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2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

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

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

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Presidential Documents

Title 3—

The President

Memorandum of March 4, 1993

Delegation of Authority on Congressional Report Concerning Nuclear Reactor Safety Initiatives

Memorandum for the Secretary of State

By virtue of the authority vested in me by the Constitution and laws of the United States of America, including Section 301 of Title 3 of the United States Code, I hereby delegate to the Secretary of State all functions vested in me by Section 3202(c) of the National Defense Authorization Act for Fiscal Year 1993 (P.L. 102–484). These functions shall be exercised in consultation with appropriate departments and agencies.

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

William J. Clinton

THE WHITE HOUSE,
Washington, March 4, 1993.

[FR Doc. 93–6299
Filed 3–15–93; 1:33 pm]
Billing code 3195–01–M

Rules and Regulations

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

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 354

[Docket No. 92-088-2]

User Fees—Exemption of Certain Aircraft From Aircraft Inspection Fees; Phytosanitary Certificates for Reexport of Low Value Commercial Shipments

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations concerning user fees for commercial aircraft by making aircraft that have 64 or fewer seats and that require little or no inspection exempt from the per-aircraft inspection fee. This action ensures that we are charging similar fees for similar aircraft by expanding the former exemption of commuter aircraft with 30 or fewer seats, which require little or no inspection, to include larger commuter aircraft that also require little or no inspection. We are also setting a user fee for the issuance of phytosanitary certificates for reexport of low value commercial shipments. This action allows exporters of low value commercial shipments to pay a lower user fee for issuance of these certificates than exporters of regular commercial shipments.

EFFECTIVE DATE: March 17, 1993.

FOR FURTHER INFORMATION CONTACT: Mr. Don R. Thompson, Operations Officer, Port Operations, PPQ, APHIS, USDA, room 638, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-8646.

SUPPLEMENTARY INFORMATION:

Background

Aircraft Inspection Fees

In a final rule published in the Federal Register on January 9, 1992, and made effective on February 9, 1992 (57 FR 755–773, Docket No. 91–135), we amended the regulations in 7 CFR part 354 (referred to below as the regulations) to, among other things, impose an aircraft inspection fee of $76.75 for each commercial aircraft arriving at a U.S. port and subject to inspection under 7 CFR part 330 or 9 CFR chapter I, subchapter D. We exempted certain categories of commercial aircraft from the fee, including "(a)ny aircraft with 30 or fewer seats, which is not carrying cargo and which is not equipped to offer inflight food service" (§ 354.3(e)(2)(iv)).

On May 20, 1992, we received a petition submitted by American Airlines, also on behalf of Executive Airlines, Flagship Airlines, Henson Aviation, Paradise Island Airlines, and the Regional Airline Association, to amend § 354.3(e)(2)(iv) of the regulations to exempt any aircraft with 64 or fewer seats from the $76.75 user fee. The Animal and Plant Health Inspection Service (APHIS) carefully reviewed the arguments set forth in the petition, and proposed that the regulations be amended. The "30 or fewer seats" exemption was intended to exempt commuter aircraft that require little or no inspection from the per-aircraft inspection fee. We now believe that, in order to exempt the intended aircraft, we must expand the exemption to commuter aircraft with 64 or fewer seats.

Therefore, in a document published in the Federal Register on December 1, 1992 (57 FR 56862–56864, Docket No. 92–088–1), we proposed to amend the regulations to exempt commuter aircraft with 64 or fewer seats from the per-aircraft inspection fee. We also proposed some further provisions to ensure that little or no inspection would be required of these aircraft.

Phytosanitary Certificates

In the same document, we proposed to set a user fee of $19 for the issuance of phytosanitary certificates for reexport of low value commercial shipments. Previously, all phytosanitary certificates for reexport of commercial shipments carried a fee of $30. Issuing a certificate for a regular commercial shipment generally requires more services by APHIS personnel than issuing a certificate for a low value commercial shipment. We proposed a user fee of $19 for reexport of low value commercial shipments to ensure that exporters of low value commercial shipments are charged an amount more appropriate for the services they receive.

Miscellaneous

Additionally, in the same document, we proposed to make a nonsubstantive editorial change to correct a typographical error.

Comments on the proposed rule were required to be received on or before December 31, 1992. We received 10 comments by the closing date. Nine of the commenters addressed the part of the proposal concerned with aircraft inspection fees, and they were all in favor of the proposal. However, three of these commenters went on to request that the proposed expansion of the aircraft exemption be made effective retroactively in order to reimburse airlines operating commuter aircraft with 31 to 64 seats for the aircraft inspection fees they have paid from February 9, 1992, to the present.

Unfortunately, we cannot grant this request. As stated above, the final rule that imposed the aircraft inspection fee (Docket No. 91–135, effective February 9, 1992), exempted certain categories of commercial aircraft from the fee, including "(a)ny aircraft with 30 or fewer seats, which is not carrying cargo and which is not equipped to offer inflight food service." The proposal to that rule was published in the Federal Register on August 7, 1991, and comments were considered on the proposal if they were received on or before September 6, 1991. We received 176 letters of comment on the August 7, 1991, proposal, including many from various airlines. However, we received no comments regarding the "30 or fewer seats" exemption from the aircraft inspection fees. Therefore, we believed that the "30 or fewer seats" exemption was adequate to exempt the intended aircraft. It was not until we received the petition submitted by American Airlines that we were informed that the exemption should be expanded to include commuter aircraft with 64 or fewer seats. This petition was not

received until May 20, 1992, more than 3 months after the effective date of the final rule. We believe that APHIS has acted promptly in response to the petitioners' request for an expanded exemption. Since the petitioners had the opportunity to comment on the August 7th proposed rule, but waited until the final rule had been in effect for 3 months before they petitioned us, we do not believe any reimbursement of fees paid is warranted.

The tenth comment was in response to the part of the proposal concerning phytosanitary certificates for reexport of low value commercial shipments. The commenter did not believe that the proposed $19 fee will be low enough for small businesses, and requested that we amend the regulations so that certain small businesses "will be charged at the rate for one phytosanitary certificate for a reexport phytosanitary certificate, irregardless of the number of reexport items in the shipment." Apparently, this commenter misunderstands the system for issuing phytosanitary certificates. Only one phytosanitary certificate is required per shipment, no matter how many items are in the shipment. Even if one shipment includes items originating in different countries, only one phytosanitary certificate is required. Each item would be listed on the certificate, as well as the country of origin of each item; but, as long as the items are being shipped to the same destination, only one phytosanitary certificate is required. Therefore, as in the example given by the commenter, if a shipper is reexporting "nine to 10 items from different countries in one box whose total value is $25.00," the shipper will pay $19 for the issuance of a phytosanitary certificate that will cover all the items in the box.

The commenter also requested that we add "a special rate for small companies that have fewer than five full time employees and less than 1 million dollars per year of gross sales." The user fees for phytosanitary certificates are not based on either the number of people employed by the company or the gross sales of the shipping company. The fees are based on the cost of the services provided to the shipper for the issuance of the phytosanitary certificate. As stated in the proposed rule, we believe it is appropriate to lower the fee for low value commercial reexport shipments because they require fewer services from APHIS personnel than regular commercial reexport shipments—this is the basis for the $19 fee. We cannot lower the fee any further because, even if a shipment is worth only $1, it still must be inspected and issued a phytosanitary certificate before it may be reexported. These services provided cost the U.S. Government $19, regardless of the number of people employed by the company or the annual gross sales of the company.

Based on the rationale set forth in the proposal and in this document, we are adopting the provisions of the proposal as a final rule without change.

Effective Date

This is a substantive rule that relieves restrictions, and, pursuant to the provisions of 5 U.S.C. 553, may be made effective less than 30 days after publication in the **Federal Register**. Immediate implementation of this rule is necessary to provide relief to those persons who are adversely affected by restrictions we no longer find warranted. Therefore, the Administrator of the Animal and Plant Health Inspection Service has determined that this rule should be effective upon publication in the **Federal Register**.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Aircraft Inspection Fee

This rule expands the present exemption of commuter aircraft with 30 or fewer seats, which require little or no inspection, to include commuter aircraft with 64 or fewer seats that also require little or no inspection. By broadening the exemption, virtually all U.S. commuter air services are exempt from the user fee charge. There are a few commuter aircraft operations that use slightly larger planes. However, these businesses operate primarily between Canada and the United States. Since Canadian routes are already exempt under the current regulations, these aircraft are not affected by this regulatory change.

The Small Business Administration defines a small entity in the air transportation industry as one with fewer than 1,500 employees. It appears that most of the entities potentially affected by this regulatory change are considered small. While it was not possible to determine the exact number of affected commuter airlines, it has become clear that a major segment of these airline operations transports passengers and small amounts of cargo in and out of Florida and Puerto Rico from the Bahamas and other destinations in the Caribbean. Information is submitted to APHIS from various private commuter airlines indicates that the $76.75 user fee has had a significant impact on the smaller airlines, making it difficult for them to compete with larger commercial airline companies. For example, passengers travelling on commuter-size aircraft ultimately pay a share of the total user fee that is 11 times greater than the share paid by passengers travelling on a 400-seat B747. This per-passenger cost differential makes it difficult for the small commuter airlines to compete with larger airlines for business. The commuter airlines submitting information indicated that broadening the exemption will result in over 23,000 flights annually that will no longer be subject to the user fee. The cost savings will be more than $1.4 million annually.

Phytosanitary Certificates

This rule also establishes a user fee for the issuance of phytosanitary certificates for reexport of low value commercial shipments. This fee is lower than the fee charged for issuance of phytosanitary certificates for reexport of commercial shipments. APHIS currently charges $30 for such certificates for commercial shipments, and issues approximately 8,800 of these certificates annually. Approximately 10 percent of these reexport certificates are for low value commercial shipments. Since the resources needed to inspect low value commercial shipments are not as great as they are for regular commercial shipments, it seems inappropriate to charge the same fee. Thus, APHIS is amending the regulations in order to charge $19 for issuance of phytosanitary certificates for reexport of low value commercial shipments. The $11 difference will result in a total savings of approximately $9,680 annually to those entities requiring such certificates.

In general, both rule changes ease the regulatory burden that APHIS user fees place on small entities. These rule changes are appropriate when considering the differences in resources required for APHIS inspection services for small commercial commuter aircraft and low value cargo.

Executive Order 12778

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This document contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.).

List of Subjects in 7 CFR Part 354

Exports, Government employees, Imports, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Travel and transportation expenses.

Accordingly, the regulations in 7 CFR part 354 are amended as follows:

PART 354—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS; AND USER FEES

1. The authority citation for part 354 continues to read as follows:

Authority: 7 U.S.C. 2260, 21 U.S.C. 136 and 136a; 49 U.S.C. 1741; 7 CFR 2.17, 2.51, and 371.2(c).

2. In § 354.3, paragraphs (e)(2) introductory text and (e)(2)(iv) are revised to read as follows:

§ 354.3 User fees for certain international services.

* * * * *

(e) * * *

(2) The following categories of commercial aircraft are exempt from paying an APHIS user fee:

* * * * *

(iv) Any passenger aircraft with 64 or fewer seats, which is not carrying the following cargo: Fresh fruits, fresh vegetables, plants, unprocessed plant products, cotton or covers, sugarcane, or fresh or processed meats; and which does not offer meal service other than beverages and prepackaged snacks that do not contain meats derived from ruminants, swine, or poultry or fresh fruits and fresh vegetables. Aircraft exempt from the user fee under this paragraph would still be subject to the garbage handling requirements found in 7 CFR part 330.400 and 9 CFR part 94.5;

* * * * *

3. In § 354.3, paragraph (g)(5)(iii) is revised to read as follows:

§ 354.3 User fees for certain international services.

* * * * *

(g) * * *

(5) * * *

(iii)(A) $30 for a certificate for reexport of a commercial shipment; or

(B) $19 for a certificate for reexport of a low value commercial shipment, if the following criteria are met:

(*1*) The items being shipped are identical to those identified on the phytosanitary certificate;

(*2*) The shipment is accompanied by an invoice which states that the items being shipped are worth less than $1,250; and

(*3*) The shipper requests that the user fee charged be based on the low value of the shipment;

* * * * *

Done in Washington, DC, this 11th day of March 1993.

