental agencies commented that the project is an excellent example of innovative permitting, and commended EPA for its efforts. These states believe that the project is a great example of EPA's reinventing environmental regulation initiative, and will provide significant environmental performance while allowing Merck the flexibility warranted by such a permit. One state added that it supports the permit's strong incentives to minimize air emissions of criteria pollutants on an ongoing basis. Industry associations and companies commented that the project will benefit future permitting strategies that seek better ways to protect the environment. A Virginia industry association urged EPA to advance the project to the implementation stage where the value of the increased operational flexibility can be clearly demonstrated.

B. Superior Environmental Performance

1. General

Numerous commenters, including citizens, environmental groups, state environmental agencies, industry groups, and political officials, expressed support for the emission reductions that will be achieved by Merck converting its coal-fired boilers to burn natural gas. Many of the citizen and environmental group commenters supported the permanent reduction of criteria air pollutants by 300 TPY, as well as the upfront reduction of criteria pollutants by 900 TPY, and of hazardous air pollutants by 47 TPY. These comments specifically addressed the importance of this project's environmental benefits to Shenandoah National Park. A citizen commenter added support for the other positive elements of the project, including the provision that the project does not allow the sale or acquisition of emission credits, and that annual or semi-annual reports must be submitted to the project signatories.

2. Level of Emissions Caps

There were some comments from environmental groups and a citizen regarding the level of reduction of certain emission caps from the baseline levels. One environmental group questioned why the site-wide total emissions cap was set at a level of 20% less than recent actual emissions when there will be a 60% emissions reductions of criteria pollutants from the replacement of coal-fired boilers.

The baseline for the site-wide emissions cap is the average of annual actual emissions during the years 1992–93 (approximately 1500 TPY), the recent years most representative of normal facility operations. See 62 FR 15309 (March 31, 1997). Detailed information about the establishment of the emissions caps is contained in the rulemaking docket. The site-wide emissions cap will be reduced by 20% from the baseline level (i.e., the reduced cap level will be 1200 TPY, thereby permanently retiring 300 TPY of emissions) after the powerhouse conversion. Thus, Merck's new ''allowable'' emissions (the cap) will be 20% lower than recent actual emissions. In fact, Merck's allowable emissions in the baseline period were approximately 2700 TPY, so its new allowable emissions (i.e., the total emissions cap) will be less than half of the old allowable limit. The only reason that Merck is able to reduce its baseline cap by 20% is because of the significant actual emission reductions that will be

achieved from the powerhouse conversion (switching from burning coal to natural gas, a much cleaner burning fuel). The powerhouse conversion will reduce criteria pollutant emissions by approximately 900 TPY, bringing post-conversion site-wide actual criteria pollutant emissions to approximately 600 TPY (i.e., 1500 TPY minus 900 TPY). With the 20% cap reduction, Merck's ''margin for growth'' under the cap will be approximately 600 TPY (i.e., 1200 TPY minus 600 TPY). If the cap were set at the facility's post-powerhouse conversion level, as suggested by the commenter, Merck would have no operating margin for growth, and, thus, no incentive to enter into this project or implement the powerhouse conversion. In order to provide the regulatory and operational flexibility of this XL project, it is necessary to have an adequate margin for growth under the cap. EPA anticipates that Merck's emissions will remain far below the total emissions cap for a long period of time after the powerhouse conversion, in part because the tiered monitoring system provides an incentive to minimize emissions.

As long as Merck operates under this PSD permit, Merck will no longer be able to obtain permits to increase emissions above the cap, since an exceedance of the total emissions cap is a basis for termination of the permit. Under the current permitting system, Merck would not be constrained by a site-wide emissions cap, and could continue to increase emissions as long as the proper permits were obtained.

Another environmental group commenter supported the overall permanent emission reductions that will be achieved (300 TPY), but expressed concern about the volatile organic compound (VOC) emission increases allowed under the cap. The commenter expressed concern that while NO_X emissions will initially decrease, the permanent reduction assured is only 29 TPY (i.e., a 10% reduction of the NO_X subcap from baseline emissions); meanwhile, VOC emissions can increase substantially above current levels. The commenter believes that, given that both NO_X and VOC emissions contribute to ozone formation, Merck's contribution to ozone formation could increase rather than decrease over time. The commenter suggests that a lower NO_X cap could correct this problem. Alternatively, Merck commented that the setting of the individual emission caps was the subject of extensive debate during the stakeholder meetings, and that the levels prescribed in the proposed permit are the result of full agreement from the stakeholder group. Merck stated that it is not aware of any new and compelling information to substantiate any need for changes to the emission caps.

EPA does not believe there is a need to set a lower NO_X cap. The impact of the potential VOC emission increases under the cap on ozone formation is described elsewhere in this document and in the preamble to the proposed site-specific rulemaking. See 62 FR 15310 (March 31, 1997). Merck's NO_X emissions cap guarantees that its future actual NO_X emissions will always be at least 10% less than recent actual emissions. Further, Merck's current permitted NO_X emissions are 569 TPY; thus, by taking a NO_X cap at a level that is 10% less than current actual emissions (i.e., 262 TPY), Merck also is relinquishing the ability to emit NOx at the currently permitted levels. In the preamble to the proposed site-specific rulemaking, EPA described an analysis (contained in the docket) that had been conducted to demonstrate that Merck's worst-case VOC emissions would continue to provide protection of the ozone NAAQS. See 62 FR 15310 (March 31, 1997). Because this analysis demonstrates that Merck's worst-case VOC emissions will continue to provide protection of the ozone NAAQS, and because Merck's worst-case NO_X emissions will be less than recent emissions, EPA does not believe that Merck's contribution to ozone formation under this project would increase rather than decrease over time, compared to Merck's current emissions levels and its ability to increase emissions under the current permitting system. Therefore, EPA does not agree that it is necessary to establish a lower NO_X subcap.

3. Volatile Organic Compound (VOC) Emissions

Several citizens and environmental groups expressed concern about the potential increase in VOC emissions from recent levels, as Merck operates under the site-wide emissions cap. Some commented that since there is no specific cap on VOC emissions, Merck would be able to increase VOCs by about 650 TPY from recent emission levels. One citizen commented on the tradeoff of VOCs and CO for reductions in other pollutants, and questioned the value of that tradeoff and whether there is a way to measure it. Some commenters believed that since VOCs are a major source of ozone, the potential VOC increases would have a detrimental effect on respiratory health, the health of the forests in Shenandoah National Park and elsewhere, tourism, and crop yields.

As Merck operates under the total emissions cap, it is permissible over time for VOC emissions to increase above the baseline VOC levels. The baseline VOC emission level is 408 TPY. If all other pollutants remain at their expected post-powerhouse conversion levels, the maximum VOC emissions increase (above baseline VOC emissions level) under the cap would be approximately 650 TPY. It should be noted that if Merck were to increase VOC emissions by this amount it would no longer have a margin for growth under the site-wide emissions cap and would have to implement the most stringent tier of monitoring, recordkeeping and reporting. Thus, Merck has an incentive not to reach this level of emissions. Nevertheless, an analysis was conducted to determine the impact on the ozone NAAQS if Merck were to increase VOC emissions to the maximum amount under the cap. In the preamble to the proposed site-specific rulemaking, EPA described an analysis (contained in the docket) that had been conducted to demonstrate that Merck's worst-case VOC emissions would continue to provide protection of the ozone NAAQS. See 62 FR 15310 (March 31, 1997).

The Merck Stonewall Plant is located in an area that is NO_X-limited for ground-level ozone formation. The term ''NO_X-limited'' means that the amount of NO_X available is generally the controlling factor in determining how much ozone will be formed. In a NO_X-limited area, reduced NO_X emissions will result in reduced ozone formation, and increased NO_X emissions will result in increased ozone formation. Further, increased VOC emissions generally will not result in additional ozone formation unless accompanied by additional NO_X emissions.

A report contained in the docket analyzed the worst case potential impact of increased VOC emissions on ozone formation in the area, based on an evaluation of urban airshed modeling developed for State Implementation Planning purposes in two urban areas. See 62 FR 15310 (March 31, 1997) and the docket. In summary, this report analyzed a worst case scenario which showed that the expected ozone increase from Merck's potential VOC emissions would be less than 0.5 parts per billion (ppb), which is less than 0.5% of the 120 ppb ozone standard, and 0.625% of the 80 ppb ozone standard. EPA believes that the analysis portrayed a highly conservative worst case scenario and that the potential ozone formation would be negligible under actual conditions. Moreover, the NO_X emission reductions achieved as a result of Merck's powerhouse conversion and the establishment of

permanent NOx subcaps will help to reduce local ozone formation. Therefore, EPA believes that the maximum potential VOC emission increases allowed under Merck's site-wide cap will continue to provide protection of the ozone NAAQS.

Other commenters stated that the permit's review structure would put severe limitations on incorporating any future knowledge about VOCs into the permit's conditions. One citizen commenter suggested that Merck should be required to contribute to an EPA-approved study of the contribution of VOCs to air pollution. This commenter expressed the need to study the effects of the various chemicals that will be emitted on the natural, historic and human resources of the Shenandoah area.

The proposed PSD permit has numerous provisions that were designed specifically to address the effects of Merck's VOC emissions. Any future knowledge about the environmental or public health effects of VOCs will be implemented in the Merck permit in the following ways. First, Merck will be required to comply with any generally applicable future regulation designed to control VOCs, and generally would have the option to reduce the cap in lieu of directly implementing the regulation (Section 1.2.2 of the permit). Second, Merck will conduct an assessment of VOC emissions for impacts on air quality related values (AQRVs) in Shenandoah National Park if VOC emissions reach specified levels. See Section 6.2.1 of the permit. Third, Merck is required to comply directly with any requirements for the control of hazardous air pollutants (HAPs), including the forthcoming maximum achievable control technology (MACT) standard for the pharmaceutical industry. Compliance with the pharmaceutical MACT and other HAP requirements also will control VOC emissions, because some of the HAPs used or emitted by Merck are also VOCs. Finally, Merck will conduct property line modeling of non-HAP VOCs to determine whether the emission levels are protective of public health. This modeling will be conducted when VOC emissions reach 125% of the VOC baseline (i.e., 510 TPY) and whenever VOC emissions increase by additional 100 TPY increments (i.e., 610 TPY, 710 TPY, and 810 TPY). If this modeling assessment predicts an exceedance of the Significant Ambient Air Concentrations (SAAC), which are based on a fraction of the Threshold Limit Values[7], Merck must either demonstrate that the site's emissions produce no endangerment to human health, or implement changes at the site resulting in ambient concentrations that are below the SAAC or that are otherwise acceptable to VADEQ. This permit provision (Section 6.2.2) was developed to address the community stakeholders' concerns about the potential public health effects of Merck's VOC emissions. Because the AQRV assessment and the non-HAP VOC public health assessment are actions that will happen at some future point in time, if Merck reaches the respective VOC trigger levels, the permit provides for any new information about VOCs to be considered at the time the assessments are conducted. Similarly, any future regulations promulgated to control VOC emissions will take into account the latest information about the effects of VOCs.

While the Merck project does not require that the permit be reopened to factor in new information about VOCs, the project offers an important opportunity for stakeholders to raise issues of concern to be considered at the five-year permit reviews. It is important to note that the generally applicable PSD regulations do not require that permits be reopened to incorporate future knowledge about emissions information. So long as a permittee complies with the emission limitations and other permit terms, and does not make changes at the facility that require further permitting review, the permit would not be required to be reopened to incorporate future information about the permitted emissions levels.

EPA does not agree that it is necessary under Project XL for Merck to contribute to an EPA-approved study of the contribution of VOCs to air pollution. There are already a number of efforts under way to assess the various public health and environmental effects of VOC emissions. For years, the Ozone Transport Assessment Group (OTAG) has undertaken region-wide studies of the effects of VOCs on ozone formation. Under Section 112(b)(2) of the Clean Air Act, EPA is required to periodically review the list of HAPs to add pollutants which may present a threat of adverse human health effects. As for all HAPs, if any new VOCs are added to the list of HAPs, Merck will be required to control them in accordance with the applicable HAP requirements.

[7] Threshold Limit Values, established for many chemicals, are workplace limits based on chronic and acute health effects, and are listed in the American Conference of Governmental Industrial Hygienists handbook.