Kenneth C. Clayton,

Acting Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 93–6143 Filed 3–16–93; 8:45 am]

BILLING CODE 3410–34–P

Agricultural Marketing Service

7 CFR Part 1106

[DA–93–01]

Milk in the Southwest Plains Marketing Area; Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rule.

SUMMARY: This action suspends a certain provision of the Southwest Plains Federal milk order. The provision suspended is the requirement that producers "touch-base" at a pool plant with at least one day's production during the month before their milk is eligible for diversion to an unregulated manufacturing plant. This provision was suspended for the same period in 1992. This suspension is necessary to insure that dairy farmers who have historically supplied the Southwest Plains market will continue to have their milk priced under the Southwest Plains order, thereby receiving the benefits that accrue from pooling. In addition, this suspension is necessary to prevent the uneconomic and inefficient movement of milk under the order.

EFFECTIVE DATE: February 1, 1993 through August 31, 1993.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, room 2968, South Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 720–4829.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of Proposed Suspension: Issued February 9, 1993; published February 16, 1993 (58 FR 8559).

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this action would not have a significant economic impact on a substantial number of small entities. Such action would lessen the regulatory impact of the order on certain milk handlers and would tend to ensure that dairy farmers would continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This final rule has been reviewed by the Department in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have a retroactive effect. This action does not preempt any state or local laws, regulations, or policies, unless they represent an irreconcilable conflict with this rule.

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

Notice of proposed rulemaking was published in the **Federal Register** (58 FR 8559) on February 16, 1993, concerning the proposed suspension for February 1993 through August 1993, of the "touch-base" requirement that one

day's production of a producer's milk be physically received at a pool distributing plant during the month to be eligible for diversion to a nonpool plant. The public was afforded the opportunity to comment on the notice by submitting written data, views and arguments by February 23, 1993. One written comment was received that discussed the nature of the proposed suspension. The comment included full support of the suspension of rule, as published in the **Federal Register**.

After consideration of all relevant material, including the proposal in the notice, the comment received, and other available information, it is hereby found and determined that the following provisions of the order do not tend to effectuate the declared policy of the Act:

1. In § 1106.13, paragraph (d)(1) in its entirety.

Statement of Consideration

This action suspends a certain provision of the Southwest Plains Federal milk order from February 1, 1993, through August 31, 1993. This action suspends the requirement that producers must deliver to a pool plant at least one day's production during the month in order for the remainder of their milk to be eligible for diversion to an unregulated manufacturing plant. This provision was suspended for the same period in 1992. This suspension is necessary to insure that dairy farmers who have historically supplied the Southwest Plains market will continue to have their milk priced under the Southwest Plains order, thereby receiving the benefits that accrue from pooling. This suspension thus will avoid uneconomic and inefficient movement of milk for the sole purpose of establishing eligibility for pooling under the order.

The suspension was requested by Mid-America Dairymen, Inc. (Mid-Am), a cooperative association operating under the Southwest Plains order. Mid-Am requested the suspension to prevent the uneconomic and inefficient movement of milk for the sole purpose of pooling the milk of producers historically associated with the Southwest Plains Order. Mid-Am also filed comments supporting the proposed suspension.

Producer receipts under the Southwest Plains Order were 1.6% higher on an average daily basis in 1992 compared to 1991. Class I utilization in 1992 was 38.7%, which was lower than the Class I utilization in 1991 and 1990 of 39.3% and 41.7%, respectively.

It is projected that there will be ample supplies of direct-ship producer milk which is located in the general area of the Southwest Plains distributing plants to meet their fluid milk needs. Therefore, there is no need for producers historically associated with the Southwest Plains Order, but whose farms are more distant from distributing plants, to be received one time during the month at such plants for the sole purpose of meeting pooling requirements. Instead, their milk can more economically be diverted directly to manufacturing plants in the production area.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) The suspension is necessary to reflect current marketing conditions and to assure orderly marketing conditions in the marketing area, in that such action is necessary to permit the continued pooling of the milk of dairy farmers who have historically supplied the market without the need for making costly and inefficient movements of milk;

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given interested parties and they were afforded opportunity to file written data, views or arguments concerning this suspension. One comment in support of the suspension was received.

Therefore, good cause exists for making this order effective less than 30 days from date of publication in the **Federal Register**.

List of Subjects in 7 CFR Part 1106

Milk marketing orders.

It is therefore ordered, that the following provision in title 7, part 1106, § 1106.13, paragraph (d)(1) of the Southwest Plains order is hereby suspended from February 1, 1993, through August 31, 1993.

PART 1106—MILK IN THE SOUTHWEST PLAINS MARKETING AREA

1. The authority citation for 7 CFR part 1106 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

§ 1106.13 [Temporarily suspended in part].

2. In § 1106.13, paragraph (d)(1) is suspended in its entirety.

Dated: March 11, 1993.

Kenneth C. Clayton,

Acting Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 93–6049 Filed 3–16–93; 8:45 am]

BILLING CODE 3410–02–M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 2

RIN 3150–AE57

Policy and Procedure for NRC Enforcement Actions; Policy Statement

AGENCY: Nuclear Regulatory Commission.

ACTION: Policy Statement: Modification.

SUMMARY: The NRC is modifying its Enforcement Policy to describe more fully the circumstances in which it may exercise enforcement discretion.

DATES: This modification is effective on March 17, 1993. Comments received by April 16, 1993 will be considered. Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received during the 30-day period following issuance.

ADDRESSES: Send comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, ATTN: Docketing and Service Branch.

Deliver comments to: 11555 Rockville Pike, Rockville, Maryland 20852, between 7:45 a.m. and 4:15 p.m. Federal workdays.

Copies of comments received may be examined at: the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC.

FOR FURTHER INFORMATION CONTACT: James Lieberman, Office of Enforcement, telephone (301) 504–2741 or J. Randall Hall, Office of Nuclear Reactor Regulation, telephone (301) 504–1336, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

SUPPLEMENTARY INFORMATION:

Background

In July 1985, the NRC staff issued internal guidance to address situations where a reactor licensee's compliance with a Technical Specification (TS) or other license condition may cause an unnecessary plant transient or unnecessarily prevent plant startup and where, in such instances, the temporary exercise of discretion by the NRC not to enforce compliance may be appropriate. That guidance has been revised

periodically with the latest revision having been made in February 1990.

The circumstances in which the NRC staff may exercise enforcement discretion have been generally described in section VII of the Enforcement Policy (10 CFR part 2, appendix C). In order to consolidate the description of all circumstances where enforcement discretion may be exercised into one location, the Commission has determined that a discussion of the possibility of enforcement discretion for TS or other license condition compliance should also be placed in section VII of the Enforcement Policy. In addition, Section VIII of the Enforcement Policy is being modified to make it clear that actions taken by licensee employees pursuant to such an exercise of discretion will not result in enforcement action against the individuals involved. Finally, to reflect the information collection requirements of this change, 10 CFR 2.8 is being amended to reference that fact.

The Commission believes that the exercise of enforcement discretion in this area is warranted to avoid unnecessary plant transients, to reduce both operational and shutdown risk, and to avoid unnecessary delays in plant startup where the course of action involves minimal or no safety impact and the NRC staff is clearly satisfied that the exercise of discretion is consistent with the public health and safety.

Exercise of enforcement discretion is appropriate only where the exercise of discretion is temporary and nonrecurring. The appropriate Regional Administrator or his designee might exercise discretion where the expected noncompliance is of such short duration that a license amendment could not be issued before the need no longer exists, making it impractical to amend the license. It may also be appropriate to exercise discretion for the brief period of time it requires the NRC staff to process an emergency or exigent TS amendment under the provisions of 10 CFR 50.91(a) (5) or (6). Enforcement discretion in these cases would be exercised by the Director, Office of Nuclear Reactor Regulation, or his designee.

A licensee who requests the NRC to forego enforcement of a TS or other license condition must document the safety basis for the request, including an evaluation of the safety significance and potential consequences of the proposed course of action, a description of compensatory measures, a justification for the duration of the request, the basis for the licensee's conclusion that the request does not have a potential adverse impact on the public health and safety, and does not involve adverse consequences to the environment, and any other information the NRC staff deems necessary before making a decision to exercise discretion.

In each case where the NRC staff has decided to exercise its enforcement discretion, enforcement action will normally be taken for the root causes, to the extent violations were involved, that led to the noncompliance at issue. Such enforcement action is intended to emphasize that licensees should not rely on the NRC's authority to exercise enforcement discretion as a routine substitute for compliance or for requesting a license amendment.

Since this action concerns a general statement of policy, no prior notice is required and, therefore, this modification to the Enforcement Policy is effective March 17, 1993.

Paperwork Reduction Act Statement

This Policy Statement contains information collection requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq*). These requirements were approved by the Office of Management and Budget under control number 3150–0136.

The public reporting burden for this collection of information is estimated to average 40 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Information and Records Management Branch (MNBB–7714), U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB–3019, (3150–0136) Office of Management and Budget, Washington, DC 20503.

List of Subjects in 10 CFR Part 2

Administrative practice and procedure, Antitrust, Byproduct material, Classified information, Environmental protection, Nuclear materials, Nuclear power plants and reactors, Penalty, Sex discrimination, Source material, Special nuclear material, Waste treatment and disposal.

Accordingly, the NRC is adopting the following amendments to 10 CFR part 2.

PART 2—RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS

1. The authority citation for part 2 continues to read as follows:

Authority: Secs. 161, 181, 68 Stat. 948, 953, as amended (42 U.S.C. 2201, 2231); sec. 191, as amended, Pub. L. 87–615, 76 Stat. 409 (42 U.S.C. 2241); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); 5 U.S.C. 552.

Section 2.101 also issued under secs. 53, 62, 63, 81, 103, 104, 105, 68 Stat. 930, 932, 933, 935, 936, 937, 938, as amended (42 U.S.C. 2073, 2092, 2093, 2111, 2133, 2134, 2135); sec. 114(f), Pub. L. 97–425, 96 Stat. 2213, as amended (42 U.S.C. 10134(f)); sec. 102, Pub. L. 91–190, 83 Stat. 853, as amended (42 U.S.C. 4332); sec. 301, 88 Stat. 1248 (42 U.S.C. 5871). Sections 2.102, 2.103, 2.104, 2.105, 2.721 also issued under secs. 102, 103, 104, 105, 183, 189, 68 Stat. 936, 937, 938, 954, 955, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2233, 2239). Section 2.105 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Sections 2.200–2.206 also issued under secs. 161b, i, o, 182, 186, 234, 68 Stat. 948–951, 955, 83 Stat. 444, as amended (42 U.S.C. 2236, 2282); sec. 206, 88 Stat. 1246 (42 U.S.C. 5846). Sections 2.600–2.606 also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853, as amended (42 U.S.C. 4332). Sections 2.700a, 2.719 also issued under 5 U.S.C. 554. Sections 2.754, 2.760, 2.770, 2.780 also issued under 5 U.S.C. 557. Section 2.764 and Table 1A of Appendix C also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 2.790 also issued under sec. 103, 68 Stat. 936, as amended (42 U.S.C. 2133) and 5 U.S.C. 552. Sections 2.800 and 2.808 also issued under 5 U.S.C. 553. Section 2.809 also issued under 5 U.S.C. 553 and sec. 29, Pub. L. 85–256, 71 Stat. 579, as amended (42 U.S.C. 2039). Subpart K also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Subpart L also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239). Appendix A also issued under sec. 6, Pub. L. 91–560, 84 Stat. 1473 (42 U.S.C. 2135). Appendix B also issued under sec. 10, Pub. L. 99–240, 99 Stat. 1842 (42 U.S.C. 2021b et seq.).

2. In § 2.8, paragraph (b) is revised to read as follows:

§ 2.8 Information collection requirements: OMB approval.

* * * * * *

(b) The approved information collection requirements contained in this part appear in appendix C.

3. In appendix C, a heading reading "Table of Contents" is added directly before the table of contents and a new heading for Section VII.C is added to the Table of Contents to read:

Appendix C—General Statement of Policy and Procedure for NRC Enforcement Actions

Table of Contents

* * * * *

C. Exercise of Discretion for an Operating Facility

* * * * *

4. In Appendix C, Section VII. is added to read as follows:

VII. Exercise of Discretion

* * * * *

C. Exercise of Discretion for an Operating Facility

On occasion, circumstances may arise where a licensee's compliance with a Technical Specification (TS) Limiting Condition for Operation or with other license conditions would involve an unnecessary plant transient or performance of testing, inspection, or system realignment that is inappropriate with the specific plant conditions, or unnecessary delays in plant startup without a corresponding health and safety benefit. In these circumstances, the NRC staff may choose not to enforce the applicable TS or other license condition. This enforcement discretion will only be exercised if the NRC staff is clearly satisfied that the action is consistent with protecting the public health and safety. A licensee seeking the exercise of enforcement discretion must provide a written justification, or in circumstances where good cause is shown, oral justification followed as soon as possible by written justification, which documents the safety basis for the request and provides whatever other information the NRC staff deems necessary in making a decision on whether or not to exercise enforcement discretion.

The appropriate Regional Administrator, or his designee, may exercise discretion where the noncompliance is temporary and nonrecurring when an amendment is not practical. The Director, Office of Nuclear Reactor Regulation, or his designee, may exercise discretion if the expected noncompliance will occur during the brief period of time it requires the NRC staff to process an emergency or exigent license amendment under the provisions of 10 CFR 50.91(a)(5) or (6). The person exercising enforcement discretion will document the decision.

For an operating plant, this exercise of enforcement discretion is intended to minimize the potential safety consequences of unnecessary plant transients with the accompanying operational risks and impacts or to eliminate testing, inspection, or system realignment which is inappropriate for the particular plant conditions. For plants in a shutdown condition, exercising enforcement discretion is intended to reduce shutdown risk by, again, avoiding testing, inspection or system realignment which is inappropriate for the particular plant conditions, in that, it does not provide a safety benefit or may, in fact, be detrimental to safety in the particular plant condition. Exercising enforcement discretion for plants attempting to startup is less likely than exercising it for an operating plant, as simply delaying startup does not usually leave the plant in a condition in which it could experience undesirable transients. In such cases, the Commission would expect that discretion would be exercised with respect to equipment or systems only when it has at least concluded that, notwithstanding the conditions of the license: (1) The equipment or system does not perform a safety function in the mode in which operation is to occur; (2) the safety function performed by the equipment or system is of only marginal safety benefit, provided remaining in the current mode increases the likelihood of an unnecessary plant transient; or (3) the TS or other license condition requires a test, inspection or system realignment that is inappropriate for the particular plant conditions, in that it does not provide a safety benefit, or may, in fact, be detrimental to safety in the particular plant condition.

The decision to exercise enforcement discretion does not change the fact that a violation will occur nor does it imply that enforcement discretion is being exercised for any violation that may have led to the violation at issue. In each case where the NRC staff has chosen to exercise enforcement discretion, enforcement action will normally be taken for the root causes, to the extent violations were involved, that led to the noncompliance for which enforcement discretion was used. The enforcement action is intended to emphasize that licensees should not rely on the NRC's authority to exercise enforcement discretion as a routine substitute for compliance or for requesting a license amendment.

Finally, it is expected that the NRC staff will exercise enforcement discretion in this area infrequently. Although a plant must shut down, refueling activities may be suspended, or plant startup may be delayed, absent the exercise of enforcement discretion, the NRC staff is under no obligation to take such a step merely because it has been requested. The decision to forego enforcement is discretionary. Where enforcement discretion is to be exercised, it is to be exercised only if the NRC staff is clearly satisfied that such action is warranted from a health and safety perspective.

* * * * *

5. Appendix C, Section VIII is amended by revising the last example under the paragraph involving individual enforcement actions. For the convenience of the user, the introductory paragraph concerning individual enforcement actions is reprinted without change.

VIII. Enforcement Actions Involving Individuals

* * * * *

Listed below are examples which could result in enforcement actions involving individuals, licensed or unlicensed. If the actions described in these examples are taken by a licensed operator or taken deliberately by an unlicensed individual, enforcement action may be taken directly against the individual. However, violations involving willful conduct not amounting to deliberate action by an unlicensed individual in these situations may result in enforcement action against the licensee that may impact the individual. The situations include, but are not limited to, violations that involve:

* * * * *

Willfully taking actions that violate Technical Specification Limiting Conditions for Operation or other license conditions (enforcement action for a willful violation will not be taken if that violation is the result of action taken following the NRC's decision to forego enforcement of the Technical Specification or other license condition or if the operator meets the requirements of 10 CFR 50.54 (x), i.e., unless the operator acted unreasonably considering all the relevant circumstances surrounding the emergency.)

* * * * *

Dated at Rockville, Maryland, this 10th day of March 1993.

For The Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 93–6155 Filed 3–16–93; 8:45 am]

BILLING CODE 7590–01–P

FEDERAL ELECTION COMMISSION

11 CFR Part 110

[Notice 1993–11]

Transfers of Funds From State to Federal Campaigns

AGENCY: Federal Election Commission.

ACTION: Revised implementation plan for new rule governing state to federal transfers.

SUMMARY: On January 8, 1993 the Commission republished the text of a new rule governing transfers of funds from state to federal campaigns, and announced that this rule had been retransmitted to Congress for legislative review. 58 FR 3474 (January 8, 1993). The new rule prohibits the transfer of funds from state to federal campaign committees. This rule is still pending before Congress. However, the Commission has revised its plan for implementing the rule. Further information is provided in the supplementary information that follows.

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, 999 E Street, NW., Washington, DC 20463, (202) 219–3690 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: On January 8, 1993, the Commission republished the text of a new rule governing transfers between state and federal campaign committees, and announced that this rule had been retransmitted to Congress for legislative review. 58 FR 3474 (January 8, 1993). The new rule at 11 CFR 110.3(d) will prohibit transfers of funds or other assets from a candidate's campaign committee or account for any nonfederal election to his or her principal campaign committee or other authorized committee for a federal election.

Section 438(d) of title 2, United States Code, requires that any rule or regulation prescribed by the Commission to carry out the provisions of title 2 be transmitted to the Speaker of the House of Representatives and the President of the Senate thirty legislative

days before it is finally promulgated. The new rule was retransmitted to Congress on January 5, 1993. As of March 11, 1993, the rule was still before Congress undergoing legislative review.

The Commission's January 8, 1993 Retransmission Notice indicated that the Commission expected to be able to make this rule effective on April 1, 1993. However, because the legislative review period has not yet expired, the Commission will be unable to make the rule effective on April 1 as originally intended.

If the Commission were to follow its usual procedure, the rule's effective date would be sometime during the second or third week of April. However, since publication of the Retransmission Notice, several special elections have been scheduled for this two week time period and for other dates between now and June 8. The Commission recognizes that making the rule effective on a date in such close proximity to these special elections could have an inequitable effect.

Therefore, the Commission has revised its plan for implementing this regulation. The Commission is publishing this notice in order to inform committees that are operating in reliance on the January notice.

Under the revised implementation plan, the Commission will delay the effective date of the rule until July 1, 1993. This will avoid further complication with special elections planned for April, May and June. When the legislative days expire in late March or early April, the Commission will publish a notice in the **Federal Register** confirming the July 1 effective date.

The rule will prohibit all transfers from state campaign committees to federal campaign committees after July 1, 1993. Campaign committees that transfer funds before July 1 and use those funds for special elections held before that date will not be affected by this rule. Those transfers are governed by the Commission's prior rule at 11 CFR 110.3(c)(6).

Campaign committees that transfer funds before July 1, 1993 in anticipation of an election held after that date have not violated the rule. However, in order to prevent active commingling of federal and nonfederal campaign funds in the candidate's federal campaign account, any funds or assets transferred from a nonfederal committee that remain in the federal campaign account on July 1, 1993 must be removed from that account before July 31, 1993. Committees should use the identification method described in 11 CFR 110.3(c)(5)(ii) to determine which nonfederal funds are still in the campaign account as of July 1 and must be removed. Failure to remove those funds before July 31, 1993 will be a violation of the rule.

The rule applies to transfers from any nonfederal campaign committee, including campaign committees for any state or local office. For the purposes of this notice, the terms "nonfederal" and "state" are interchangeable, so that, where the term "state campaign committee" is used, it also includes campaign committees for any state or local office.

Dated: March 11, 1993.

Scott E. Thomas,

Chairman, Federal Election Commission.

[FR Doc. 93–6027 Filed 3–16–93; 8:45 am]

BILLING CODE 6715–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 92–CE–37–AD; Amendment 39–8514; AD 93–05–10]

Airworthiness Directives; Piper Aircraft Corporation PA–32R Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain Piper Aircraft Corporation (Piper) PA–32R series airplanes. This action requires inspecting, possibly repairing, and modifying the airframe and engine mount supporting structure. The Federal Aviation Administration (FAA) has received several reports of cracks developing in the engine mount cluster welds near the upper nose gear drag brace bushings on the affected airplanes. The actions specified by this AD are intended to prevent the inability to retract or extend the nose landing gear, which could result in substantial damage to or loss of control of the airplane.

DATES: Effective April 30, 1993.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 30, 1993.

ADDRESSES: Service information that applies to this AD may be obtained from the Piper Aircraft Corporation, Customer Services, 2926 Piper Drive, Vero Beach, Florida 32960. This information may also be examined at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Charles Perry, Aerospace Engineer, FAA, Atlanta Aircraft Certification Office, 1669 Phoenix Parkway, Suite 210C, Atlanta, Georgia 30349; Telephone (404) 991–2910; Facsimile (404) 991–3606.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an AD that would apply to certain Piper PA–32R series airplanes was published in the **Federal Register** on August 18, 1992 (57 FR 37118). The action proposed to require (1) inspecting the engine mount structure for cracks, and repairing any cracked structure; (2) modifying the airframe structure to strengthen the landing gear and engine mount attach areas; and (3) inspecting and possibly reinforcing the nose gear actuator attachment bracket. The proposed actions would be accomplished in accordance with Piper Service Bulletin No. 955, dated March 3, 1992, and the instructions to Engine Mount Drag Link Installation Kit, Piper Part No. 766–252 (for turbocharged models); or Engine Mount Drag Link Installation Kit, Piper Part No. 766–253 (for normally aspirated models).

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

One commenter proposes a method for repairing the engine mount structure as compliance for the repair portion of paragraph (a) of the proposed AD. Paragraph (a) specifies that the engine mount would be repaired if cracks are found. The proposed repair method specifies replacing certain engine mount tubes and installing gussets on particular areas of the engine mount. Piper Service Letter (SL) 799 specifies procedures for installing gussets. Service history of the affected airplanes in compliance with Piper SL 799 revealed that cracks were still forming at the engine mount structure. The FAA does not concur that the proposed repair method should be incorporated into the proposed AD, which remains unchanged as a result of this comment. However, the FAA will still evaluate alternative methods of compliance submitted through procedures specified in the AD, and will incorporate any such method found to provide an equivalent level of safety.

Another commenter objects to the wording that a cracked engine mount will lead to separation of the engine from the airplane. The FAA has re-examined this statement and has changed the wording in the SUMMARY section of the AD preamble and the actual AD of the final rule to "* * * prevent the inability to retract or extend the nose landing gear, which could result in substantial damage to or loss of control of the airplane".

This commenter also suggests that the operator have the option of repetitively inspecting the engine mount for cracks, and repairing any cracks, as an alternative to the cost of installing the proposed modification kit. This alternative would include installing gussets on the engine mount in accordance with Piper SL 799. The FAA proposed the airframe and engine mount structure modification specified by Piper SB 955 in the notice of proposed rulemaking (NPRM) because of reports of engine mount cracking on airplanes where the procedures specified in Piper SL 799 were incorporated. Based on this service history and all available information, the FAA does not concur with the gusset installation and repetitive inspection alternative and maintains that the accomplishment of the proposed modification is a more efficient means of preventing cracked engine mounts. The proposed AD remains unchanged as a result of this comment.