4. PM–10 Emissions

A citizen commented that there is no PM_{10} environmental benefit in this project, and that even a little benefit would be appreciated. Merck commented that the powerhouse conversion from coal to natural gas is estimated to result in a PM_{10} emissions decrease of 74,000 pounds per year (37 TPY), which is a 98% reduction from baseline actual PM_{10} emissions. Merck stated that the PM_{10} cap was set at a level that reflects the lack of accurate PM_{10} emission factors and already very low PM_{10} emission rates at the plant. Merck commented that no new and compelling information has been presented to indicate a change to the PM_{10} cap is warranted.

The permit establishes a PM_{10} subcap at the baseline emissions level of 42 TPY. The PM_{10} subcap will not be reduced after the powerhouse conversion. However, as Merck's comment indicates, the project will result in an upfront reduction of a substantial amount of PM_{10}, from the burning of natural gas instead of coal. During the stakeholder discussions in developing this project, Merck had repeatedly expressed concern about setting a PM_{10} subcap at a level that would unnecessarily restrict future growth of operations, when there might be plenty of room for expansion of total emissions under the site-wide cap. In other words, because the baseline PM_{10} emissions were already relatively low (42 TPY), a ''reduced'' PM_{10} cap, similar to that for SO_2 and NO_X, could be the limiting factor in whether Merck would be able to expand operations in the future. That scenario would be counter to this XL's project's goal of providing increased operational flexibility. The ambient air quality modeling for PM_{10} conducted in support of the proposed permit demonstrated that the site's current worst-case emission rates do not cause or contribute to a violation of the NAAQS. See 61 FR 15310 (March 31, 1997). The permit further provides for Merck's ambient impact, which will include impacts of the PM_{10} emissions, to be reevaluated at each five-year review period. Thus, EPA believes that the level of the PM_{10} emissions cap established in the permit is appropriate.

C. National Ambient Air Quality Standards (NAAQS)

1. Future Nonattainment Situation

Two companies located in the Rockingham County, Virginia, area submitted comments regarding the potential for the area to become nonattainment for ozone or other pollutants in the future, and expressed

concern for the impact of possible additional nonattainment control strategies on other sources in the area. Under the new PSD permit, Merck would be required to comply with any new criteria pollutant regulations, including those that might be promulgated if the area becomes a nonattainment area in the future; however, Merck generally would have the option to comply with the new regulations via a cap reduction. See Section 1.2.2 of the proposed PSD permit. In the preamble to the proposed rulemaking, EPA explained that the Commonwealth of Virginia could not take emissions reduction credit in an attainment plan if Merck chooses the option of reducing its emissions caps, rather than complying directly with a criteria pollutant regulation. See 62 FR 15313 (March 31, 1997). These companies are concerned that they would be required to implement stricter controls, at greater cost, because Merck's cap reduction would not be credited for attainment planning purposes. The commenters do not believe that sources should have to make up for the actual emission reductions because of the insulation provided to Merck. One company suggested that EPA should allow it to have the same insulation since its actual emissions are considerably lower than its permitted emissions.

Merck commented that it believes there is confusion about the possibility of more stringent future control requirements for other nearby facilities under a regional RACT plan as a result of this project. Merck described its view of the events which would have to occur before other nearby facilities would be impacted by more stringent controls, which it believes is an unlikely situation. Merck also submitted additional technical information prepared by a consultant relating to Merck's impact on local air quality and the implications of the new proposed ozone NAAQS.

The area in which the Merck facility is located has been well documented to be NO_X limited for ozone formation. Therefore, it is most likely that, if the area became nonattainment for the ozone NAAQS in the future, a control strategy would predominantly target reductions in NO_X emissions, rather than VOC emissions. In the preamble to the proposed rule, EPA described an analysis which documented that the worst-case potential VOC emissions under Merck's cap would continue to provide protection of the ozone NAAQS. See 62 FR 15310 (March 31, 1997).

The planning involved in designing a control strategy to bring an area into attainment is based on an inventory of actual emissions. Since Merck will achieve significant actual emission reductions of NO_X from the powerhouse conversion, these low actual NO_X emissions will help to reduce ozone formation and will benefit any future control strategy efforts. In a sense, it could be viewed that Merck is complying ''early'' with any future actual NO_X emission reductions that might be required for nonattainment planning. Similarly, other sources in the area which have very low actual emissions (e.g., as a result of BACT or comparable technology) likely would not be targeted for additional controls for those well-controlled and low-emitting units. Rather, nonattainment control strategies typically target those sources (both stationary and mobile sources) which are capable of achieving substantial decreases in actual emissions.

2. Ozone NAAQS—General

An environmental group commented that the forests of Virginia are already suffering as a result of both ozone and acid ion deposition, and suggested that this information should be documented. The commenter provided information about the rate of decline of oak forests in the northern mountains of Virginia.

EPA agrees with the commenter that ozone is a cause of degradation to forests and other vegetation in the Shenandoah area. The proposed Final Project Agreement describes the adverse effects of ozone and other pollutants on resources in the Park. The rulemaking docket includes a copy of the U.S. Department of Interior's Preliminary Notice of Adverse Impact on Shenandoah National Park (55 FR 38403, September 18, 1990) and the accompanying Technical Support Document. These documents explain the potential impacts of ozone, NO_X, and SO_2 on forests and vegetation, as well as potential impacts of pollutants on aquatic streams and visibility.

A commenter from a company in Rockingham County commented that there is no scientific evidence presented in the preamble to the site-specific rulemaking or background documents that Rockingham County is a NO_X-limited area for ozone. The commenter also suggested that EPA require baseline air quality monitoring in Rockingham County to specifically address the importance of VOCs in relation to ozone transport.

It has been well documented that the area in which the Merck Stonewall Plant is located is NO_X-limited for ozone formation.[8] The Permit Support Document (contained in the docket) includes additional information and references that the area is NO_X-limited. The OTAG modeling effort of ozone in the eastern U.S. is one of the largest public-private air quality projects ever conducted. As part of its key modeling findings related to future attainment strategies, OTAG found that NO_X emission reductions are more effective than VOC emission reductions in lowering regional ozone concentrations; NO_X reductions decrease ozone domain wide, while VOC reductions decrease ozone only in urban areas. A copy of this modeling report is contained in the docket. In its public comments, Merck submitted additional technical papers for the docket that document that the area is NO_X-limited for ozone formation.

The PSD requirement for pre-construction ambient air quality monitoring has been satisfied. The docket contains the ambient ozone monitoring data that satisfies this requirement. EPA disagrees that additional monitoring should be required within the context of the Merck XL project to address the importance of VOCs in ozone transport. These efforts are being undertaken in a much broader context by the OTAG modeling studies. Further, ozone transport is a regional issue and it is currently not feasible to study the effects of VOC from a single source on ozone transport.

3. New Ozone and Particulate Matter NAAQS

Several environmental groups and citizens requested EPA to address how Merck would comply with the new proposed NAAQS for ozone and fine particulates. Some commenters expressed concern that they believe the permit does not account for EPA's proposed new air quality standards, and allows a long term escape from higher standards, especially particulates. Some commenters also believe the permit should be reconsidered to account for $PM_{2.5}$.

On July 18, 1997, EPA promulgated final rules which revise the NAAQS for ozone (62 FR 38855–38896) and particulate matter (62 FR 38651–38752). Under EPA's final rule, the NAAQS for particulate matter is revised in several respects, including the addition of two new standards for $PM_{2.5}$ (particulates with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers). Because $PM_{2.5}$ (fine particulates) is a

[8] Ozone Transport Assessment Group, Modeling Report (Draft), Regional and Urban Scale Modeling Workgroup, Version 1.1., February 12, 1997 (contained in docket).

new indicator for particulate matter, $PM_{2.5}$ is not one of the pollutants specifically included in Merck's site-wide emissions cap.[9] Rather, Merck would be required to comply directly with any future requirements for the control of $PM_{2.5}$. At the present time, EPA believes this is the more environmentally protective and scientifically sound approach, since no baseline data are available about Merck's $PM_{2.5}$ emissions, methods to measure and monitor $PM_{2.5}$ are not yet widely available, and it would be speculative to attempt to regulate $PM_{2.5}$ as part of the site-wide emissions cap. Moreover, it will likely be several years before states have enough monitoring information available to know whether areas are not attaining the $PM_{2.5}$ standard, and, consequently, whether and what type of $PM_{2.5}$ control strategies are needed in a given area to bring an area into attainment. It should be noted that sulfates and nitrates are major components of secondary fine particles, formed in the atmosphere through chemical reactions. Therefore, the SO_2 and NO_X reductions from Merck's powerhouse conversion will help to reduce fine particulates.

The proposed site-specific rule (40 CFR 52.2454(a)(2)), stated that the rule applies in lieu of 40 CFR 52.21 for the pollutants included in the site-wide emissions cap, as well as particulate matter. In the final site-specific rule, EPA is adding language to ensure that it is clear that the rule does not apply in lieu of 40 CFR 52.21 for particulate matter specifically regulated as $PM_{2.5}$.

This change makes clear that the site-specific rule replaces 40 CFR 52.21 for particulate matter and PM_{10}, but not for particulate matter that is specifically regulated as $PM_{2.5}$. Similar changes also will be made in the final PSD permit to ensure that it is clear that the project does not provide alternate compliance for particulate matter specifically regulated as $PM_{2.5}$. If in the future EPA were to promulgate standards for other forms of fine particulates (e.g., $PM_{1.0}$), Merck also would be required to comply directly with any associated applicable requirements.

Under EPA's revision of the ozone NAAQS, ozone is not considered a new criteria pollutant. Rather, EPA revised the existing NAAQS for ozone to a lower and more protective standard. The regulated precursors for ozone formation, VOC and NO_X, are included in Merck's site-wide emissions cap. Therefore, Merck must comply with any new regulations for the control of VOC or NO_X (ozone precursors) as prescribed by Section 1.2.2 of the permit. Under these provisions, Merck generally will have the option to reduce the site-wide total emissions cap (for VOC regulations) or NO_X subcap (for NO_X regulations), in lieu of implementing the regulation as written. This approach was described in detail in the preamble to the proposed rulemaking for the Merck XL project (61 FR 15313, March 31, 1997).

D. Public Participation Issues

1. Summary

Some commenters expressed concern about continuing community involvement in the permit. Related concerns include the unlimited term of the PSD permit, the composition of the decision-making group, and community input into decisions involving potential increases to the emissions levels of the permit. These issues are addressed substantively and thoroughly in this preamble and the Response to Comments Document.

EPA strongly supports ongoing community involvement in permit issues associated with this XL project. Many commenters remarked on the unprecedented level of participation this project has afforded the community thus far. The participation of Rockingham County as a signatory will assist in maintaining the level of community involvement during implementation. EPA also pledges to seek out and strongly weigh community and public interest group input and involvement where permit modifications or reviews are being considered. Stakeholders will be expressly included in the five-year reviews scheduled as a result of this project, affording public input opportunities on issues outside the scope of existing permit programs.

PSD permits are analogous to building permits, which are not normally revocable or subject to end dates. Thus, while this project offers Merck flexibility in the scope of the PSD permit, it does not offer Merck flexibility in terms of duration that it would not otherwise receive. EPA believes that the level of accountability contained in the proposed permit and the five-year reviews offer adequate oversight opportunity to both regulators and the community. These five-year reviews themselves are an additional step to ensure the protection of public health and the environment, and offer the stakeholders a role in the implementation of the permit. EPA commits to making any necessary technical assistance or facilitation available to the stakeholders during the five-year review to ensure their informed participation.

The signatories to the Final Project Agreement (EPA, U.S. Department of the Interior/Federal Land Manager, Virginia Department of Environmental Quality, the Rockingham County Board of Supervisors, and Merck) generally must agree to any permit modifications that might be considered. During negotiations, the County was put forward as a signatory as a way of incorporating a representative vote for the community. The County, State, U.S. Department of the Interior, and EPA, as governmental entities, will ensure public support for any changes that go forward. If increases in the emissions caps are contemplated, EPA generally must amend the site-specific rule to propose changes to the permit. Although EPA fully expects that such increases in the emissions caps will not be necessary and therefore will not be proposed, EPA commits that, in any such instance, it will seek out and strongly consider the input of the community.

EPA would also like to note that, as described in Sections III.A.2, III.A.3, and IV.C above, this rule and the PSD permit require Merck to comply with future relevant regulatory changes or new standards that would otherwise apply to the facility.

Community involvement is and will continue to be critical to the success of Project XL. The Merck project was, in many ways, shaped by the input of the stakeholder group associated with the project. For example, Merck's original project proposal was greatly improved during the stakeholder process by addressing many stakeholder concerns, including a 20% decrease of the total emissions cap after the powerhouse conversions, emissions subcaps for PM–10, SO_2 and NO_X, strict compliance with all hazardous air pollutant (HAP) requirements, modeling of non-HAP VOC emissions to ensure protection of public health, assessment of VOC impacts in Shenandoah National Park, and several other provisions. EPA believes that the project as it is now reflected in the proposed PSD permit, the Final Project Agreement and the site-specific rule will enhance the community's opportunity for meaningful involvement in the implementation of the Merck XL project.

2. Permit Term

EPA received numerous comments from citizens and environmental groups supporting a limit on the term of the

[9] However, Merck will be required to include emissions of $PM_{2.5}$ (as a subset of PM_{10}) in its calculation of PM_{10} emissions.

PSD permit. Some commenters suggested that a limited permit term be established, after which the permit could be ''affirmatively renewed'' or renegotiated within some set of preestablished guidelines. Most of these commenters supported an initial permit term of 10–15 years, and one environmental group suggested a five year term. Another environmental group suggested an initial permit term reasonably sufficient to allow Merck to recover its investment in the boiler conversion, after which the permit could be affirmatively renewed on a five-year basis. One environmental group maintained that the unlimited permit term is unwise because the permit allows substantial VOC increases and there is currently inadequate information regarding the impacts of the VOC emission increases on human health and the Shenandoah National Park. One commenter believes that no other XL project has a permit with unlimited duration and a provision for veto of any changes by the applicant, and believes that this permit would establish an inappropriate precedent for these conditions.

Merck commented that the decision to craft the permit under PSD and include extensive review and termination procedures (Sections 6 and 8) was the compromise worked out among the stakeholders. Merck expressed that, absent new, compelling information from commenters on this issue they believe that EPA must act in good faith and decline any changes with regard to permit expiration.

In response, EPA notes that the ''unlimited term'' of the permit is consistent with the normal practice for PSD permits. They are permits to construct or modify a source, and are analogous to building permits which would not normally be revocable or have an end date. Once a source is permitted to construct the emission units authorized by the permit, so long as it complies with the permit's emission limitations and operational conditions, a source generally is not required to renew the PSD permit for those units. Under the particular circumstances presented in the Merck project, including the innovative emissions cap-based permit and Merck's substantial voluntary investments to achieve significant emission reductions, EPA believes it is appropriate to treat the entire set of changes authorized at the facility by this rule and the PSD permit as a single major modification. Because Merck's permit will be issued as a PSD permit, under a new site-specific PSD rule which applies only to the Stonewall Plant, EPA believes it is consistent with the PSD program not to establish a term limit for Merck's permit. As a related issue, there currently are no specific Federal regulations for modifying PSD permits. If EPA in the future should promulgate permit modification rules that generally apply to PSD permits, Merck's permit would be subject to those permit modification procedures as well (Section 6 of the permit). In addition, the Merck permit goes beyond typical PSD permits by requiring a five-year periodic review and setting forth provisions for revising the permit. (See Section IV.D.3.b of this preamble for a more detailed discussion of the five-year review process). Therefore, EPA believes an unlimited term is warranted to allow the permitted modifications to occur as intended, subject to the safeguards in the permit.

In comparison to the opportunities for public involvement in the typical PSD permitting process, the Merck XL project offers the public an opportunity to be more fully informed about the environmental activities and changes at the facility. Absent Project XL, if Merck were to make a change at the facility that triggered a PSD permit review, the public would only have opportunity to comment on the specific project being permitted at that time. Further, it is difficult to speculate if and when the Merck Stonewall Plant would trigger a future PSD review, since it has never done so in its history. All of Merck's existing air permits are minor NSR permits. It is possible that Merck would have been required to undergo PSD review in the future (e.g., for a new pharmaceutical product line); however, the existing regulations would allow Merck to avoid PSD review if the emissions increase was less than the significance level, if it ''netted out'' of PSD review, or if it took a synthetic minor emissions limit. In any of these cases, the Commonwealth of Virginia would issue a minor NSR permit. Under the Commonwealth's minor NSR program, many types of permit changes can be made with little or no public participation. Even in cases where public participation is available under the minor NSR permitting process, public comment would be open only to the particular process being permitted. As explained above, for PSD permits as well as minor NSR permits, there is no term limit on the permit, and the public would not have an opportunity to comment on the facility's performance under the permit after the permit was issued.

Without this XL project, there would be no opportunity for stakeholders to participate in a regular five-year review of the facility's operations, no opportunity for stakeholders to request permit changes to be considered, and no opportunity for the community to give consent to permit changes. By participating in the five-year permit review, the community will be much more fully informed about, and involved with, the facility's operations than they would under the traditional permitting system. During development of the initial XL project, all stakeholders learned a great deal of information about Merck's air emissions, emission units, monitoring methods, and facility operations. This level of information will continue to be shared during the stakeholder discussions for the five-year permit reviews. Under the traditional permitting process, the public would not have access to this level of facility-wide information, because the emissions information would be limited to the particular process undergoing permit review. Therefore, considering the full set of public participation opportunities under this XL project as compared to the traditional permitting system, EPA believes that Merck's XL project offers the public more comprehensive involvement in overseeing and reviewing facility operations.

In response to the comment regarding the term of permits in other XL projects, there is at least one other XL project in which a PSD permit is expected to be issued. In the Weyerhauser XL project, the State of Georgia plans to issue Weyerhauser a PSD permit as the mechanism to make enforceable the emissions caps described in the XL agreement. At this time, EPA understands that Weyerhauser's PSD permit will not have a limited duration. With regard to a commenter's concern about the permit term in the Merck XL project establishing precedent, EPA does not view any XL project as setting a precedent for future projects. Each project must be evaluated by the Agency and by stakeholders on an independent basis, considering the unique nature of the project and the company's full set of obligations under the proposed XL agreement.

3. Stakeholder and Public Involvement

a. *General.* Several citizens and environmental groups commented about the public participation involved in developing this proposed project. Merck commented that the stakeholders have made significant efforts to notify and educate the public about the project. A community meeting was held in December 1996, two public hearings were held in February 1997 and April 1997 (one by VADEQ and one by EPA),

a Merck retiree dinner was held, the Stonewall site's employees and Community Advisory Panel were briefed several times, several newspaper articles were published, and numerous newsletters and other documents were prepared and distributed to neighbors, retirees, employees, the media, and local state and federal government officials. In addition, Merck believes that the permit reviews represent a process that is unprecedented in air permitting in this country, and that the community will be provided with significant oversight of Merck's permit.

From Project XL's inception, EPA has stressed that stakeholder involvement and opportunities for public participation are critical to a project's success. During development of the Merck XL project, the public was given numerous opportunities for participation—far more than under the normal permitting process. Merck initiated a number of efforts to inform the local community about the project. EPA believes that Merck's comment provides a good summary of the communications outreach efforts undertaken during the development of this XL project. At the outset of the project, Merck developed and shared with the stakeholders a public involvement plan that included many of the activities described in Merck's comment above. This set of public involvement activities is fully consistent with the XL guidelines in place at the time of Merck's project development.

An environmental group commented that the stakeholder process for five-year permit review should follow EPA's April 23, 1997 XL guidelines in identifying and selecting direct participants and commenters. The commenter believes that ''direct stakeholders'' are those who sign off on the project and have a vote in the five-year review and potential permit changes. The commenter believes that the direct stakeholder group is not broad enough, because the commenter believes that EPA's XL guidance provides that additional stakeholders should be involved in the XL project development stage. Given that the Merck XL proposal has unlimited duration and a number of key issues were left to the five-year review process, the commenter recommends that the stakeholder process for periodic review should be equally as broad as the stakeholder process recommended by EPA for project development. The commenter requests EPA to ensure that the five-year review process meets the following [excerpt from 62 FR 19878–19879, April 23, 1997]: ''The project sponsor should make special efforts to recruit potential direct participants and commentors from among economically disadvantaged stakeholders and among stakeholders most directly affected by the environmental and health impacts of the project; * * * who have specific interest or expertise in the issues addressed in the project from among the national environmental justice communities and the industry segment of which the facility is a part; and * * * from among participating facilities' non-managerial employees.'' The commenter believes that the proposed make-up of the stakeholder group for permit review does not adequately reflect interest from these groups. In addition, a company located in Rockingham County, Virginia commented that it and other industries in the area should be considered significant stakeholders to the outcome and implementation of the project.

Merck commented that it sought to involve parties with a direct and specific stake in the project from the beginning. Merck maintained that a wide variety of interests was represented and all contributed to the innovative proposed permit. Based on the success of this process, Merck asserts that the proposed permit provides for these stakeholders to have a continuing opportunity for direct and valued input during operation under the permit as well. Merck believes that, particularly for the local community and regional public interest groups, these opportunities far exceed anything which they would be afforded under the current regulatory system. With regard to the April 23, 1997 XL notice's guidelines of three classes of stakeholders (general public, commentors, direct participants), Merck stated that it has considered its community representatives as ''direct participants'' since the project's inception, although it states that under this guidance they could have been considered ''general public'' with limited input. Merck points out that the XL guidance also states that the FPA should identify how to make information about the project, including performance data, available to stakeholders in an easily understandable form. Merck stated that it has committed to share with stakeholders and other interested parties an annual report. Merck further stated that it has committed to including all direct participant stakeholders in periodic evaluations, even though the guidelines indicate this would not be required. Merck believes that the permit's stakeholder process for five-year permit reviews is far beyond the level of stakeholder involvement suggested in EPA guidance, and certainly beyond what is currently provided to the public in any other environmental permitting forum.

EPA agrees that the stakeholder group as defined in the Merck project meets the Agency's guidance regarding direct participant stakeholders. EPA believes that the stakeholder group, comprised of Merck, EPA, VADEQ, U.S. Department of the Interior, community representatives and a public interest group, represents a fair balance of interests. The excerpt from the April 23, 1997 XL notice submitted by one commenter pertains to the types of interests that should be represented by both direct participant stakeholders and ''commenters''. In the April 23, 1997 notice, ''commenters'' are described as those individuals or groups that have an interest in the project, but not the desire to participate as intensively in its development. EPA believes that the Merck project is consistent with the guidance by including direct participants in the makeup of the stakeholder group for five-year permit reviews. However, EPA does not agree that it is required that the stakeholder group must include ''commenters'' as described in the April 23, 1997 notice. EPA encourages the stakeholder group to establish a mechanism for communicating information about issues being discussed in the five-year reviews at appropriate points during the process, and to consider the input from ''commenters'', such as area industries or other environmental organizations.

A number of citizens and environmental groups commented that there should be more public involvement in the permit review process. A few citizens believe the proposed permit minimizes public participation in the permit review process, and that full public participation is supposed to be a major component of the XL program. Other citizens commented favorably about the opportunity for direct involvement of the local community in the oversight of the project.

A commenter maintained that the community representatives selected by the Rockingham County Board of Supervisors will not really have an effective voice in reviews and other decisions because their concerns can be vetoed by Merck or other signatories. A citizen commented that permit revisions should be decided by the majority, but not all of the project signatories, which might ensure that corrective adjustments to the permit are made. The commenter also suggested that a public hearing be held by VADEQ midway through each five-year review.

EPA disagrees that this project minimizes public participation in the permitting process. On the contrary, the permit provides for much greater public involvement than other permits of its type. This permit provides unique opportunities for public involvement through the stakeholder process and periodic permit reviews. In the PSD program, once a PSD permit is issued, normally there is no opportunity for future public involvement in the permit's implementation. The Merck PSD permit will provide a unique opportunity for strong public involvement in reviewing the facility's operations under the permit. Further, since there currently are no specific Federal regulations governing PSD permit revisions, typically EPA does not initiate PSD permit changes without consent of the permittee. PSD permit revisions usually are made at the request of the source, with consent of the source and the permitting authority. Accordingly, the EPA believes that providing an explicit veto for Merck, in conjunction with the extraordinary level of stakeholder involvement in the project, provides an appropriate level of assurance to Merck that the agreements on which this rule and permit are based upon will generally continue in their current form, subject to specific terms of the rule and permit, and to consensus-based permit changes.