A commenter states that this action could have a significant cost impact upon a number of small entities. The FAA does not concur. By definition, a small entity is a small business or a small not-for-profit organization that is independently owned or operated, or a small governmental jurisdiction. Individual persons are not considered small entities. Operators of aircraft for hire must own at least 9 aircraft to be considered a small entity, and then, if scheduled flight operators, must meet a fleet (for aircraft under 60 seating capacity) cost impact of $46,900. This would require a small business entity to own at least 24 of the affected airplanes (turbocharged) to incur a significant cost impact. According to records obtained by the FAA, no scheduled operators own more than 21 of the affected airplanes. For unscheduled operators, the significant impact threshold would be $3,300 per airplane. This action would cost $1,120 (15 workhours times $55 per hour plus $295 for parts) per normally aspirated airplane, and $1,980 (15 workhours times $55 per hour plus $330 for parts) per turbocharged airplane. Therefore, this action would not impose a significant cost impact upon any small business entities by definition.

After careful review, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for the changes described above and minor editorial corrections. The FAA has determined that these minor changes and corrections will not change the meaning of the AD nor add any additional burden upon the public than was already proposed.

The FAA estimates that 1,968 normally aspirated airplanes and 803 turbocharged airplanes in the U.S. registry will be affected by this AD, that it will take approximately 15 workhours per normally aspirated airplane and 30 workhours per turbocharged airplane to accomplish the required action, and that the average labor rate is approximately $55 an hour. Parts cost approximately $295 per normally aspirated airplane and $330 per turbocharged airplane. On the basis of these figures, the total cost impact of the AD on U.S. operators is estimated to be $3,794,100 ($2,204,160 for normally aspirated airplanes plus $1,589,940 for turbocharged airplanes).

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 "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES".

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

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

93–05–10 Piper Aircraft Corporation: Amendment 39–8514; Docket No. 92–CE–37–AD.

Applicability: The following model and serial number airplanes, certificated in any category:

Model	Serial Nos.
PA–32R–300	32R–7680001 through 32R–7880068.
PA–32RT–300	32R–7885001 through 32R–7985105.
PA–32RT–300T	32R–7887001 through 32R–7987126.
PA–32R–301	32R–8013001 through 32R–8613005 and 3213001.
PA–32R–301T	32R–8029001 through 32R–8629006 and 3229001.

Compliance: Required within the next 100 hours time-in-service (TIS) after the effective date of this AD, unless already accomplished.

Note 1: The compliance times referenced in this AD take precedence over those cited in the referenced service information.

To prevent the inability to retract or extend the nose landing gear, which could result in substantial damage to or loss of control of the airplane, accomplish the following:

(a) Inspect the engine mount as specified in and in accordance with the Instructions: Part I section of Piper Service Bulletin (SB) No. 955, dated March 3, 1992. Prior to further flight, repair any cracks in accordance with Piper SB No. 955.

(b) Modify the airframe structure and strengthen the landing gear and engine mount attach areas in accordance with the instructions contained in either Engine Mount Drag Link Installation Kit, Piper Part No. 766–252 (for turbocharged models); or Engine Mount Drag Link Installation Kit, Piper Part No. 766–253 (for normally aspirated models). These kits are referenced in Piper SB No. 955, dated March 3, 1992.

(c) Inspect the nose gear actuator attachment bracket for correct rivet dimensions in accordance with the Instructions: Part III section of Piper SB No. 955, dated March 3, 1992. If any rivets are found that are not of the dimensions referenced in Piper SB No. 955, prior to further flight, reinforce the nose gear actuator attachment bracket in accordance with the referenced service information.

(d) If the parts that are required to accomplish the modification specified in paragraph (b) of this AD have been ordered, but are not available from the manufacturer, reinspect the engine mount as required by paragraph (a) of this AD at intervals not to exceed 100 hours TIS until parts become available.

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

(f) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Atlanta Aircraft Certification Office, 1669 Phoenix Parkway, Suite 210C, Atlanta, Georgia 30349. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta 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 Atlanta Aircraft Certification Office.

(g) The inspections required by this AD shall be done in accordance with Piper Service Bulletin No. 955, dated March 3, 1992. The modification required by this AD shall be done in accordance with the instructions to Engine Mount Drag Link Installation Kit, Piper Part No. 766–252 (for turbocharged models); or Engine Mount Drag Link Installation Kit, Piper Part No. 766–253 (for normally aspirated models), which are referenced in Piper Service Bulletin No. 955. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may be obtained from the Piper Aircraft Corporation, 2926 Piper Drive, Vero Beach, Florida 32960. Copies may be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(h) This amendment (39–8514) becomes effective on April 30, 1993.

Issued in Kansas City, Missouri, on March 10, 1993.

Bobby W. Sexton,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–6086 Filed 3–16–93; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs; Tiamulin Liquid Concentrate

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Fermenta Animal Health Co. The NADA provides for the use of tiamulin liquid concentrate in the preparation of medicated drinking water to treat swine dysentery and pneumonia.

EFFECTIVE DATE: March 17, 1993.

FOR FURTHER INFORMATION CONTACT: George K. Haibel, Center for Veterinary Medicine (HFV–133), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–295–8644.

SUPPLEMENTARY INFORMATION: Fermenta Animal Health Co., 10150 North Executive Hills Blvd., Kansas City, MO 64153, filed NADA 140–916 which provides for the use of tiamulin liquid concentrate in the preparation of medicated drinking water for the treatment of swine dysentery associated with *Treponema hyodysenteriae* and swine pneumonia due to *Actinobacillus pleuropneumoniae*. The drug is also approved as a soluble powder for the same indications. The NADA is approved as of January 29, 1993, and the regulations are amended in 21 CFR part 520 by amending § 520.2455 and by adding new § 520.2456 to reflect the approval. The basis for approval is discussed in the freedom of information summary.

Current § 520.2455 *Tiamulin* is amended by revising the section heading as *Tiamulin soluble powder*, and in paragraph (d)(2)(i) the name *Haemophilus pleuropneumoniae* is changed to *Actinobacillius pleuropneumoniae*, the current scientific name of the causative agent, and in paragraph (d)(2)(ii) the last sentence is revised to add another approved ionophore, narasin, so the sentence will be consistent with the related sentence in new § 520.2456 (i.e., tiamulin liquid concentrate).

Section 512(c)(2)(F)(ii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(ii)) provides a 3-year period of exclusivity to this original NADA beginning January 29, 1993, because it contains reports of new clinical or field investigations essential to the approval of the application.

In accordance with the freedom of information provisions of part 20 (21 CFR part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, rm.1-23, 12420 Parklawn Dr., Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.24(d)(1)(iii) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 520 continues to read as follows:

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

2. Section 520.2455 is amended by revising the section heading; by removing in paragraph (d)(2)(i) the name "*Haemophilus pleuropneumoniae*"and adding in its place the name "*Actinobacillus pleuropneumoniae*"; and by adding in paragraph (d)(2)(ii) the word "narasin" after the word "lasalocid".

§ 520.2455 Tiamulin soluble powder.

* * * * *

3. New § 520.2456 is added to read as follows:

§ 520.2456 Tiamulin liquid concentrate.

(a) *Specifications.* A liquid concentrate containing 12.3 percent tiamulin used to make a medicated drinking water containing 227 milligrams or 681 milligrams of tiamulin per gallon.

(b) *Sponsor.* See 054273 in § 510.600(c) of this chapter.

(c) *Related tolerances.* See § 556.738 of this chapter.

(d) *Conditions of use in swine—(1) Amount.* Dysentery: 3.5 milligrams of tiamulin per pound of body weight daily. Pneumonia: 10.5 milligrams of tiamulin per pound of body weight daily.

(2) *Indications for use.* For treatment of swine dysentery associated with *Treponema hyodysenteriae* and swine pneumonia due to *Actinobacillus pleuropneumoniae* susceptible to tiamulin.

(3) *Limitations.* Use for 5 consecutive days. When a dose is 3.5 milligrams per

pound of body weight daily, withdraw medication 3 days before slaughter. When a dose is 10.5 milligrams per pound of body weight daily, withdraw 7 days before slaughter. Prepare fresh medicated water daily. Not for use in swine over 250 pounds body weight. Use as only source of drinking water. Do not allow consumption of feeds containing polyether ionophores (e.g., monensin, lasalocid, narasin, or salinomycin) as adverse reactions may occur.

Dated: March 2, 1993.

Gerald B. Guest,

Director, Center for Veterinary Medicine.

[FR Doc. 93–6089 Filed 3–16–93; 8:45 am]

BILLING CODE 4160–01–F

21 CFR Part 529

Certain Other Dosage Form New Animal Drugs; Gentamicin Intrauterine Solution

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug application (ANADA) filed by Agri Laboratories, Ltd. The ANADA provides for the use of a generic gentamicin solution (100 milligrams/milliliter (mg/mL)) for control of bacterial infections of the uterus (metritis) of horses and as an aid in improving conception in mares with uterine infections caused by bacteria sensitive to gentamicin.

EFFECTIVE DATE: March 17, 1993.

FOR FURTHER INFORMATION CONTACT: Larry D. Rollins, Center for Veterinary Medicine (HFV–110), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–295–8612.

SUPPLEMENTARY INFORMATION: Agri Laboratories, Ltd., P.O. Box 3103, St. Joseph, MO 64503, is the sponsor of ANADA 200–037, which provides for the use of a generic gentamicin solution (100 mg/mL) for control of bacterial infections of the uterus (metritis) in horses and as an aid in improving conception in mares with uterine infections caused by bacteria sensitive to gentamicin.

Approval of ANADA 200–037 for Agri Laboratories, Ltd.'s, Gentamicin Solution (100 mg/mL gentamicin) is as a generic copy of Schering's Gentocin Solution (100 mg/mL gentamicin sulfate) in NADA 046–724. The ANADA is approved as of February 8, 1993, and the regulations are amended in 21 CFR 529.1044a to reflect the approval. The basis for approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of part 20 (21 CFR part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

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

List of Subjects in 21 CFR Part 529

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 529 is amended as follows:

PART 529—CERTAIN OTHER DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 529 continues to read as follows:

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

§ 529.1044a [Amended]

2. Section 529.1044a *Gentamicin sulfate intrauterine solution* is amended in paragraph (b) by revising "No. 000061" to read "Nos. 000061 and 057561".

Dated: March 2, 1993.

Gerald B. Guest,

Director, Center for Veterinary Medicine.

[FR Doc. 93–6037 Filed 3–16–93; 8:45 am]

BILLING CODE 4160–01–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 9F3730/R1183; FRL–4573–3]

RIN 2070–AB78

Pesticide Tolerances for Amitraz

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for the combined residues of the insecticide/miticide amitraz and its metabolites in cottonseed, eggs, and poultry. The regulation to establish a maximum permissible level for residues of amitraz was requested in a petition submitted by the Nor-Am Chemical Co.

EFFECTIVE DATE: This regulation becomes effective March 17, 1993.

ADDRESSES: Written objections, identified by the document control number, [PP 9F3730/R1183], may be submitted to: Hearing Clerk (A-110), Environmental Protection Agency, rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: By mail: Dennis H. Edwards, Jr., Product Manager (PM) 19, Registration Division (H7505C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 207, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-6386.

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of May 19, 1989 (54 FR 21664), which announced that Nor-Am Chemical Co., Wilmington, DE 19803, had submitted pesticide petition (PP) 9F3730 to EPA proposing to amend 40 CFR part 180 by establishing permanent tolerances under section 408 of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 346a, for the residues of the insecticide/miticide amitraz (*N'*-[2,4-dimethylphenyl]-*N*-[[(2,4-dimethylphenyl)-imino]methyl]-*N*-methylmethanimidamide) and its metabolites *N*-(2,4-dimethylphenyl)-*N*-methyl formamide and *N*-(2,4-dimethylphenyl)-*N*-methylmethanimidamide (both calculated as the parent) in cottonseed at 1.0 part per million (ppm) and in eggs at 0.01 ppm, poultry fat and meat at 0.01 ppm, and poultry meat-byproducts at 0.05 ppm when present as a result of application to cotton.