Under Merck's PSD permit, Rockingham County and every other signatory will have an effective voice in the permit review process because changes to the permit generally must be made upon full consent of all the signatories. This means that there may be issues that Rockingham County, or any other one signatory, does not support and can thus ''block'' a change to the permit by not giving consent to the change. Rather than being viewed as a ''veto'', this process should be viewed as ensuring that a permit change is proposed only when there has been full discussion and consideration of the impacts of the change. Allowing permit changes to be decided by a majority of the signatories not only would erode Merck's ability to prevent changes that may be unworkable for its facility, but also would compromise the ability of any other signatory to prevent permit changes that it does not support. All stakeholders have an opportunity to be fully involved in these discussions and to raise issues, bring forth technical information, and offer proposed resolutions for consideration. This process is more likely to result in proposed permit changes that are the outcome of consensus among the signatories. It is also important to note that Merck has no ability to ''veto'' any future enforcement actions or regulations which may impose additional requirements on the facility outside of the PSD permit.

The permit modification procedures in Merck's site-specific PSD rule (40 CFR 52.2454(n)) require the permitting authority to provide an opportunity for a public hearing for all permit modifications except those that meet the criteria for an administrative permit amendment (40 CFR 52.2454(n)(2)). Thus, if the signatories agree to any permit changes, the VADEQ must provide for public participation, including an opportunity for a public hearing, for those permit changes that do not qualify as administrative modifications. Any permit modification could also be appealed by residents or others with legal standing. EPA does not agree that it is necessary to provide for a public hearing during the five-year review process itself, since an opportunity for a public hearing will be provided if non-administrative permit modifications are proposed. EPA believes that public views can be effectively represented by the designated stakeholders during the process of developing any permit modifications. EPA encourages the stakeholder group to consider holding public meetings, similar to the one held during the initial project development, to inform the broader public of anticipated changes under consideration by signatories during the five-year review process. Other forms of communication (e.g., newsletters) to the public may be useful in communicating the issues under discussion and anticipated permit changes. EPA intends to continue to suggest effective forms of communication with the public during each five-year review and to participate in these activities along with the stakeholder group.

A citizen commented that the list of permit changes which the stakeholders can consider in the five-year reviews should be broadened to include, for example, permit termination, modification of caps, change in signatories, change in permit modification procedures, changes in significance levels, and others.

Section 6.1.1. lists the most fundamental types of permit changes anticipated by the stakeholders during the development of the project. In addition, these periodic review criteria will be reviewed by the stakeholders at each five-year review. EPA does not agree that it is necessary to add additional review criteria at this time, since it will be more effective to consider new criteria, if necessary, at the time of each five-year review. The permit also provides that any stakeholder may raise issues about the PSD permit at any time, as needed.

b. *Project signatory consent to permit changes during five-year reviews.* In the notice of proposed rulemaking, EPA solicited comment on the approach to stakeholder involvement during the implementation of the Merck XL project. See 62 FR 15307 (March 31, 1997). EPA received a number of comments regarding the stakeholder process for reviewing the permit every five-years. Particularly, numerous comments were received on the issue of whether the consent of all stakeholders, or only the project signatories, should be required to make proposed permit changes (i.e., to recommend that the permitting authority process a permit modification). The permit generally requires consent of all project signatories prior to making a proposed permit change. Project signatories are defined as EPA, VADEQ, Merck, U.S. Department of the Interior Federal Land Manager, and the County of Rockingham. The permit also provides that additional stakeholders have an opportunity to directly participate in the permit review process, but their individual consent is not required for permit changes. These additional stakeholders include up to three community representatives and a regional public interest group. If the project signatories agree to permit changes, then the permitting authority may process a permit modification according to the requisite procedures (40 CFR 52.2454 (m) and (n)). These permit modification procedures require public participation, including a 30-day public comment period and opportunity for a public hearing, for any permit change not defined as an administrative modification.

EPA received a number of comments from citizens and environmental groups that the consent of the three community representatives, in addition to Rockingham County's consent, and the public interest group should also be required prior to making a permit change. Alternatively, Merck, citizens, industry representatives, and a state environmental agency supported the process established in the proposed permit, and that the County's consent is the appropriate representation of concerns of the community as a whole. The comments on this issue are summarized below.

One of the community representatives on the Merck XL stakeholder group supported that the three community representatives who are appointed to

the five-year periodic review should be allowed to come to consensus and then cast one single vote along with the signatories regarding proposed changes to the PSD permit. This commenter believes that the community at large should be directly involved in any permit changes, and that the interests of the County government and the local community at large are not necessarily the same and could differ vastly on proposed changes to the PSD permit. The commenter maintains that disallowing the three community representatives one single vote in this process reduces their input to a mere advisory role. This commenter believes that the local community at large looks to their community representatives and EPA for representation and protection. This community representative submitted a petition signed by about 240 people, which read ''We the following residents of Rockingham County and Harrisonburg, do request with regard to the Merck XL Air Quality Project, Elkton, VA, that the three community representatives appointed to the project's five-year reviews be allowed to cast one vote along with the voting signatories to the project on proposed changes to the Prevention of Significant Deterioration (PSD) permit which replaces all other air quality permits.''

An environmental group commented that the permit should provide for ''stakeholder'' consensus on permit changes, not just ''signatory'' consensus, because of the concern that the state, federal agencies, and Rockingham County could agree with Merck to raise the emissions cap, and the community representatives or public interest group would have no real say in that decision. The community and public interest group want to be assured that they are getting permanent reductions in emissions, and are concerned that the emissions caps could be increased in the future. This commenter believes that most of the permit was negotiated with the understanding that the community representatives, including, potentially, a regional public interest group, would have to agree to any permit changes. The commenter objects to the permit language being changed to provide community representatives and public interest group as ''stakeholders'' only. The commenter fully supports Rockingham County as a signatory, but believes the community representatives living downwind of the plant and the public interest group provide a perspective different from, and independent of, County concerns such as jobs and tax base.

A community representative on the Merck XL stakeholder group commented that there should be ground rules set up for the five-year reviews, and perhaps a neutral facilitator. This commenter and an environmental group also recommended that there should be funds set aside to provide technical assistance for the community at the five-year reviews, so that the community has a fuller understanding of the impacts of any permit changes under consideration.

A number of citizens and environmental groups commented that Merck should not have a ''veto'' over suggested permit changes. Some commenters expressed concern that, because full consent of the project signatories is needed for proposed permit changes, Merck can ''veto'' changes and ignore evidence of air quality and resource degradation in Shenandoah National Park. One commenter suggested that the stakeholder agencies should be responsible for determining the need for, and extent of, permit revisions. Absent that, the commenter believes that a funded, organized, strong public interest presence be included among the signatories.

EPA also received a number of comments supporting the roles of signatories and stakeholders in the five-year review process as proposed in the permit. Two citizens commented that they support having an elected member from the Rockingham County Board of Supervisors designated to represent the community. One of these commenters believes it is wrong for an individual citizen of the community to have a vote for approval of permit changes. The commenter states, ''I could ask why I do not get the vote?'' The commenter believes the elected officials will adequately represent him, and if not he has a recourse at the polls. With a community representative on the stakeholder group, he does not.

Several commenters, including a state environmental agency, industry association, a company that participated in another XL project, and Merck, commented that the local community interests, in particular, are afforded an unprecedented opportunity to participate in and influence the project. Many of these commenters expressed that the Merck XL project goes well beyond the role provided for community interests in the current regulatory system. These commenters strongly endorse having the community's voice on the stakeholder team through the local government, because it ensures representation of the interests of the whole community.

Merck commented that the permit's approach establishes an extremely important balance in community representation: it ensures that vocal and interested community members have a voice, and that the interests of the entire community are considered. Merck believes that it is appropriate that individuals who may be particularly concerned with the facility's operations, or who have specific expertise or input on a relevant issue, be provided with a full opportunity to voice their opinion. However, Merck maintains that meaningful community involvement must provide some assurance that the interests of the community as a whole are represented.

Two commenters maintained that it is an unusual suggestion that the Rockingham County Board of Supervisors does not represent the interests and well-being of County residents. These commenters assert that the local government is directly accountable to the residents that they represent; if the County officials fail to represent the community, the voters have a responsibility to remove those individuals and elect representatives that do. The commenters believe that a County appointee, in consultation with the three other community stakeholders, will be well equipped to voice the authentic views of the community. Merck believes that granting two community ''votes'' on the stakeholder group would not be providing a more open process, but rather, a more closed process that could allow the opinion of a few vocal individuals to prevail over the vital interests of the community at large.

Several commenters raised the concern that individuals representing only their own interests may adopt extreme positions which are not truly representative of community sentiment. Commenters stated that having a team of community representatives led by a local government official provides an appropriate measure of accountability and stability in the process.

Commenters believe that this approach will help assure that individuals who do not truly reflect the interests of the community as a whole are not granted a veto over a permit change that all other stakeholders otherwise find to be beneficial. Several commenters maintain that this system embodies the basic principles of our governmental system—accountable, elected representatives are charged with representing the peoples views on matters of public policy. A company that participated in Project XL contends that the function of community advisory groups must not be misinterpreted to

duplicate those of government. This commenter believes that stakeholder panels are an excellent means of getting early and meaningful input into environmental decisions, but, as both a practical and legal matter, they cannot assume the decisional role of government.

Merck and another company commented that the stakeholder process infuses a certain amount of risk for Merck, and that this additional risk is an important factor to consider when evaluating the adequacy of community involvement in future permit discussions. Merck stated that it could not accept a permit that would threaten the future viability of the plant. Merck believes that the permit was carefully crafted to ensure that it would provide enhanced community oversight, but not subject the plant to unacceptable control by outside parties. Merck commented that the proposed permit is crafted to reflect the process that was used in the formation of the project—each represented group is granted one ''vote'' in future permit reviews. Merck stated that none of the parties objected to this approach; all agreed that it was sensible that each party would reach a single position and bring that position to the stakeholder group. Merck believes it is unclear why this approach is now not acceptable.

Merck commented that the petition (referenced in a previous comment above) submitted to EPA does not provide any insights to what those who signed would be willing to accept as an alternative to two community votes, nor does it elucidate why they question their representation by Rockingham County and their ability to influence the County's views in future permit discussions. Merck believes that the County has already demonstrated the seriousness with which it accepts this charge to represent the community in the project negotiations. Merck stated that, despite an accelerated schedule to finish its review, in December 1996 the County insisted that it needed additional time for its independent technical consultant to analyze the draft permit and agreement before providing its consent. Merck believes that EPA should have every expectation that the County will continue to take its duty to represent community interests seriously.

Merck commented that a public interest group representative should not be added as a signatory. The permit specifies that a representative from a regional public interest group be included as a stakeholder, although not with the ability to vote on permit changes. Merck believes that this is a unique opportunity for such groups which far exceeds that available to them under existing environmental regulations. Merck claimed that granting this representative with the same oversight as other signatories would be inappropriate and a serious compromise to the future viability of the Stonewall plant. Merck believes that a public interest group representative is not held accountable in any meaningful way to the public for his/her views. Merck maintains that the permit as crafted provides very significant input for public interest groups while assuring that only parties that have public accountability are granted oversight for permit changes.

Finally, Merck urged EPA to maintain the stakeholder provisions of the permit as proposed, because to include a second ''vote'' for the three community representatives would:

1. Endorse the accusation that the Rockingham County Board of Supervisors, despite being elected by the community, does not represent the community's interests.

2. Question the ability of EPA, DEQ, and NPS to act on legitimate environmental concerns for the protection of the public interest at large.

3. Indicate that the stakeholder process for the formation of the project is inadequate for project implementation.

4. Shatter the important balance that the County would bring as the lead representative of the entire community.

5. Contradict the XL guidance (April 23, 1997 **Federal Register** notice) by setting a standard for public involvement far above what could be required for future XL projects.

6. Agree that it is reasonable to have a process that would allow the opinion of a few vocal individuals to prevail over the interests of the community at large.

7. Narrow rather than broaden the representation of community interests on the project.

8. Suggest that the project stakeholders would not continue acting in good faith for future permit reviews.

9. Imply that Rockingham County's efforts to obtain independent review and advice on the agreement fell short of what is necessary to properly protect the community's interests; and

10. Threaten the future of a project that would otherwise provide the community with unprecedented oversight of Merck's air permit, that would significantly reduce actual emissions of pollutants of particular concern to the region, that would provide an ongoing incentive for the facility to minimize emissions, and that, as EPA, VADEQ, National Park Service and the community have acknowledged, would provide superior environmental benefit.

In response, EPA believes that the permit represents a fair balance of interests. The permit significantly enhances the involvement of the community and other stakeholders in overseeing the environmental impacts of the Merck Stonewall Plant. Stakeholders will have an unprecedented opportunity to participate in the ongoing evaluation of the project and to recommend any necessary changes to the project. The permit provides that the stakeholders review and evaluate the project at least every five-years. If the project signatories (i.e., signatories to the Final Project Agreement, namely EPA, VADEQ, Merck, U.S. Department of the Interior Federal Land Manager, and Rockingham County Board of Supervisors) give full consent to any necessary permit changes, the permitting authority may process a permit modification according to the requisite permit modification procedures (see 40 CFR 52.2454(n)). The permit identifies numerous issues that may be considered by the project stakeholders during each five-year review. Stakeholders also have the opportunity to raise issues of concern at any time for discussion by the stakeholder group.

The permit defines ''project stakeholders'' as the project signatories to the FPA plus other parties as follows: (1) Up to three other community representatives shall be included as nominated by the Rockingham County Board of Supervisors, and agreed to by full consent of the project signatories to the FPA. Community representatives are defined as local government and/or community residents with an ongoing stake in the project; and (2) Up to one representative from a regional public interest group shall be included as nominated by any project signatory and agreed to by full consent of the project signatories. This group of stakeholders will convene every five years to review whether changes to the permit are necessary. As discussed above, the permit establishes that full consent from the project signatories, and not each member of the stakeholder group, is necessary before permit changes can be made. This stakeholder process for five-year reviews is consistent with the process used in the development of the proposed FPA and draft permit. The County of Rockingham is the signatory to the FPA (i.e., a project signatory) representing community interests. The three additional members of the community team (two neighbors of the

Merck Stonewall Plant and the Town Manager of Elkton) also actively participated in the stakeholder group. The County was designated as a project signatory at the request of the community team in order to insure long-term representation and continuity of community interests.[10] This model of stakeholder involvement provided all stakeholders with full information and ability to shape the development of the project.

EPA supports the provisions set forth in the proposed permit that require the consent of signatories only, and not the full stakeholder group, for proposed permit changes during the five-year review process. EPA agrees with several commenters that it is most appropriate that the representative of the Rockingham County Board of Supervisors will represent the views of the whole community, taking into account the interests and well-being of the County constituents. The role of the three community representative stakeholders also is important for identifying specific concerns, questions, and information that can influence the stakeholder discussions. EPA expects that Rockingham County's decisions about permit changes will substantially reflect the input and views of the three community representatives, as well as the interests of the community at large. Further, EPA believes that the five-year review process offers a role for a public interest group that is greatly enhanced as compared to the normal permitting process. The permit is designed such that all non-signatory stakeholders will be fully involved in the deliberation of all permit issues, as in the development of the Merck XL project. During the development of the Merck XL project, all stakeholders, as well as several environmental groups that were not part of the stakeholder group, provided valuable comments on the draft permit. These comments were fully considered by the project signatories and helped to shape the project. EPA expects that the same interaction among stakeholders will occur during the five-year permit reviews, and that the project signatories will fully consider concerns and issues raised by all the stakeholders before reaching decisions on permit changes.

EPA does not believe that the permit's process for stakeholder involvement in any way diminishes the role of the non-governmental representatives. Throughout Project XL, EPA has made clear that it places a high degree of importance on public support and will give the views of the public significant weight in deciding whether to proceed with a project. EPA will take the same approach on making decisions during project implementation. EPA will make every effort to ensure that the concerns of the community and the public interest group representatives are fully explored and addressed by the signatories. Prior to making a decision about whether to give consent to proposed permit changes, EPA intends to fully consider any outstanding concerns raised by the community representatives or the public interest group, and encourage other signatories to do the same.

This XL project is composed of an experimental, innovative emissions cap-based PSD rule and permit, which fully authorize modifications at the facility to occur without changes to the permit, so long as the emissions caps and other permit terms are met. Most future ''modifications'' thus will not require any permit changes and, therefore, will not need any agreement among the signatories; in these instances, any right of the stakeholders to vote on or veto changes will not be relevant. The signatory consensus process is relevant only for other types of changes at the facility necessitating changes to the permit. Regarding these latter kinds of permit changes (i.e., those not associated with a ''modification'') the EPA notes that the permit will continue to be governed by the site-specific rule (e.g., the caps must be consistent, or lower than, recent actual emissions, as discussed elsewhere in this document), and any resulting permit modification will occur only after stakeholder input during the five-year review process and will be judicially reviewable. As explained above, the EPA believes the level of stakeholder involvement in the Merck project is unprecedented in its scope and detail.

It is important to realize that any permit changes agreed to by the signatories must be processed by the permitting authority according to the required permit modification procedures. For the vast majority of changes (i.e., except those changes defined as administrative), the permitting authority is required to provide 30 days of public comment and an opportunity for public hearing. See 40 CFR 52.2454 (m) and (n). Thus, any member of the public will have a full opportunity to comment on any non-administrative changes agreed to by the signatories. It is the permitting authority's responsibility to fully evaluate and respond to any public comments received on proposed permit changes. If the permitting authority determines that there is an inadequate basis for a proposed permit change, based on additional information received through public comments, the permitting authority may decide not to go forward with a particular permit change. This would be the permitting authority's decision to make, independent of the signatories. In this circumstance, the signatories could decide to reevaluate the proposed permit change and attempt to address the public comments and could request the permitting authority to re-propose the permit change. In addition, nothing in this rulemaking or the permit would limit a citizen's rights to judicial review of any final action taken by the permitting authority.

EPA believes that stakeholders, and other members of the public, are assured substantial rights in the event a permit modification is considered. Any significant modification would have to undergo public notice and comment, and would be subject to judicial review. Moreover, any decision to approve a modification would have to be supported by an administrative record, and stakeholders will have the opportunity, even prior to the formal notice and comment process, to submit information that might indicate that a modification was unwarranted. EPA has consistently made clear that in Project XL it is highly unlikely to take an action that does not have broad stakeholder support. In light of these protections, EPA does not believe it is necessary for the non-signatory stakeholders to have a formal veto. EPA believes that what is more important than vetoing changes proposed by others is the ability of the stakeholders and the public to propose changes when they believe the existing permit is not satisfactory. EPA believes the five-year review process will provide such an opportunity. Outside Project XL, no such opportunity would typically exist under a PSD permit.

Based on the public comments, EPA understands that one of the significant concerns of environmental groups and citizens is the possibility that the emissions caps will be raised in the future. The site-specific rule requires emissions caps to be established based on the site's actual emissions during a time period, within five years of permit issuance, which represents normal source operation, or a different time period if it is more representative of normal source operation. Reductions to the initial caps are required after the powerhouse conversion. Thus, the emissions caps generally could not be raised above these levels under this rule. The site-specific rule would need

[10] See July 1, 1996 letter from the Merck XL community representatives to the County Administrator and Members of the Rockingham County Board of Supervisors (contained in the docket).

to be revised in the future to authorize any increase in the emissions caps that is not already provided for in the rule or permit. For example, the permit provides that the emission caps may be increased in the following circumstances, which are primarily technical corrections: (1) The emissions caps may be adjusted to account for changes in emission factors which require a recalculation of the emissions baseline (i.e., to ensure an ''apples to apples'' comparison of current actual emissions to the emissions cap); and (2) the PM_{10} emissions cap may be increased to account for the quantity of condensable PM_{10} from the new powerhouse. These changes in emissions caps would not require a revision to the site-specific rule, since they are already authorized by the rule and proposed permit. However, if the signatories contemplate increases to the emissions caps for other reasons in the future, the site-specific rule would first have to be revised to authorize the cap increase. As part of the docket for such a rulemaking change, EPA would intend to ensure that an appropriate technical demonstration is conducted which justifies both the need for and the environmental impacts of the proposed emissions increases. EPA notes that any further decreases to the emissions caps (other than those already provided for in the permit) would require a revision of the permit, but not a revision of the site-specific rule.

EPA recognizes its responsibility to ensure meaningful participation in the stakeholder process, and will make every effort to accommodate the needs of stakeholders during the five-year permit reviews. EPA will make available its own technical expertise to respond to questions and concerns raised by the stakeholders. EPA also expects Merck to continue to provide assistance in understanding and evaluating technical issues. During the development of the Merck XL project, Merck made several technical presentations to the stakeholder group about various aspects of the project, including emissions calculation methodologies and how certain regulatory requirements affect the facility. Merck also hired a technical consultant to answer the stakeholders' questions about the impacts of potential VOC emissions on ozone formation. EPA expects that, as needed, Merck will continue to provide pertinent technical information to the stakeholders during the five-year review periods. Further, EPA hopes that Rockingham County will continue to seek technical advice and assistance during the five-year reviews, as it did during the initial project development. Rockingham County employed a consultant from James Madison University to review the proposed XL project and make recommendations to the County. A County official commented that the consultant had a very good understanding of the process and the documentation provided. The County stated that the consultant recommended that the County support the project. The County's consultation with technical advisors can be a very effective way of addressing the technical assistance needs identified by the community.

EPA offered guidance on its ability to support technical assistance in a **Federal Register** Notice on Modifications to Project XL. See 62 FR 19872 (April 23, 1997). EPA recognizes that, in some cases, there will be a need for the Agency to offer some additional support for technical assistance to the ''direct participant'' stakeholder group.[11] The Agency has committed to provide up to $25,000 per project over the next few years in order to assure that necessary technical assistance is available to support meaningful stakeholder involvement. As EPA explained in the April 23, 1997 **Federal Register** notice, EPA plans to make these funds available on a task-specific basis and funds will not be in the form of grants to stakeholder groups. EPA has issued a solicitation for proposals from not-for-profit and academic institutions to manage and operate a technical assistance program for Project XL stakeholders. The April 23, 1997 **Federal Register** notice explains additional qualifications on the use of this technical assistance. For example, technical assistance funds are not available to address strictly individual needs, but rather, needs for technical assistance must be identified and requested by the direct participant stakeholder group as a whole. For the Merck XL project, EPA fully intends to pursue making available similar resources at the time of the five-year periodic reviews to provide the technical assistance necessary to ensure a meaningful stakeholder process.

EPA agrees that the stakeholder process for five-year permit reviews could be enhanced by the use of a neutral facilitator and establishment of ground rules. However, EPA believes that these process decisions should be made by the entire stakeholder group at the outset of each five-year review. At the outset of the permit review process, EPA encourages the Merck XL stakeholder group to discuss the need for a neutral facilitator, and to establish a set of ground rules designed to guide the process and help ensure common expectations.

[11] In the April 23, 1997 **Federal Register** notice, ''direct participants'' are described as those stakeholder participants who work intensively with project sponsors during project development to build a project from the ground up.

V. Administrative Requirements

A. Effective Date

Pursuant to 5 U.S.C. 553(d)(3) and 42 U.S.C. 6930(b)(3), EPA finds that good cause exists to make this rule effective immediately. The Merck & Co., Inc. Stonewall Plant is the only regulated entity affected by this rule. Merck has full notice of this site-specific rule, and is prepared to comply immediately with the permit to be issued expeditiously under the rule. Although EPA expects that the permit will not be issued for at least 30 days, an immediate effective date will allow the permitting process to proceed without delay.

B. Executive Order 12866

Because this rule only affects one facility, it is not a rule of general applicability and therefore not subject to OMB review under Executive Order 12866. In addition, OMB has agreed that reviews of site-specific rules under Project XL are not necessary.

C. Regulatory Flexibility

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This proposed rule would not have a significant impact on a substantial number of small entities because it only affects one source, the Merck Stonewall Plant, which is not a small entity. Therefore, EPA certifies that this action will not have a significant economic impact on a substantial number of small entities.

D. Paperwork Reduction Act

This action applies only to one company, and therefore requires no information collection activities subject to the Paperwork Reduction Act, and therefore no information collection request (ICR) will be submitted to the Office of Management and Budget (OMB) for review in compliance with the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

E. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), P.L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan.