No requests for referral to an advisory committee were received in response to the notice of filing. The toxicological

data considered in support of these tolerances include the following toxicity studies:

1. A 2-year rat feeding/carcinogenicity study which was negative for carcinogenic effects under the conditions of the study and which had a NOEL of 50 ppm (2.5 mg/kg/bwt) for noncarcinogenic effects.

2. A three-generation rat reproduction study with a NOEL of 15 ppm (1.5 mg/kg/bwt); rat and rabbit teratology studies which were negative at doses up to 12 mg/kg/bwt and 25 mg/kg/bwt, respectively.

3. A 2-year mouse oncogenicity study which demonstrated an increase in the incidence of hepatocellular tumors in female mice, and a 2-year dog feeding study with a NOEL of 0.25 mg/kg/bwt which demonstrated increased blood glucose and slight hypothermia after dosing. The reference dose (RfD), based on the 2-year dog feeding study with a NOEL of 0.25 mg/kg/bwt and a 100-fold uncertainty factor, is calculated to be 0.0025 mg/kg of body weight/day.

The 2-year mouse oncogenicity study which showed an increase in the incidence of hepatocellular tumors in female mice was referred to the Agency's Carcinogen Assessment Group (CAG) for evaluation. CAG (1986) concluded that amitraz should be classified as a possible human carcinogen, Group C. This classification is based on the Agency's "Guidelines for Carcinogen Risk Assessment" published in the **Federal Register** of September 24, 1986 (51 FR 33992). In its evaluation, CAG gave consideration to the following information:

1. The positive carcinogenic effects were found in only one species, the mouse.

2. Tumors were discovered mostly in animals at the scheduled terminal sacrifice.

3. The rat was negative for oncogenic effects at doses as high as 200 ppm.

4. There is no positive epidemiological carcinogenicity data for amitraz.

On February 12, 1986, the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) Scientific Advisory Panel (SAP) completed a review of the data base for the Group C classification of amitraz. The SAP concluded that the weight of evidence was inadequate to clearly categorize amitraz. Amitraz has also been determined to be negative in the gene mutation, host-mediated, and dominant-lethal test systems. Studies such as the Ames bacterial test, a mouse lymphoma assay, and an unscheduled DNA synthesis in human embryonic cells have been conducted with amitraz, also with negative results. For these reasons, the SAP disagreed with the Agency classification and recommended that amitraz be classified as a Group D carcinogen (not classifiable as to human carcinogenicity).

Despite the SAP's recommendation, the Agency continued to regulate amitraz as a class C carcinogen, without quantification of the risk. However, in late 1990, the Agency decided to reexamine the weight-of-the-evidence regarding the carcinogenic potential of amitraz. The "C" classification was reaffirmed, but quantification of potential human cancer risk, using a low-dose extrapolation model (Q^*_1), was recommended. This decision was based on the fact that amitraz was associated with the induction of multisite benign and malignant tumors in different strains of male and female mice. Some of these tumors (hepatocellular tumors) are considered relatively uncommon in female $B_6C_3F_1$ mice.

The Agency prepared a dietary risk assessment for amitraz in support of the honey/beeswax tolerance recently established (57 FR 53566, Nov. 12, 1992). The resulting dietary risk was calculated to be 3.0×10^{-6} (for the honey/beeswax use, plus pears, cattle, and swine). The Agency also noted that the basic registrant, Nor-Am, had submitted a label amendment to increase the preslaughter interval on swine from 1 to 3 days. This label amendment has been accepted by the Agency, and results in a smaller residue contribution from the use of amitraz on swine. This has lowered the dietary risk for the established uses from 3.0×10^{-6} to 2.2×10^{-6}. The Agency believes that the addition of 0.3×10^{-6} from the use on cotton will still keep the overall risk (2.5×10^{-6}) within the negligible risk range.

The calculated reference dose (RfD) for humans is 0.0025 mg/kg/bwt/day. This is based on a 2-year dog feeding study with a NOEL of 0.25 mg/kg/bwt and a 100-fold uncertainty factor. The anticipated residue contribution (ARC) for this chemical utilizes 1.75 percent of the RfD (also revised due to the change in the preslaughter interval for swine discussed above). The proposed tolerances will contribute 0.000007 mg/kg/bwt/day to the human diet utilizing an additional 0.28 percent of the RfD. This results in a total utilization of 2.03 percent of the RfD. The nature of the residue in plants and livestock is adequately understood.

The analytical method is gas chromatography using electron detection. There are currently no actions pending against continued registration of this chemical.

Based on the above information the Agency concludes that the establishment of the tolerances will protect the public health. Therefore, the tolerances are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections with the Hearing Clerk, at theaddress given above. 40 CFR 178.20 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 each such issue, 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, 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.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

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

List of Subjects in 40 CFR Part 180

Administrative practice and procedures, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements

Dated: March 5, 1993.

Douglas D. Campt,

Director, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

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

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

2. Section 180.287 is amended in the table therein by adding and alphabetically inserting the following commodities, to read as follows:

§ 180.287 Amitraz; tolerances for residues.

* * * * *

Commodity	Parts per million
* * * * *	
Cottonseed	1.0
Eggs	0.01
* * * * *	
Poultry fat/meat	0.01
Poultry meat byproducts	0.05
* * * * *	

[FR Doc. 93-6146 Filed 3-16-93; 8:45 am]

BILLING CODE 6560-50-F

40 CFR Part 180

[PP 0F3918/R1184; FRL-4575-6]

RIN No. 2070-AB78

Pesticide Tolerances for Dimethenamid

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of the herbicide dimethenamid, 2-chloro-*N*-[(1-methyl-2-methoxy)ethyl]-*N*-(2,4-dimethyl-thien-3-yl)-acetamide, in or on the raw agricultural commodities (RAC) corn grain, corn fodder, and corn forage at 0.01 part per million (ppm). This regulation to establish the maximum permissible level of residues of the herbicide in or on these commodities was requested in a petition submitted by Sandoz Agro, Inc.

EFFECTIVE DATE: This regulation becomes effective March 17, 1993.

ADDRESSES: Written objections, identified by the document control number, [PP 0F3918/R1184], may be submitted to: Hearing Clerk (A-110), Environmental Protection Agency, rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: By mail: Cynthia Giles-Parker, Product Manager (PM) 22, Registration Division, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 229, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703-305-5540).

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the Federal Register of April 3, 1991 (56 FR 13642), which announced that Sandoz Agro, Inc., 1300 East Touhy Ave., Des Plaines, IL 60018, had submitted a pesticide petition (PP 0F3918) to EPA requesting that the Administrator, pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), establish tolerances for the residues of the herbicide 2-chloro-*N*-[(1-methyl-2-methoxy)ethyl]-*N*-(2,4-dimethyl-thien-3-yl)-acetamide in or on the raw agricultural commodities (RACs) corn forage, corn silage, corn grain, and corn stover at 0.01 ppm. Sandoz Agro, Inc., subsequently editorially amended PP 0F3918 to read dimethenamid, 2-chloro-*N*-[(1-methyl-2-methoxy)ethyl]-*N*-(2,4-dimethyl-thien-3-yl)-acetamide in or on the raw agricultural commodities corn grain, corn fodder, and corn forage at 0.01 ppm. There were no comments or requests for referral to an advisory committee received in response to this notice of filing.

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

1. A rat acute oral study with an LD_{50} of 2.14 grams (g)/kilogram (kg), males, 1.30 g/kg females, and 1.57 g/kg combined.

2. A 13-week rat feeding study with a no-observed-effect level (NOEL) of 500 ppm (33.5 milligrams (mg)/kg/day for males and 40.1 mg/kg/day for females, based on food consumption).

3. A 13-week dog-feeding study with a NOEL of 100 ppm (2.5 mg/kg/day).

4. A 21-day rabbit dermal study with a NOEL of 50 mg/kg with mild irritant effect at all dose levels.

5. A carcinogenicity study in mice with no carcinogenic effects observed at any dose level under the conditions of the study, and a systemic NOEL of 300 ppm (40.8 mg/kg/day for males and 40.1 mg/kg/day for females, based on food consumption), and a systemic lowest effect level (LEL) of 1,500 ppm (205 mg/kg day for males and 200 mg/kg/day for females due to food consumption) due to elevated liver weights.

6. A rat chronic feeding/carcinogenicity study with a NOEL of 100 ppm (5 mg/kg/day) and a LEL of 700 ppm (35 mg/kg/day) due to decreased food consumption. Under the conditions of the study, limited evidence of carcinogenicity was observed based on the occurrence of increased benign liver cells in males and ovarian tubular adenomas in females at the 1,500-ppm dose groups, which are discussed further below.

7. A 1-year dog feeding study with a NOEL of 250 ppm (9.6 mg/kg/day) and with a LEL = 1,250 ppm (49 mg/kg/day for liver changes).

8. A two-generation reproduction study in rats with a parental and reproductive NOEL of 500 ppm (36 mg/kg/day for males and 40 mg/kg/day for females) and with a LEL of 2,000 ppm (150 mg/kg/day for males and 160 mg/kg/day for females) due to reduction of body weight and of food consumption, increases in liver weights, and significant reductions in pup weight during lactation.

9. A rabbit developmental study with a maternal NOEL of 37.5 mg/kg/day and a LEL of 75 mg/kg/day due to decreased body weight and food consumption and abortion/premature delivery, and with a developmental NOEL of 75 mg/kg and a LEL of 150 mg/kg/day due to a low incidence of abortion/premature delivery and hyoid alae angulated changes.

10. A rat developmental study with a maternal NOEL of 50 mg/kg/day and a LEL of 215 mg/kg due to excess salivation, increased liver weight, and reduced body weight gain and food consumption, and with a developmental NOEL of 215 mg/kg/day and a LEL of 425 mg/kg due to increased resorptions.

11. An Ames mutagenicity assay negative with and without activation, an *in vitro* chromosomal aberration using CHO cells positive with and without activation, an unscheduled DNA synthesis in rat hepatocytes unequivocally positive in one *in vitro* assay and negative in another *in vitro* assay. A dominant-lethal study to further evaluate the mutagenic mechanism is due 2 years after the date of the conditional registration under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

The Agency has concluded that the available data provide limited evidence of the carcinogenicity of dimethenamid in rats and has classified the pesticide as a Category C carcinogen (possible human carcinogen with limited evidence of carcinogenicity in animals) in accordance with Agency guidelines, published in the Federal Register of September 24, 1986 (51 FR 33992). Based on a review of the Health Effects Division Peer Review Committee for Carcinogenicity of the Office of Pesticide Programs, the Agency has determined that a quantitative risk assessment is not appropriate for the following reasons:

1. The tumor response was primarily due to a significantly increasing trend for benign and/or malignant liver tumors in males and due to a significantly increasing trend for ovarian tubular adenomas in female rats in the high dose only (1,500 ppm).

2. The chemical was not carcinogenic when administered in the diet to mice at dose levels ranging from 30 to 3,000 ppm.

Based on this evidence, EPA concludes that dimethenamid poses a negligible cancer risk to humans.

The standard risk assessment approach of using the Reference Dose (RfD) based on systemic toxicity was applied to dimethenamid. Using a 100-fold safety factor and the NOEL of 5 mg/kg bwt/day determined by the most sensitive species from the 2-year rat feeding study, the RfD is 0.05 mg/kg/day. The theoretical maximum residue contribution (TMRC) from the proposed tolerances is 4 X 10^{-6} mg/kg bwt/day and utilizes 0.007 percent of the RfD for the overall U. S. population. The exposure of the most highly exposed subgroup in the population did not utilize a significantly greater amount of the RfD. No previous tolerances have been established for dimethenamid.

The metabolism of dimethenamid in plants is adequately understood. There is no reasonable expectation of secondary residues occurring in meat, milk, and eggs from tolerances associated with this petition.

An adequate analytical method, gas chromatography, is available for enforcement purposes. Because of the long lead time from establishing these tolerances to publication of the enforcement methodology in the Pesticide Analytical Manual, Vol. II, the analytical methodology is being made available in the interim to anyone interested in pesticide enforcement when requested from: Calvin Furlow, Public Information Branch, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 242, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703-305-4432).

The pesticide is considered useful for the purposes for which the tolerances are sought. Based on the information and data considered, the Agency concludes that the establishment of the tolerances will protect the public health. Therefore, the tolerances are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above (40 CFR 178.20). 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 fees provided 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, and the requestor's contentions on each such issue, and a summary of the evidence relied upon by the objection (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 on 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).

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

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

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Recording and recordkeeping requirements.

Dated: March 5, 1993.

Douglas D. Campt,

Director, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

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

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

2. In subpart C, by adding new § 180.464, to read as follows:

§ 180.464 Dimethenamid; tolerances for residues.

Tolerances are established for residues of the herbicide dimethenamid, 2-chloro-*N*-[(1-methyl-2-methoxy)ethyl]-*N*-(2,4-dimethyl-thien-3-yl)-acetamide, in or on the following raw agricultural commodities:

Commodity	Parts per million
Corn, grain	0.01
Corn, fodder	0.01
Corn, forage	0.01

[FR Doc. 93–6147 Filed 3–16–93; 8:45 am]

BILLING CODE 6560–50–F

40 CFR Part 268

[FRL–4559–8]

Land Disposal Restrictions for Third Third Scheduled Wastes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule amendment.

SUMMARY: On June 1, 1990, EPA published regulations promulgating Congressionally-mandated prohibitions on land disposal of certain hazardous wastes. EPA then issued technical corrections to these regulations in a March 6, 1992 technical amendment, including corrections relating to the applicability of the deactivation standard to reactive sulfide wastes and the applicability of the dilution prohibition to reactive cyanide wastes. In this action, EPA is suspending portions of the language in the March 6, 1992 technical amendment relating to the applicability of the deactivation standard to reactive sulfide wastes and the applicability of the dilution prohibition to reactive cyanide wastes until June 17, 1993. This action is being taken because, after reviewing the situation, EPA decided that a compliance period was necessary. This action provides for a three month compliance period.

EFFECTIVE DATE: This rule is effective March 17, 1993.

ADDRESSES: The RCRA docket is open from 9:30 to 3:30, Monday through Friday, excluding Federal holidays, and is located at the following address: EPA RCRA Docket (OS–305), room M–2427, 401 M Street SW., Washington, DC 20460. The public must make an appointment to review docket materials by calling (202) 260–9327. Refer to Docket number F–92–13C3 FFFFF when making appointments to review any background documentation for this correction. The public may copy a

maximum of 100 pages of material from any one regulatory docket at no cost; additional copies cost $0.15 per page.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline at (800) 424–9346 (toll free) or (703) 920–9810 in the Washington, DC metropolitan area. For technical information contact Michelle Prejean, Office of Solid Waste, 401 M Street SW., Washington, DC 20460, (703) 308–8434.

SUPPLEMENTARY INFORMATION:

I. Basis for Today's Amendment

On March 6, 1992, the Agency issued a technical amendment to the Third Third Land Disposal Restrictions rule (see 57 FR 8086, March 6, 1992). Among other things, that amendment corrected inconsistencies between the regulatory and preamble language in the Third Third final rule relating to cyanide and sulfide reactive wastes managed in surface disposal units (i.e. disposal units other than underground injection wells). It has come to the attention of the Agency that those corrections, in part, should not have been made effective immediately. EPA is, therefore, suspending portions of the language affecting cyanide and sulfide reactive wastes until June 17, 1993.

II. Background

On June 1, 1990, EPA published the Third Third land disposal restriction rule; this rule established prohibitions and treatment standards for all remaining wastes that were hazardous at the time of the 1984 amendments to the Resource Conservation and Recovery Act (RCRA), but were not yet prohibited (see 55 FR 22520, June 1, 1990). Included among these wastes were wastes that exhibit the characteristic of reactivity because of their cyanide or sulfide content.

Consistent with its proposal, EPA stated in the preamble to the Third Third final rule that the Agency considers both cyanide and sulfide reactive wastes to be toxic wastes for which dilution is an inappropriate method of treatment when the wastes are managed in surface disposal units (see 55 FR 22661, June 1, 1990; 57 FR 8087, March 6, 1992). Due to inadvertent drafting errors, however, EPA failed to codify the prohibition in actual regulatory language that would eventually appear in the Code of Federal Regulations (CFR). In light of this, the Agency issued a technical amendment to correct this omission (57 FR 8086, March 6, 1992).

In the technical correction notice, EPA promulgated two amendments dealing with the cyanide and sulfide reactive wastes that are managed in surface disposal units. With respect to reactive sulfide wastes, the corrected rule states that the deactivation standard does not include dilution as a method of treatment. For reactive cyanide wastes, the correction states that reactive cyanide wastes remain subject to the dilution prohibition contained in 40 CFR 268.3, and thus, that the exceptions to the dilution prohibition found in § 268.3(b) for wastewaters treated in Clean Water Act treatment systems (i.e. surface impoundments ultimately discharging to a navigable water or to a POTW) were not available to these cyanide wastes (57 FR 8083, March 6, 1992).

It appears, however, that EPA's intentions with respect to reactive cyanide and sulfide wastes that are managed in Clean Water Act treatment systems with impoundments were not clearly articulated. (Compare 55 FR 22666 (preamble), 55 FR 22686 (rule) and 55 FR 22701 (rule); see also letter of Chemical Manufacturers Association, May 4, 1992 to Sylvia Lowrance, Director of EPA's Office of Solid Waste documenting uncertainty among some members of the regulated community.)

Under these circumstances, the Agency believes that equitable considerations dictate the need to reassess when the March 6 technical corrections should become effective. In lieu of the immediate effective date prescribed in the March 6 notice itself, a three month compliance period appears to be more appropriate given the confusion in the Third Third rule regarding whether the treatment standard for reactive sulfide and cyanide wastes that are subsequently managed in surface impoundments can be satisfied by dilution.

It should be noted that the DC Circuit recently issued its opinion in the case addressing the validity of the Third Third rules. *Chemical Waste Management* v. *EPA*, No. 90–1230, (September 25, 1992) (to be reported at 976 F. 2d 2). The court, among other things, vacated treatment standards for certain ignitable and corrosive wastes because these treatment standards allowed dilution as the sole means of treatment and thus did not assure treatment of hazardous constituents that might be present in these wastes. Slip op. at 25–28. Suspending language in the Third Third technical correction notice with regard to reactive cyanide and sulfide wastewaters might be viewed as allowing dilution, rather than treatment that removes or destroys cyanides and sulfides, and would thus be inconsistent with the logic of the opinion. The opinion, however, is not yet in effect because the court has not issued its mandate. In order to avoid any inconsistency, EPA is stating that should the court's mandate be issued anytime during the 3 months that this regulatory language is suspended, the court's mandate will supersede the suspension.

EPA also notes that the March 6 amendments are in some respects more stringent than necessary to comply with the opinion. The opinion indicates that dilution is not normally an acceptable means of treating hazardous constituents in characteristics wastes, but does allow characteristic wastes to be diluted and managed in surface impoundments "as long as the toxicity of the waste discharged from the facility is minimized or eliminated consistent with RCRA." Slip op. at 6. For cyanide and sulfide reactive wastes that are to be managed in surface impoundments, however, the rules discussed in this notice require section 3004(m) treatment before placement in the impoundment, and prohibit dilution as a means of achieving those standards.

The Agency does not understand there to be any similar confusion with regard to dilution of nonwastewater reactive cyanide and sulfide wastes. Reactive cyanide nonwastewaters cannot be diluted impermissibly to meet the treatment standards, as established in the Third Third final rule (see §§ 268.3(a), 268.43, and 55 FR 22666, June 1, 1990). With respect to sulfide nonwastewaters, the omission of a dilution prohibition in the Third Third final rule was clearly at odds with the Agency's stated intent and the Agency accordingly corrected this omission in the March 6 technical amendments.

III. Regulatory Impact Analysis

Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirement of a Regulatory Impact Analysis. Due to the nature of this regulation (technical correction), it is not "major"; therefore, no Regulatory Impact Analysis is required.

List of Subjects in 40 CFR Part 268

Hazardous Waste, Reporting and recordkeeping requirements, Hazardous debris.

Dated: January 8, 1993.

Don R. Clay,

Assistant Administrator, Office of Solid Waste and Emergency Response.

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

PART 268—LAND DISPOSAL RESTRICTIONS

1. The authority citation for part 268 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, and 6924.

§ 268.3 [Amended]

2. In § 268.3 paragraph (b), the following language: ". . . or unless the waste is a D003 reactive cyanide wastewater or nonwastewater.", is suspended until June 17, 1993.

§ 268.42 [Amended]

3. In § 268.42(a) Table 2, the following language, which is under the heading Waste Code and under the entry of D003 Reactive Sulfides Wastewaters, " * * * but not including dilution as a substitute for adequate treatment.", is suspended until June 17, 1993.

[FR Doc. 93–6149 Filed 3–16–93; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 271

[FRL–4558–3]

Alabama; Final Authorization of Revisions to State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency.

ACTION: Immediate final rule.

SUMMARY: Alabama has applied for final authorization of revisions to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). Alabama's revisions consist of the provisions contained in Radioactive Mixed Waste, a Non-HSWA III requirement, Non-HSWA Cluster VI, and most of HSWA Cluster I without Corrective Action. These requirements are listed in Section B of this notice. The Environmental Protection Agency (EPA) has reviewed Alabama's applications and has made a decision, subject to pubic review and comment, that the Alabama hazardous waste program revisions satisfy all of the requirements necessary to qualify for final authorization. Thus, EPA intends to approve Alabama's hazardous waste program revisions. Alabama's applications for program revisions are available for public review and comment.

DATES: Final authorization for Alabama's program revision shall be effective May 17, 1993 unless EPA publishes a prior **Federal Register** action withdrawing this immediate final rule. All comments on Alabama's program revision application must be received by the close of business, April 16, 1993.

ADDRESSES: Copies of Alabama's program revision application is available during normal business hours at the following addresses for inspection and copying: Alabama Department of Environmental Management, 1751 Congressman W.L. Dickinson Drive, Montgomery, Alabama 36130, (205) 271–7737; U.S. EPA Region IV, Library, 345 Courtland Street, NE., Atlanta, Georgia 30365; (404) 347–4216. Written comments should be sent to Leonard Nowak, State Programs Section, Waste Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30365.

FOR FURTHER INFORMATION CONTACT: Leonard W. Nowak, Acting Chief, State Programs Section, Waste Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30365; (404) 347–2234.

SUPPLEMENTARY INFORMATION:

A. Background

States with final authorization under section 3006(b) of the Resource Conservation and Recovery Act ("RCRA" or "the Act"), 42 U.S.C. 6926(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program. In addition, as an interim measure, the Hazardous and Solid Waste Amendments of 1984 (Public Law 98–616, November 8, 1984, hereinafter "HSWA") allow States to revise their programs to become substantially equivalent instead of equivalent to RCRA requirements promulgated under HSWA authority. States exercising the latter option receive "interim authorization" for the HSWA requirements under section 3006(g) of RCRA, 42 U.S.C. 6926(g), and later apply for final authorization for the HSWA requirements.

Revisions to State hazardous waste programs are necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, State program revisions are necessitated by changes to EPA's regulations in 40 CFR parts 260–268 and 124 and 270.

B. Alabama

Alabama initially received final authorization for its base RCRA program, effective on December 22, 1987. Alabama has received authorization for revisions to its program on January 28, 1992, and July 12, 1992. On April 5, 1990, Alabama submitted a program revision application for additional program approvals. Today, Alabama is seeking approval of its program revisions in accordance with 40 CFR 271.21(b)(3).