As noted above, this rule is limited to Merck's facility in Elkton, Virginia. EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. EPA has also determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental Relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

40 CFR Part 60

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations, Lead, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

40 CFR Part 264

Environmental protection, Air pollution control, Container, Control device, Hazardous waste, Monitoring, Reporting and recordkeeping requirements, Surface impoundment, Tank, Treatment storage and disposal facility, Waste determination.

40 CFR Part 265

Environmental protection, Air pollution control, Container, Control device, Hazardous waste, Monitoring, Reporting and recordkeeping requirements, Surface impoundment, Tank, Treatment storage and disposal facility, Waste determination.

Dated: September 30, 1997.

Carol M. Browner,

Administrator.

For the reasons set forth in the preamble of this rule, parts 52, 60, 264 and 265 of chapter I of title 40 of the Code of Federal Regulations are amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

Authority: 42 U.S.C. 7401–7671q.

2. Subpart VV is amended by adding a new § 52.2454 to read as follows:

§ 52.2454 Prevention of significant deterioration of air quality for Merck & Co., Inc.'s Stonewall Plant in Elkton, VA.

(a) *Applicability.* (1) This section applies only to the pharmaceutical manufacturing facility, commonly referred to as the Stonewall Plant, located at Route 340 South, in Elkton, Virginia (''site'').

(2) This section sets forth the prevention of significant deterioration of air quality preconstruction review requirements for the following pollutants only: carbon monoxide, nitrogen oxides, ozone (using volatile organic compounds as surrogate), particulate matter with an aerodynamic diameter less than 10 microns (PM_{10}), and sulfur dioxide. This section applies in lieu of § 52.21 for the pollutants identified in this paragraph as well as particulate matter, but not for particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 microns ($PM_{2.5}$) regulated as $PM_{2.5}$; however, the preconstruction review requirements of § 52.21, or other preconstruction review requirements that the Administrator approves as part of the plan, shall remain in effect for any pollutant which is not specifically identified in this paragraph and is subject to regulation under the Act.

(b) *Definitions.* For the purposes of this section:

12-month rolling total for an individual pollutant or the total criteria pollutants, as specified in paragraph (d) of this section, is calculated on a monthly basis as the sum of all actual emissions of the respective pollutant(s) from the previous 12 months.

Act means the Clean Air Act, as amended, 42 U.S.C. 7401, *et seq.*

Completion of the powerhouse conversion means the date upon which the new boilers, installed pursuant to paragraph (g) of this section, are operational. This determination shall be made by the site based on the boiler manufacturer's installation, startup and shakedown specifications.

Permitting authority means either of the following:

(1) The Administrator, in the case of an EPA-implemented program; or

(2) The State air pollution control agency, or other agency delegated by the Administrator, pursuant to paragraph (o) of this section, to carry out this permit program.

Process unit means:

(1) Manufacturing equipment assembled to produce a single intermediate or final product; and

(2) Any combustion device.

Responsible official means:

(1) The president, secretary, treasurer, or vice-president of the business entity in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the business entity; or

(2) A duly authorized representative of such business entity if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:

(i) The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding $25 million (in second quarter 1980 dollars); or

(ii) The authority to sign documents has been assigned or delegated to such representative in accordance with procedures of the business entity.

Site means the contiguous property at Route 340 South, Elkton, Virginia, under common control by Merck & Co., Inc., and its successors in ownership, known as the Stonewall site.

(c) *Authority to issue permit.* The permitting authority may issue to the site a permit which complies with the requirements of paragraphs (d) through (n) of this section. The Administrator may delegate, in whole or in part, pursuant to paragraph (o) of this section, the authority to administer the requirements of this section to a State air pollution control agency, or other agency authorized by the Administrator.

(d) *Site-wide emissions caps.* The permit shall establish site-wide emissions caps as provided in this paragraph.

(1) *Initial site-wide emissions caps.* The initial site-wide emissions caps shall be based on the site's actual emissions during a time period, within

five years of the date of permit issuance, which represents normal site operation. The permitting authority may allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual site-wide emissions shall be calculated using the actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

(i) *Total criteria pollutant emissions cap.* The permit shall establish a total criteria pollutant emissions cap (total emissions cap). The criteria pollutants included in the total emissions cap are the following: carbon monoxide, nitrogen oxides, ozone (using volatile organic compounds as surrogate), particulate matter with an aerodynamic diameter less than 10 microns, and sulfur dioxide.

(ii) *Individual pollutant caps.* The permit shall establish individual pollutant caps for sulfur dioxide, nitrogen oxides and PM_{10}.

(2) *Adjustments to the site-wide emissions caps.* (i) The permit shall require that upon completion of the powerhouse conversion, the site shall reduce the site-wide emissions caps as follows:

(A) The total emissions cap shall be reduced by 20 percent from the initial site-wide emissions cap established pursuant to paragraph (d)(1)(i) of this section.

(B) The sulfur dioxide cap shall be reduced by 25 percent from the initial site-wide emissions cap established pursuant to paragraph (d)(1)(ii) of this section.

(C) The nitrogen oxide cap shall be reduced by 10 percent from the initial site-wide emissions cap established pursuant to paragraph (d)(1)(ii) of this section.

(ii) The permit may specify other reasons for adjustment of the site-wide emissions caps.

(e) *Operating under the site-wide emissions caps.* (1) The permit shall require that the site's actual emissions of criteria pollutants shall not exceed the total emissions cap established pursuant to paragraph (d) of this section.

(2) The permit shall require that the site's actual emissions of sulfur dioxide, nitrogen oxides and PM_{10} shall not exceed the respective individual pollutant cap established pursuant to paragraph (d) of this section.

(3) Compliance with the total emissions cap and individual pollutant caps shall be determined by comparing the respective cap to the 12-month rolling total for that cap. Compliance with the total emissions cap and individual pollutant caps shall be determined within one month of the end of each month based on the prior 12 months. The permit shall set forth the emission calculation techniques which the site shall use to calculate site-wide actual criteria pollutant emissions.

(4) *Installation of controls for significant modifications and significant new installations.* (i) This paragraph applies to significant modifications and significant new installations. Significant modifications for the purposes of this section are defined as changes to an existing process unit that result in an increase of the potential emissions of the process unit, after consideration of existing controls, of more than the significance levels listed in paragraph (e)(4)(ii) of this section. Significant new installations for the purposes of this section are defined as new process units with potential emissions before controls that exceed the significance levels listed in paragraph (e)(4)(ii) of this section. For purposes of this section, potential emissions means process unit point source emissions that would be generated by the process unit operating at its maximum capacity.

(ii) The significance levels for determining significant modifications and significant new installations are: 100 tons per year of carbon monoxide; 40 tons per year of nitrogen oxides; 40 tons per year of sulfur dioxide; 40 tons per year of volatile organic compounds; and 15 tons per year of PM_{10}.

(iii) For any significant modification or significant new installation, the permit shall require that the site install, at the process unit, emission controls, pollution prevention or other technology that represents good environmental engineering practice in the pharmaceutical or batch processing industry, based on the emission characteristics (such as flow, variability, pollutant properties) of the process unit.

(f) *Operation of control equipment.* The permit shall require that the site shall continue to operate the emissions control equipment that was previously subject to permit requirements at the time of issuance of a permit pursuant to this section. This equipment shall be operated in a manner which minimizes emissions, considering the technical and physical operational aspects of the equipment and associated processes. This operation shall include an operation and maintenance program based on manufacturers' specifications and good engineering practice.

(g) *Powerhouse conversion.* The permit shall require that the site convert the steam-generating powerhouse from burning coal as the primary fuel to burning natural gas as the primary fuel and either No. 2 fuel oil or propane as backup fuel.

(1) The new boilers shall be equipped with low nitrogen oxides technology.

(2) The site shall complete the powerhouse conversion (completion of the powerhouse conversion) no later than 30 months after the effective date of the permit.

(h) *Monitoring, recordkeeping and reporting.* (1) The permit shall set forth monitoring, recordkeeping, and reporting requirements sufficient to demonstrate compliance with the site-wide emissions caps. The monitoring, recordkeeping and reporting requirements shall be structured in a tiered system, such that the requirements become more stringent as the site's emissions approach the total emissions cap.

(2) At a minimum, the permit shall require that the site submit to the permitting authority semi-annual reports of the site-wide criteria pollutant emissions (expressed as a 12-month rolling total) for each month covered by the report. These reports shall include a calculation of the total emissions cap, as well as, the emissions of sulfur dioxide, nitrogen oxides, carbon monoxide, volatile organic compounds and PM_{10}.

(3) Any reports required by the permit to be submitted on an annual or semi-annual basis shall contain a certification by the site's responsible official that to his belief, based on reasonable inquiry, the information submitted in the report is true, accurate, and complete.

(4) Any records required by the permit shall be retained on site for at least five years.

(i) *Air quality analysis.* The permittee shall demonstrate, prior to permit issuance and on a periodic basis which shall be specified in the permit, that emissions from construction or operation of the site will not cause or contribute to air pollution in excess of any:

(1) maximum allowable increase or maximum allowable concentration for any pollutant, pursuant to section 165 of the Act;

(2) National ambient air quality standard or;

(3) Other applicable emission standard or standard of performance under the Act.

(j) *Termination.* (1) The permit may be terminated as provided in this paragraph for reasons which shall include the following, as well as any other termination provisions specified in the permit:

(i) If the Administrator or the permitting authority determines that continuation of the permit is an

imminent and substantial endangerment to public health or welfare, or the environment;

(ii) If the permittee knowingly falsifies emissions data;

(iii) If the permittee fails to implement the powerhouse conversion pursuant to paragraph (g) of this section;

(iv) If the permittee receives four consent orders or two judgments adverse to the site arising from non-compliance with this permit in a five year period that are deemed material by the Administrator or the permitting authority; or

(v) If the total emissions cap is exceeded.

(2) In the event of termination, the Administrator or the permitting authority shall provide the permittee with written notice of its intent to terminate the permit. Within 30 calendar days of the site's receipt of this notice, the site may take corrective action to remedy the cause of the termination. If this remedy, which may include a corrective action plan and schedule, is deemed acceptable by the Administrator or the permitting authority (whichever agency provided written notice of its intent to terminate the permit), the action to terminate the permit shall be withdrawn. Otherwise, the permit shall be terminated in accordance with procedures specified in the permit.

(3) Termination of the permit does not waive the site's obligation to complete any corrective actions relating to non-compliance under the permit.

(k) *Inspection and entry.* (1) Upon presentation of credentials and other documents as may be required by law, the site shall allow authorized representatives of the Administrator and the permitting authority to perform the following:

(i) Enter upon the site;

(ii) Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;

(iii) Have access at reasonable times to batch and other plant records needed to verify emissions.

(iv) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations required under the permit;

(v) Sample or monitor any substances or parameters at any location, during operating hours, for the purpose of assuring permit compliance or as otherwise authorized by the Act.

(2) No person shall obstruct, hamper, or interfere with any such authorized representative while in the process of carrying out his official duties. Refusal of entry or access may constitute grounds for permit violation and assessment of civil penalties.

(3) Such site, facility and equipment access, and sampling and monitoring shall be subject to the site's safety and industrial hygiene procedures, and Food and Drug Administration Good Manufacturing Practice requirements (21 CFR parts 210 and 211) in force at the site.

(l) *Transfer of ownership.* The terms of the permit are transferable to a new owner upon sale of the site, in accordance with provisions specified by the permit.

(m) *Permit issuance.* The permitting authority shall provide for public participation prior to issuing a permit pursuant to this section. At a minimum, the permitting authority shall:

(1) Make available for public inspection, in at least one location in the area of the site, the information submitted by the permittee, the permitting authority's analysis of the effect on air quality including the preliminary determination, and a copy or summary of any other materials considered in making the preliminary determination;

(2) Notify the public, by advertisement in a newspaper of general circulation in the area of the site, of the application, the preliminary determination, and of the opportunity for comment at a public hearing as well as written public comment;

(3) Provide a 30-day period for submittal of public comment;

(4) Send a copy of the notice of public comment to the following: the Administrator, through the appropriate Regional Office; any other State or local air pollution control agencies, the chief executives of the city and county where the site is located; any State, Federal Land Manager, or other governing body whose lands may be affected by emissions from the site.

(5) Provide opportunity for a public hearing for interested persons to appear and submit written or oral comments on the air quality impact of the site, the control technology required, and other appropriate considerations.