EPA has reviewed Alabama's application and has made an immediate final decision that Alabama's hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Consequently, EPA intends to grant final authorization for the additional program modification to Alabama. The public may submit written comments on EPA's immediate final decision up until April 16, 1993.

Copies of Alabama's application for this program revision are available for inspection and copying at the locations indicated in the **ADDRESSES** section of this notice.

Approval of Alabama's program revision shall become effective May 17, 1993, unless an adverse comment pertaining to the State's revision discussed in this notice is received by the end of the comment period.

If an adverse comment is received, EPA will publish either (1) a withdrawal of the immediate final decision, or (2) a notice containing a response to comments which either affirms that the immediate final decision takes effect or reverses the decision.

EPA shall administer any RCRA hazardous waste permits, or portions of permits that contain conditions based upon the Federal program provisions for which the State is applying for authorization and which were issued by EPA prior to the effective date of this authorization. EPA will suspend issuance of any further permits under the provisions for which the State is being authorized on the effective date of this authorization.

Alabama is today seeking authority to administer the following Federal requirements, promulgated on November 8, 1984–June 30, 1987, and July 1, 1989–June 30, 1990.

Federal requirements	HSWA or FR notice	Promulgation	State authority
Radioactive mixed waste	51 FR 24504	7/3/86	335–14–2–.01.
Dioxin waste listing and Management standards.	55 FR 26986	1/14/85	335–14–2–.01(5)(e) 1&2; 335–14–2–.01(7)(b)1&3; 335–14–2–.04(1)(d); 335–14–2.–04(2); 355–14–2–.04(4)(f); 335–14–2–Application III; Table 1,3; 335–14–2–Application VII; 335–14–5–.09c&d; 335–14–5–.10(5)c&d; 335–14–5–.11(2)(c); 335–14–5–.12(10)(a); 335–14–5–.14(a&b); 335–14–5–.15(4)(a); 335–14–6–.01(1)(d)(1); 335–14–6–.15(3)a&b; 335–14–6–.16(4)a&b; 335–14–8–.02(5)(b)7; 335–14–8–.02(7)(g); 335–14–8–.02(8)(1); 335–14–8–.02(9)(i); 335–14–8–.02(11)(i); 335–14–8–.02(12)(j).
Paint filter test	50 FR 18370	4/30/85	335–14–5–.02(4)(b)6; 335–14–5–.14(15(c).
HSWA codification rule	50 FR 28702	7/15/85	
Small quantity generators			335–14–2–.01(5)(b)(f)(g)(h) and 4(i)(j).
Delisting			335–14–1–.03(2)(a,c,d,e,&m).
Household waste			335–14–2–.01(4)(6)1.
Waste minimization			335–14–3–.04(2)(a) 6,7,8,9.
Location standards for salt domes, salt beds, underground mines and caves.			335–14–3–Appendix I.
Liquids in landfills			335–14–5–.14–(15).
Dust suppression			335–14–7–.03(4).
Double liners			335–14–5–.11(2)a–e; 335–14–5–.14(2)a–h; 335–14–6–.11(2)a–e; 335–14–6–.14(2)(a)–(e).
Ground water monitoring			335–14–.06(1)(b); 335–14–5–.11(3)(7)(9); 335–14–5–.12(3)(4)(5)(11).
Cement kilns			335–14–2–.01–(6)(a); 335–14–2–.04(4); 335–14–7–.04(2)(b)1.
Fuel labeling			335–14–7–.04(5)(d).
Pre-construction ban			335–14–8–.02(1)(f)1,3.
Permit life			335–14–8–.04–(2)(a)6.
Omnibus provision			335–14–8–.03(3)(b).
Interim status			335–14–8–.02(1)a–e; 335–14–8–.03(1)(j)2; 335–14–8–.07(1)(a)(d); 335–14–8–.07(4) (c–f).
Research & Development permits			335–14–8–.02(1)(a); 335–14–8–.06(4).
Hazardous export			335–14–3–.05(1)(d).
Exposure information			335–14–8–.02(1)(c)(j).
Listing of TDI, TDA, and DNT wastes	50 FR 42936	10/23/85	335–14–2–.04(3)(4)(f); 335–14–2–Appendix III, VII, & VIII.
Listing of spent solvents	50 FR 53315	12/31/85	335–14–2–.04(2).
Listing of spent solvents; correction	50 FR 2702	1/21/86	335–14–2–.04(2).
Listing of EDB waste	51 FR 5327	2/13/86	335–14–2–.04(3); 335–14–2–Appendix III & VII.
Listing of four spent solvents	51 FR 6537	2/25/86	335–14–2–.04(2); 335–14–2–.04(4)(f); 335–14–2–Appendix III, VII & VIII.
Generators of 100–1000kg hazardous waste.	51 FR 10146	3/24/86	335–14–1–.02(1); 335–14–2–.01(1)(1)(a)1; 335–14–2–.01(5)(a–j); 335–14–2–.04(4)(f); 335–14–3–.02(1)(e); 335–14–3–.03(5)(a,d,e,f); 335–14–3–.04(5); 335–14–4–.02(1)(h); 335–14–8–.02(1)(c)1(iii).
Codification rule; technical correction	51 FR 19176	5/28/86	335–14–6–.14(15)(d).
Biennial report; correction	51 FR 28556	8/8/86	335–14–5–.05(6)(h–j).
Exports of hazardous waste	51 FR 28664	8/8/86	335–14–2–.01(5)(f)3; 335–14–2–.01(5)(g)3; 335.14–2–.01(6)(a)(3.(i); 335–14–3–.04(2)(a); 335–14–3–.05(1–9); 335–14–3–.06(1)(a–c); 335–14–3–.07(1); 335–14–3–Appendix I; 335–14–4–.02(1)(a,c,e,f,g).
Standards for generators waste minimization certifications.	51 FR 35190	10/1/86	335–14–3–Appendix I.
Listing of EBDC	51 FR 37725	10/24/86	335–14–2–.04(3); 335–14–2–Appendix III & VII.
Land disposal restrictions	51 FR 40572	11/7/86	335–14–1–.01(1)(a)(a–b).
Land disposal restrictions; corrections	52 FR 21010	6/4/87	335–14–1–.01(2)(a–b); 335–14–1–.01(3); 335–14–2–.01(1)(a); 335–14–2–.01(4)(c&d); 335–14–2–.01(5)(b–g); 335–14–2–.01(6)(a)3,(c)1,(7)(a); 335–14–2–.03(1)(b); 335–14–3–.04(1)(c); 335–14–3–.01(2)(d); 335–14–4–.01(3); 335–14–5–.01(1)(h); 335–14–5–.02(4(a)1,(b)4,6,7; 335–14–5–.05(4); 335–14–6–.02&.05(4); 335–14–9–.01(1); 335–14–9–.01(2)(a&b); 335–14–9–.01(3),(4),(6),(7); 335–14–9–.03–.05; 335–14–9–Appendix I, II; 335–14–8–.02(5)(b)21; 335–14–8–.03(3)(b)1; 335–14–8–.03(o)1–4.
Identification listing of hazardous waste; technical correction.	53 FR 27162	7/19/88	335–14–2–.01(5)(e)(f).
Farmer exemptions; technical correction	53 FR 27164	7/19/88	335–14–3–.01(1)(b,d,g)4; 335–14–6–.01(1)(c)8; 335–14–9–.01(1)(c)5; 335–14–8–.01(1)(c)2.(li).
Delay of closure period for hazardous waste facilities.	54 FR 33376	8/14/89	335–14–5–.02(4)(a)1,3.(i),(b)1; 335–14–5–.07(3)(d)2; 335–14–5–.07(4)(a–e); 335–14–5–.08(3)(a)3,4.
Mining waste exclusion I (Bevil amendment).	54 FR 36592	9/1/89	355–14–2–.01(3)(a)2.(i),(iii); 355–14–2–.01(4)(b)7.
Testing and monitoring activities	54 FR 40260	9/29/89	355–14–1–.02(2) Appendix III.
Mining waste exclusion II	55 FR 2322	1/23/90	355–14–2–.01(4)(b)(7); 355–14–3–.02(4)(e).

Federal requirements	HSWA or FR notice	Promulgation	State authority
Modification of F019 listing	55 FR 5340	2/14/90	355–14–2–.04(2).
Testing & monitoring activities; correction	55 FR 8948	3/9/90	355–14–1–.02(2); 355–14–2–Appendix III.
Criteria for toxic waste (technical amendment).	55 FR 18726	5/4/90	355–14–2–.02(2)(a)3.
Land disposal restrictions for third third scheduled wastes (clarifying amendment to §261.33(c)).	55 FR 22520	6/1/90	355–14–2–.03(5)(b); 355–14–2.04(2); 355–14–2–.04(4)(c); 355–14–2–Appendix VII.
Standards for hazardous waste storage and treatment tank systems; correction.	51 FR 29430	8/15/86	355–14–5–.10(1)(a)(b); 355–14–5–.10(1)(a)(b); 355–14–5–.10(2)(a)&(b).
Listing of spent pickle liquor; correction	51 FR 33612	9/22/86	355–14–2–.04(3).
Revised manual SW–846 amended incorporation by reference.	52 FR 8072	3/16/87	355–14–1–.02(2).
Closure/post-closure care for interim status surface impoundments.	52 FR 8704	3/19/87	355–14–6–.11(9)(a)1,2(b)1,2, and 3.

Alabama is not authorized to operate the Federal program on Indian Lands. This authority remains with EPA unless provided otherwise in a future statute or regulation.

C. Decision

I conclude that Alabama's applications for these program revisions meet all of the statutory and regulatory requirements established by RCRA. Accordingly, Alabama is granted final authorization to operate its hazardous waste program as revised.

Alabama now has responsibility for permitting treatment, storage, and disposal facilities within its borders and carrying out other aspects of the RCRA program, subject to the limitations of its program revision application and previously approved authorities. Alabama also has primary enforcement responsibilities, although EPA retains the right to conduct inspections under section 3007 of RCRA and to take enforcement actions under sections 3008, 3013, and 7003 of RCRA.

Compliance with Executive Order 12291

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization effectively suspends the applicability of certain Federal regulations in favor of Alabama's program, thereby eliminating duplicative requirements for handlers of hazardous waste in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 271

Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Authority: This notice is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended (42 U.S.C. 6912(a), 6926, 6974(b)).

Patrick M. Tobin,

Acting Regional Administrator.

[FR Doc. 93–6023 Filed 3–16–93; 8:45 am]

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40 CFR Part 271

[FRL–4606–4]

Minnesota: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency.

ACTION: Immediate final rule.

SUMMARY: Minnesota has applied for final authorization of revisions to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA) of 1976 as amended. The Environmental Protection Agency (EPA) has reviewed Minnesota's application and has reached a decision, subject to public review and comment, that these hazardous waste program revisions satisfy all the requirements necessary to qualify for final authorization. Thus, EPA intends to grant final authorization to Minnesota to operate its expanded program, subject to authority retained by EPA under the Hazardous and Solid Waste Amendments of 1984 (November 8, 1984, hereinafter "HSWA").

DATES: Final authorization for Minnesota's program revisions shall be effective May 17, 1993, unless EPA publishes a prior **Federal Register** (FR) action withdrawing this immediate final rule. All comments on Minnesota's final authorization must be received by 4:30 p.m. central time on April 16, 1993. If an adverse comment is received, EPA will publish either: (1) A withdrawal of this immediate final rule; or (2) a document containing a response to the comment which either affirms that the immediate final decision takes effect or reverses the decision.

ADDRESSES: Copies of Minnesota's final authorization application are available during 9 a.m. to 4 p.m. at the following addresses for inspection and copying: Ms. Carol Nankivel, Supervisor, Rules Unit, Minnesota Pollution Control Agency, 520 Lafayette Road, St. Paul, Minnesota 55155, Phone 612/297–8369; Ms. Christine Klemme, U.S. EPA, Region V, Office of RCRA, 77 W. Jackson, 7th Floor, Chicago, Illinois 60604, Phone 312/886–3715. Written comments should be sent to Ms. Christine Klemme, Program Management Branch, Office of RCRA, 77 W. Jackson, HRM–7J, Chicago, Illinois 60604, Phone 312/886–3715.