(n) *Permit modifications.* The permit shall specify the conditions under which the permit may be modified by the permitting authority. The permitting authority shall modify the permit in accordance with the procedures set forth in this paragraph.

(1) *Permit modifications that require public participation.* For any change that does not meet the criteria for an administrative permit modification established in paragraph (n)(2)(i) of this section, the permitting authority shall provide an opportunity for public participation, consistent with the provisions of paragraph (m) of this section, prior to processing the permit modification.

(2) *Administrative permit modification.* (i) An administrative permit modification is a permit revision that:

(A) Corrects typographical errors;

(B) Identifies a change in the name, address, or phone number of any person identified in the permit, or provides a similar minor administrative change at the site;

(C) Requires more frequent monitoring, recordkeeping, or reporting by the permittee;

(D) Allows for a change in ownership or operational control of a source where the permitting authority determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee has been submitted to the permitting authority.

(E) Updates the emission calculation methods specified in the permit, provided that the change does not also involve a change to any site-wide emissions cap.

(F) Changes the monitoring, recordkeeping or reporting requirements for equipment that has been shutdown or is no longer in service.

(G) Any other change that is stipulated in the permit as qualifying as an administrative permit modification, provided that the permit condition which includes such stipulation has already undergone public participation in accordance with paragraph (m) of this section.

(ii) An administrative permit modification may be made by the permitting authority consistent with the following procedures:

(A) The permitting authority shall take final action on any request for an administrative permit modification within 60 days from receipt of the request, and may incorporate such changes without providing notice to the public, provided that the permitting authority designates any such permit revisions as having been made pursuant to this paragraph.

(B) The permitting authority shall submit a copy of the revised permit to the Administrator.

(C) The site may implement the changes addressed in the request for an administrative permit modification immediately upon submittal of the request to the permitting authority.

(o) *Delegation of authority.* (1) The Administrator shall have the authority

to delegate the responsibility to implement this section in accordance with the provisions of this paragraph.

(2) Where the Administrator delegates the responsibility for implementing this section to any agency other than a Regional Office of the Environmental Protection Agency, the following provisions shall apply:

(i) Where the delegate agency is not an air pollution control agency, it shall consult with the appropriate State and local air pollution control agency prior to making any determination under this section. Similarly, where the delegate agency does not have continuing responsibility for managing land use, it shall consult with the appropriate State and local agency primarily responsible for managing land use prior to making any determination under this section.

(ii) The delegate agency shall send a copy of any public comment notice required under paragraph (n) of this section to the Administrator through the appropriate Regional Office.

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

1. The authority citation for part 60 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

2. Section 60.1 is amended by adding paragraph (d) to read as follows:

§ 60.1 Applicability.

* * * * *

(d) *Site-specific standard for Merck & Co., Inc.'s Stonewall Plant in Elkton, Virginia.* (1) This paragraph applies only to the pharmaceutical manufacturing facility, commonly referred to as the Stonewall Plant, located at Route 340 South, in Elkton, Virginia (''site'').

(2) Except for compliance with 40 CFR 60.49b(u), the site shall have the option of either complying directly with the requirements of this part, or reducing the site-wide emissions caps in accordance with the procedures set forth in a permit issued pursuant to 40 CFR 52.2454. If the site chooses the option of reducing the site-wide emissions caps in accordance with the procedures set forth in such permit, the requirements of such permit shall apply in lieu of the otherwise applicable requirements of this part.

(3) Notwithstanding the provisions of paragraph (d)(2) of this section, for any provisions of this part except for Subpart Kb, the owner/operator of the site shall comply with the applicable provisions of this part if the Administrator determines that compliance with the provisions of this part is necessary for achieving the objectives of the regulation and the Administrator notifies the site in accordance with the provisions of the permit issued pursuant to 40 CFR 52.2454.

3. Section 60.49b is amended by adding paragraph (u) to read as follows:

§ 60.49b Reporting and recordkeeping requirements.

* * * * *

(u) *Site-specific standard for Merck & Co., Inc.'s Stonewall Plant in Elkton, Virginia.*

(1) This paragraph applies only to the pharmaceutical manufacturing facility, commonly referred to as the Stonewall Plant, located at Route 340 South, in Elkton, Virginia (''site'') and only to the natural gas-fired boilers installed as part of the powerhouse conversion required pursuant to 40 CFR 52.2454(g). The requirements of this paragraph shall apply, and the requirements of §§ 60.40b through 60.49b(t) shall not apply, to the natural gas-fired boilers installed pursuant to 40 CFR 52.2454(g).

(i) The site shall equip the natural gas-fired boilers with low nitrogen oxide (NO_X) technology.

(ii) The site shall install, calibrate, maintain, and operate a continuous monitoring and recording system for measuring NO_X emissions discharged to the atmosphere and opacity using a continuous emissions monitoring system or a predictive emissions monitoring system.

(iii) Within 180 days of the completion of the powerhouse conversion, as required by 40 CFR 52.2454, the site shall perform a stack test to quantify criteria pollutant emissions.

(2) [Reserved].

4. Section 60.112b is amended by adding paragraph (c), to read as follows:

§ 60.112b Standard for volatile organic compounds (VOC).

* * * * *

(c) *Site-specific standard for Merck & Co., Inc.'s Stonewall Plant in Elkton, Virginia.* This paragraph applies only to the pharmaceutical manufacturing facility, commonly referred to as the Stonewall Plant, located at Route 340 South, in Elkton, Virginia (''site'').

(1) For any storage vessel that otherwise would be subject to the control technology requirements of paragraphs (a) or (b) of this section, the site shall have the option of either complying directly with the requirements of this subpart, or reducing the site-wide total criteria pollutant emissions cap (total emissions cap) in accordance with the procedures set forth in a permit issued pursuant to 40 CFR 52.2454. If the site chooses the option of reducing the total emissions cap in accordance with the procedures set forth in such permit, the requirements of such permit shall apply in lieu of the otherwise applicable requirements of this subpart for such storage vessel.

(2) For any storage vessel at the site not subject to the requirements of 40 CFR 60.112b (a) or (b), the requirements of 40 CFR 60.116b (b) and (c) and the General Provisions (Subpart A of this part) shall not apply.

PART 264—STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

1. The authority citation for part 264 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6924, and 6925.

Subpart AA—[Amended]

2. Section 264.1030 is amended by adding paragraph (d) to read as follows:

§ 264.1030 Applicability.

* * * * *

(d) The requirements of this subpart do not apply to the pharmaceutical manufacturing facility, commonly referred to as the Stonewall Plant, located at Route 340 South, Elkton, Virginia, provided that facility is operated in compliance with the requirements contained in a Clean Air Act permit issued pursuant to 40 CFR 52.2454. The requirements of this subpart shall apply to the facility upon termination of the Clean Air Act permit issued pursuant to 40 CFR 52.2454.

Subpart BB—[Amended]

3. Section 264.1050 is amended by adding paragraph (g) to read as follows:

§ 264.1050 Applicability.

* * * * *

(g) The requirements of this subpart do not apply to the pharmaceutical manufacturing facility, commonly referred to as the Stonewall Plant, located at Route 340 South, Elkton, Virginia, provided that facility is operated in compliance with the requirements contained in a Clean Air Act permit issued pursuant to 40 CFR 52.2454. The requirements of this subpart shall apply to the facility upon termination of the Clean Air Act permit issued pursuant to 40 CFR 52.2454.

Subpart CC—[Amended]

4. Section 264.1080 is amended by adding paragraph (e) to read as follows:

§ 264.1080 Applicability.

* * * * *

(e)(1) Except as provided in paragraph (e)(2) of this section, the requirements of this subpart do not apply to the pharmaceutical manufacturing facility, commonly referred to as the Stonewall Plant, located at Route 340 South, Elkton, Virginia, provided that facility is operated in compliance with the requirements contained in a Clean Air Act permit issued pursuant to 40 CFR 52.2454. The requirements of this subpart shall apply to the facility upon termination of the Clean Air Act permit issued pursuant to 40 CFR 52.2454.

(2) Notwithstanding paragraph (e)(1) of this section, any hazardous waste surface impoundment operated at the Stonewall Plant is subject to:

(i) The standards in § 264.1085 and all requirements related to hazardous waste surface impoundments that are referenced in or by § 264.1085, including the closed-vent system and control device requirements of § 264.1087 and the recordkeeping requirements of § 264.1089(c); and

(ii) The reporting requirements of § 264.1090 that are applicable to surface impoundments and/or to closed-vent systems and control devices associated with a surface impoundment.

PART 265—INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

1. The authority citation for part 265 continues to read as follows:

Authority: 42 U.S.C. 6905, 6906, 6912, 6922, 6923, 6924, 6925, 6935, 6936, and 6937, unless otherwise noted.

Subpart AA—[Amended]

2. Section 265.1030 is amended by adding paragraph (c) to read as follows:

§ 265.1030 Applicability.

* * * * *

(c) The requirements of this subpart do not apply to the pharmaceutical manufacturing facility, commonly referred to as the Stonewall Plant, located at Route 340 South, Elkton, Virginia, provided that facility is operated in compliance with the requirements contained in a Clean Air Act permit issued pursuant to 40 CFR 52.2454. The requirements of this subpart shall apply to the facility upon termination of the Clean Air Act permit issued pursuant to 40 CFR 52.2454.

Subpart BB—[Amended]

3. Section 265.1050 is amended by adding paragraph (f) to read as follows:

§ 265.1050 Applicability.

* * * * *

(f) The requirements of this subpart do not apply to the pharmaceutical manufacturing facility, commonly referred to as the Stonewall Plant, located at Route 340 South, Elkton, Virginia, provided that facility is operated in compliance with the requirements contained in a Clean Air Act permit issued pursuant to 40 CFR 52.2454. The requirements of this subpart shall apply to the facility upon termination of the Clean Air Act permit issued pursuant to 40 CFR 52.2454.

Subpart CC—[Amended]

4. Section 265.1080 is amended by adding paragraph (e) to read as follows:

§ 265.1080 Applicability.

* * * * *

(e)(1) Except as provided in paragraph (e)(2) of this section, the requirements of this subpart do not apply to the pharmaceutical manufacturing facility, commonly referred to as the Stonewall Plant, located at Route 340 South, Elkton, Virginia, provided that facility is operated in compliance with the requirements contained in a Clean Air Act permit issued pursuant to 40 CFR 52.2454. The requirements of this subpart shall apply to the facility upon termination of the Clean Air Act permit issued pursuant to 40 CFR 52.2454.

(2) Notwithstanding paragraph (e)(1) of this section, any hazardous waste surface impoundment operated at the Stonewall Plant is subject to the standards in § 265.1086 and all requirements related to hazardous waste surface impoundments that are referenced in or by § 265.1086, including the closed-vent system and control device requirements of § 265.1088 and the recordkeeping requirements of § 265.1090(c).

[FR Doc. 97–26442 Filed 10–7–97; 8:45 am]

BILLING CODE 6560–50–P

Federal Register

Wednesday
October 8, 1997

Part III

The President

Proclamation 7034—German-American Day, 1997

Presidential Determination 97–35 of September 26, 1997—Presidential Determination on Classsified Information Concerning the Air Force's Operating Location Near Groom Lake, NV

Federal Register
Vol. 62, No. 195
Wednesday, October 8, 1997

Presidential Documents

Title 3—

The President

Proclamation 7034 of October 6, 1997

German-American Day, 1997

By the President of the United States of America

A Proclamation

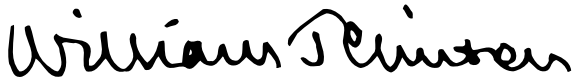
America has always drawn its strength from the millions of people who have come here in search of freedom and the opportunity to live out their dreams. Men and women of different nationalities, different races, and different religions have made their own rich and unique contributions to our national life.

From their arrival at Jamestown in 1607 until the present day, Germans have been among the largest ethnic groups to make their home in our country. Like so many others, the earliest German settlements in America were founded by men and women in search of religious liberty. William Penn invited a group of German Mennonites to Pennsylvania, which was to remain a center of German settlement during the Colonial period. Other German communities were founded in New Jersey and New York, as well as in Virginia's Shenandoah Valley, the Carolinas, and Georgia. In the 19th century, German pioneers began to settle in the Midwest and West, and today a quarter of our Nation's population can trace its ancestry to German origins.

Germans and German Americans have profoundly influenced every facet of American life. Great soldiers, such as General Baron von Steuben in our Revolutionary War and General Norman Schwarzkopf in the Gulf War, have fought to preserve our freedom and defend America's interests. Scientists such as Albert Einstein and Wernher von Braun have immeasurably broadened our horizons, as have artists like Albert Bierstadt, Josef Albers, Ernestine Schumann-Heink, Lillian Blauvelt, and Paul Hindemith. And generations of German Americans, with their energy, creativity, and strong work ethic, have enriched the economic and commercial life of the United States. All Americans have benefited greatly from the labor, leadership, talents, and vision of Germans and German Americans, and it is fitting that we set aside this special day to acknowledge their many contributions to our liberty, culture, and democracy.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim Monday, October 6, 1997, as German-American Day. I encourage all Americans to recognize and celebrate the many gifts that millions of people of German ancestry have brought to our national life.

IN WITNESS WHEREOF, I have hereunto set my hand this sixth day of October, in the year of our Lord nineteen hundred and ninety-seven, and of the Independence of the United States of America the two hundred and twenty-second.



[FR Doc. 97–26989
Filed 10–7–97; 10:47 am]
Billing code 3195–01–P

Presidential Documents

Presidential Determination No. 97–35 of September 26, 1997

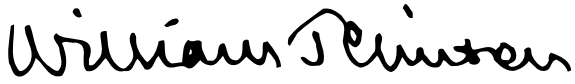
Presidential Determination on Classified Information Concerning the Air Force's Operating Location Near Groom Lake, Nevada

Memorandum for the Administrator of the Environmental Protection Agency [and] the Secretary of the Air Force

I find that it is in the paramount interest of the United States to exempt the United States Air Force's operating location near Groom Lake, Nevada (the subject of litigation in *Kasza* v. *Browner* (D. Nev. CV–S–94–795–PMP) and *Frost* v. *Perry* (D. Nev. CV–S–94–714–PMP)), from any applicable requirement for the disclosure to unauthorized persons of classified information concerning that operating location. Therefore, pursuant to 42 U.S.C. 6961(a), I hereby exempt the Air Force's operating location near Groom Lake, Nevada, from any Federal, State, interstate, or local provision respecting control and abatement of solid waste or hazardous waste disposal that would require the disclosure of classified information concerning that operating location to any unauthorized person. This exemption shall be effective for the full one-year statutory period.

Nothing herein is intended to: (a) imply that in the absence of such a Presidential exemption, the Resource Conservation and Recovery Act (RCRA) or any other provision of law permits or requires disclosure of classified information to unauthorized persons; or (b) limit the applicability or enforcement of any requirement of law applicable to the Air Force's operating location near Groom Lake, Nevada, except those provisions, if any, that would require the disclosure of classified information.

The Secretary of the Air Force is authorized and directed to publish this determination in the **Federal Register**.



THE WHITE HOUSE,
Washington, September 26, 1997.

[FR Doc. 97–26988
Filed 10–7–97; 10:31 am]
Billing code 3910–01–M

Federal Register

Wednesday
October 8, 1997

Part IV

Department of State

Designation of Foreign Terrorist Organizations; Notice

DEPARTMENT OF STATE

Office of the Coordinator for Counterterroism

[Public Notice 2612]

Designation of Foreign Terrorist Organizations

AGENCY: Department of State.

ACTION: Designation of Foreign Terrorist Organizations.

Pursuant to Section 219 of the Immigration and Nationality Act (''INA''), as added by the Antiterrorism and Effective Death Penalty Act of 1996, Pub. L. No. 104–132, § 302, 110 Stat. 1214, 1248 (1996), and amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Pub. L. No. 104–208, 110 Stat. 3009 (1996), I hereby designate, effective October 8, 1997, the following organizations as foreign terrorist organizations:

Abu Nidal Organization

also known as the ANO, also known as Black September, also known as Fatah Revolutionary Council, also known as the Arab Revolutionary Council, also known as the Arab Revolutionary Brigades, also known as the Revolutionary Organization of Socialist Muslims

Abu Sayyaf Group

also known as Al Harakat Al Islamiyya

Armed Islamic Group

also known as GIA, also known as Groupement Islamique Arme, also known as AIG, also known as Al-Jama'ah al-Islamiyah al-Musallah

Aum Shinrikyo

also known as Aum Supreme Truth, also known as A.I.C. Sogo Kenkyusho, also known as A.I.C. Comprehensive Research Institute

Democratic Front for the Liberation of Palestine-Hawatmeh Faction

also known as the Democratic Front for the Liberation of Palestine, also known as the DFLP, also known as the Red Star Forces, also known as the Red Star Battalions

Euzkadi Ta Askatasuna

also known as Basque Fatherland and Liberty, also known as ETA

Gama'a al-Islamiyya

also known as the Islamic Group, also known as IG, also known as al-Gama'at, also known as Islamic Gama'at, also known as Egyptian al-Gama'at al-Islamiyya

HAMAS

also known as the Islamic Resistance Movement, also known as Harakat al-Muqawama al-Islamiya, also known as Students of Ayyash, also known as Students of the Engineer, also known as Yahya Ayyash Units, also known as Izz Al-Din Al-Qassim Brigades, also known as Izz Al-Din Al-Qassim Forces, also known as Izz Al-Din Al-Qassim Battalions, also known as Izz al-Din Al Qassam Brigades, also known as Izz al-Din Al Qassam Forces, also known as Izz al-Din Al Qassam Battalions

Harakat ul-Ansar

also known as HUA, also known as al-Hadid, also known as al-Hadith, also known as al-Faran

Hizballah

also known as Party of God, also known as Islamic Jihad, also known as Islamic Jihad Organization, also known as Revolutionary Justice Organization, also known as Organization of the Oppressed on Earth, also known as Islamic Jihad for the Liberation of Palestine, also known as Organization of Right Against Wrong, also known as Ansar Allah, also known as Followers of the Prophet Muhammad

Japanese Red Army

also known as Nippon Sekigun, also known as Nihon Sekigun, also known as the Anti-Imperialist International Brigade, also known as the Holy War Brigade, also known as the Anti-War Democratic Front, also known as the JRA, also known as the AIIB

al-Jihad

also known as Egyptian al-Jihad, also known as Vanguards of Conquest, also known as Vanguards of Victory, also known as Talai'i al-Fath, also known as Tala'ah al-Fatah, also known as Tala'al al-Fateh, also known as Tala' al-Fateh, also known as Talaah al-Fatah, also known as Tala'al-Fateh, also known as New Jihad, also known as Egyptian Islamic Jihad, also known as Jihad Group

Kach

also known as the Repression of Traitors, also known as Dikuy Bogdim, also known as DOV, also known as the State of Judea, also known as the Committee for the Safety of the Roads, also known as the Sword of David, also known as Judea Police

Kahane Chai

also known as Kahane Lives, also known as the Kfar Tapuah Fund, also known as The Judean Voice

Khmer Rouge

also known as the Party of Democratic Kampuchea, also known as the National Army of Democratic Kampuchea

Kurdistan Workers' Party

also known as the PKK, also known as the Partiya Karkeran Kurdistan

Liberation Tigers of Tamil Eelam

also known as LTTE, also known as Tamil Tigers, also known as Ellalan Force

Manuel Rodriguez Patriotic Front Dissidents

also known as the FPMR/D, also known as the Frente Patriotico Manuel Rodriguez—Autonomos, also known as the FPMR/A, also known as the Manuel Rodriguez Patriotic Front, also known as the Frente Patriotico Manuel Rodriguez, also known as the FPMR

Mujahedin-e Khalq Organization

also known as MEK, also known as MKO, also known as Mujahedin-e Khalq, also known as People's Mujahedin Organization of Iran, also known as PMOI, also known as Organization of the People's Holy Warriors of Iran, also known as Sazeman-e Mujahedin-e Khalq-e Iran

National Liberation Army

also known as the ELN, also known as the Ejercito de Liberacion Nacional

Palestine Islamic Jihad-Shaqaqi Faction

also known as PIJ-Shaqaqi Faction, also known as PIJ, also known as Islamic Jihad in Palestine, also known as Islamic Jihad of Palestine, also known as Abu Ghunaym Squad of the Hizballah Bayt Al-Maqdis

Palestine Liberation Front—Abu Abbas Faction

also known as the Palestine Liberation Front, also known as the PLF, also known as the PLF-Abu Abbas

Popular Front for the Liberation of Palestine

also known as the PFLP, also known as the Red Eagles, also known as the Red Eagle Group, also known as the Red Eagle Gang, also known as the Halhul Gang, also known as the Halhul Squad

Popular Front for the Liberation of Palestine—General Command

also known as PFLP-GC

Revolutionary Armed Forces of Colombia

also known as FARC, also known as Fuerzas Armadas Revolucionarias de Colombia

Revolutionary Organization 17 November

also known as 17 November, also known as Epanastatiki Organosi 17 Noemvri

Revolutionary People's Liberation Party/Front

also known as Devrimci Halk Kurtulus Partisi-Cephesi, also known as the DHKP/C, also known as Devrimci Sol, also known as Revolutionary Left, also known as Dev Sol, also known as Dev Sol Silahli Devrimci Birlikleri, also known as Dev Sol SDB, also known as Dev Sol Armed Revolutionary Units

Revolutionary People's Struggle

also known as Epanastatikos Laikos Agonas, also known as ELA, also known as Revolutionary Popular Struggle, also known as Popular Revolutionary Struggle

Shining Path

also known in Spanish as Sendero Luminoso, also known as SL, also known as the Partido Comunista del Peru en el Sendero Luminoso de Jose Carlos Mariategui (Communist Party of Peru on the Shining Path of Jose Carlos Mariategui), also known as Partido Comunista del Peru (Communist Party of Peru), also known as PCP, also known as Socorro Popular del Peru (People's Aid of Peru), also known as SPP, also known as Ejercito Guerrillero Popular (People's Guerrilla Army), also known as EGP, also known as Ejercito Popular de Liberacion (People's Liberation Army), also known as the EPL

Tupac Amaru Revolutionary Movement

also known as the Movimiento Revolucionario Tupac Amaru, also known as the MRTA

I further direct that these designations be published in the **Federal Register** on October 8, 1997, as required by section 219(a)(2)(A)(ii) of the INA.

Dated: October 2, 1997.

Madeleine K. Albright,

Secretary of State.

[FR Doc. 97–27030 Filed 10–7–97; 5:00 pm]

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CFR PARTS AFFECTED DURING OCTOBER

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REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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H.R. 111/P.L. 105–49

To provide for the conveyance of a parcel of unused agricultural land in Dos Palos, California, to the Dos Palos Ag Boosters for use as a farm school. (Oct. 6, 1997; 111 Stat. 1166)

H.R. 680/P.L. 105–50

To amend the Federal Property and Administrative Services Act of 1949 to authorize the transfer of surplus personal property to States for donation to nonprofit providers of necessaries to impoverished families and individuals, and to authorize the transfer of surplus real property to States, political subdivisions and instrumentalities of States, and nonprofit organizations for providing housing or housing assistance for low-income individuals or families. (Oct. 6, 1997; 111 Stat. 1167)

H.R. 2248/P.L. 105–51

To authorize the President to award a gold medal on behalf of the Congress to Ecumenical Patriarch Bartholomew in recognition of his outstanding and enduring contributions toward religious understanding and peace, and for other purposes. (Oct. 6, 1997; 111 Stat. 1170)

H.R. 2443/P.L. 105–52

To designate the Federal building located at 601 Fourth Street, NW., in the District of Columbia, as the ''Federal Bureau of Investigation, Washington Field Office Memorial Building'', in honor of William H. Christian, Jr., Martha Dixon Martinez, Michael J. Miller, Anthony Palmisano, and Edwin R. Woodriffe. (Oct. 6, 1997; 111 Stat. 1172)

S. 996/P.L. 105–53

To provide for the authorization of appropriations in each fiscal year for arbitration in United States district courts, and for other purposes. (Oct. 6, 1997; 111 Stat. 1173)

S. 1198/P.L. 105–54

To amend the Immigration and Nationality Act to extend the special immigrant religious worker program, to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to extend the deadline for designation of an effective date for paperwork changes in the employer sanctions program, and to require the Secretary of State to waive or reduce the fee for application and issuance of a nonimmigrant visa for aliens coming to the United States for certain charitable purposes. (Oct. 6, 1997; 111 Stat. 1175)

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