FOR FURTHER INFORMATION CONTACT: Christine Klemme, Minnesota Regulatory Specialist, U.S. Environmental Protection Agency, Region V, Office of RCRA, Program Management Branch, Regulatory Development Section, HRM–7J, 77 W. Jackson, Chicago, Illinois 60604, (312) 886–3715.

SUPPLEMENTARY INFORMATION:

A. Background

States with final authorization under section 3006(b) of RCRA, 42 U.S.C. 6926(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program. For further explanation, see section C of this notice.

In accordance with 40 CFR 271.21(a), revisions to State hazardous waste programs are necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, State program revisions are necessary because of changes to EPA's regulations in 40 CFR parts 124, 260 through 268 and 270.

B. Minnesota

Minnesota initially received final authorization for its base RCRA program effective on February 11, 1985 (see 50 FR 3756, January 28, 1985). Effective on September 18, 1987; June 23, 1989; August 14, 1990; August 23, 1991; and May 18, 1992, (see 52 FR 27199, July 20, 1987; 54 FR 16361, April 24, 1989; 55 FR 24232, June 15, 1990; 56 FR 28709, June 24, 1991; and 56 FR 9501, March 19, 1992, respectively), Minnesota received authorization for additional program revisions.

Minnesota was previously granted authorization on June 23, 1989, for a provision addressing RCRA sections 3004(t)(2) and (3). Those provisions create a Federal cause of action for any person with a claim arising from conduct for which financial assurances are required under RCRA. This action may be asserted directly against the guarantor of the assurances if: (1) The owner or operator of the facility is in bankruptcy or other similar proceedings under Federal law, or (2) the person with the claim is not likely to obtain jurisdiction over the facility owner/operator in either Federal or State court. Since, by its terms, section 3004(t) makes this cause of action always available in Federal court, section 3004(t) is not delegable to States, and EPA cannot authorize States for it.

States are welcome to create parallel causes of action viable in State courts, but to the extent that States do so, the State cause of action cannot limit the availability of the Federal action. Therefore, EPA is rescinding its authorization of Minnesota for this provision.

Minnesota submitted an additional complete revision application on February 2, 1993. EPA reviewed this application and made an immediate final decision that Minnesota's hazardous waste program revision satisfies all the requirements necessary to qualify for final authorization. Consequently, EPA intends to grant Minnesota final authorization for this additional program revision.

On May 17, 1993, (unless EPA publishes a prior FR action withdrawing this immediate final rule), Minnesota will be authorized to carry out, in lieu of the Federal program, those provisions of the State's program which are analogous to the following provisions of the Federal program:

Federal Requirement	Analogous State Authority
*Land Disposal Restrictions for First Third Scheduled Wastes, August 17, 1988, (53 FR 31138), as amended February 27, 1989, (54 FR 8264).	MN 7045.0458(2), 7045.0478(3), 7045.0564(2), 7045.0584(3) 7045.0665(1), 7045.1300(3), 7045.1310(1), 7045.131 7045.0075(9), 7045.1320, 7045.1325, 7045.1330, 7045.133 7045.1350, 7045.1355, 7045.1358, 7045.1360, 7045.1380; effecti 4/20/92.
Changes to Interim Status Facilities for Hazardous Waste Permits, March 7, 1989, (54 FR 9596).	MN 7001.0100, 7001.0190, 7001.0520(7), 7001.0650(5), 7001.072 effective 4/20/92.
*Land Disposal Restriction Amendments to First Third Scheduled Wastes, May 2, 1989, (54 FR 18836).	MN 7045.1358, (1–3); effective 4/20/92.
*Land Disposal Restrictions for Second Third Scheduled Wastes, June 23, 1989, (54 FR 26594).	MN 7045.1340 (1) (2), & (3), 7045.1355(3), 7045.1358, 7045.1360(1 effective 4/20/92.
*Land Disposal Restrictions: Correction, September 6, 1989, (54 FR 36967), as amended June 13, 1990, (55 FR 23935).	MN 7045.0665(1), 7045.1300, 7045.1308, 7045.1315, 7045.1330(2 7045.1333(1) & (4), 7045.1380; effective 4/20/92.
*Land Disposal Restrictions for Third Third Scheduled Wastes, June 1, 1990, (55 FR 22520).	MN 7045.0020; 7045.0065; 7045.0131, 7045.0135, 7045.013 7045.0214(2), 7045.0292(1), 7045.0458(1), 7045.0532(8 7045.0534(8), 7045.0536(9), 7045.0538(8) & (12), 7045.0552(1 7045.0564, 7045.0630(7), 7045.0632(5), 7045.0634(7 7045.0638(5) & (9), 7045.1300, 7045.1305, 7045.1309, 7045.131 7045.1335, 7045.1339, 7045.1355, 7045.1358, 7045.135 7045.1360; effective 4/20/92.
Land Disposal Restrictions for Third Third Scheduled Wastes: Technical Amendments, January 31, 1991, (56 FR 3864).	MN 7045.0020, 7045.0065, 7045.0070, 7045.0129, 7045.0131(1 7045.0135(2), 7045.0214(2), 7045.0292, 7045.1300, 7045.130 7045.1315, 7045.1335, 7045.1339, 7045.1350, 7045.135 7045.1358, 7045.1360; effective 4/20/92.

*Indicates HSWA provisions.

EPA shall administer any RCRA hazardous waste permits or portions of permits that contain conditions based upon the Federal program provisions for which the State is applying for authorization, and which were issued by EPA prior to the effective date of this authorization. EPA will suspend issuance of any further permits under the provisions for which the State is being authorized on the effective date of this authorization. EPA has previously suspended issuance of permits for the other provisions on February 11, 1985, September 18, 1987, June 23, 1989, August 14, 1990, August 23, 1991, and May 18, 1992, the effective dates of Minnesota's final authorization for the RCRA base program, and for subsequent program revisions.

Minnesota is not authorized to operate the Federal program on Indian lands. This authority remains with EPA unless provided otherwise in a future statute or regulation.

C. Decision

I conclude that Minnesota's program revision application meets all the statutory and regulatory requirements established by RCRA and its amendments. Accordingly, EPA grants Minnesota final authorization to operate its hazardous waste program as revised. Minnesota currently has responsibility for permitting treatment, storage, and disposal facilities within its borders and carrying out other aspects of the RCRA program and its amendments. This responsibility is subject to the limitations of its program revision applications and previously approved authorities. Minnesota also has primary enforcement responsibilities, although EPA retains the right to conduct

inspections under section 3007 of RCRA, and to take enforcement actions under sections 3008, 3013, and 7003 of RCRA.

E. Codification

EPA codifies authorized State programs in 40 CFR part 272. The purpose of codification is to provide notice to the public of the scope of the authorized program in each State. Codification of the Minnesota program will be completed at a later date.

Compliance with Executive Order 12291

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Certification under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization effectively suspends the applicability of certain Federal regulations in favor of Minnesota's program, thereby eliminating duplicative requirements for handlers of hazardous waste in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 et seq., Federal agencies must consider the paperwork burden imposed by any information request contained in a proposed rule or a final rule. This rule will not impose any information requirements upon the regulated community.

Lists of Subjects in 40 CFR Part 271

Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Authority: This notice is issued under the authority of sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act as amended (42 U.S.C. 6912(a), 6926 and 6974(b)).

Dated: March 3, 1993.

David A. Ullrich,

Acting Regional Administrator.

[FR Doc. 93–6150 Filed 3–16–93; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6959

[AK–932–4210–06; F–14870]

Withdrawal of Public Lands for Kaktovik Village Selection; Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order withdraws approximately 4,243 acres of public lands located within the Arctic National Wildlife Refuge from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, pursuant to section 22 of the Alaska Native Claims Settlement Act. This action also reserves the lands for selection by the Kaktovik Inupiat Corporation, the village corporation for Kaktovik. This withdrawal is for a period of 120 days; however, any lands selected shall remain withdrawn by the order until conveyed. Any lands described herein that are not selected by the corporation will remain withdrawn as part of the Arctic National Wildlife Refuge pursuant to the Alaska National Interest Lands Conservation Act.

EFFECTIVE DATE: March 17, 1993.

FOR FURTHER INFORMATION CONTACT: Sandra C. Thomas, BLM Alaska State Office, 222 W. 7th Avenue, No. 13, Anchorage, Alaska 99513–7599, 907–271–5477.

By virtue of the authority vested in the Secretary of the Interior by section 22(j)(2) of the Alaska Native Claims Settlement Act, 43 U.S.C. 1621(j)(2) (1988), it is ordered as follows:

1. Subject to valid existing rights, the following described public lands located within the Arctic National Wildlife Refuge are hereby withdrawn from all forms of appropriation under the public land laws, including the mining and mineral leasing laws and are hereby reserved for selection under section 12 of the Alaska Native Claims Settlement Act, 43 U.S.C. 1611 (1988), by the Kaktovik Inupiat Corporation, the village corporation for Kaktovik:

Umiat Meridian

T. 7 N., R. 36 E., (Unsurveyed)
secs. 3, 4, 7, 9, 10, 18 and 19.

The areas described aggregate approximately 4,243 acres, which excludes acres of lakes which are 50 acres or more.

2. This order constitutes final withdrawal action by the Secretary of the Interior under section 22(j)(2) of the Alaska Native Claims Settlement Act, 43 U.S.C. 1621(j)(2) (1988), to make lands available for selection by the Kaktovik Inupiat Corporation to fulfill the entitlement of the village for Kaktovik under section 12 and section 14(a) of the Alaska Native Claims Settlement Act, 43 U.S.C. 1611 and 1613 (1988). The lands selected by Kaktovik Inupiat Corporation will not be conveyed unless expressly authorized by an act of Congress, pursuant to section 1302(h)(2) of the Alaska National Interest Lands Conservation Act, 16 U.S.C. 3192 (1988). When the surface estate of the selected lands is conveyed to Kaktovik Inupiat Corporation, the subsurface estate in those lands will be conveyed to the Arctic Slope Regional Corporation.

3. Prior to conveyance of any of the lands withdrawn by this order, the lands shall be subject to administration by the Secretary of the Interior under applicable laws and regulations, and his authority to make contracts and to grant leases, permits, rights-of-way, or easements shall not be impaired by this withdrawal.

4. This withdrawal will terminate 120 days from the effective date of this order; provided, any land selected shall remain withdrawn pursuant to this order until conveyed. Any lands described in this order not selected by the corporation shall remain withdrawn as part of the Arctic National Wildlife Refuge, pursuant to section 304 of the Alaska National Interest Lands Conservation Act, 16 U.S.C. 668(dd) (1988).

5. It has been determined that this action is not expected to have any significant effect on subsistence uses and needs pursuant to section 810(c) of the Alaska National Interest Lands Conservation Act, 16 U.S.C. 3120(c) (1988) and this action is exempted from the National Environmental Policy Act of 1969, 83 Stat 852, by section 910 of the ANILCA, 43 U.S.C. 1638 (1988).

Dated: March 5, 1993.

Bruce Babbitt,

Secretary of the Interior.

[FR Doc. 93–6015 Filed 3–16–93; 8:45 am]

BILLING CODE 4310–JA–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

Changes in Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: Modified base (100-year) flood elevations are finalized for the communities listed below. These modified elevations will be used to calculate flood insurance premium rates for new buildings and their contents.

EFFECTIVE DATES: The effective dates for these modified base flood elevations are indicated on the following table and revise the Flood Insurance Rate Map(s) (FIRMs) in effect for each listed community prior to this date.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: William R. Locke, Chief, Risk Studies Division, Federal Insurance Administration, 500 C Street, SW., Washington, DC 20472, (202) 646–2766.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the final determinations of modified base flood elevations for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Administrator has resolved any appeals resulting from this notification.

The modified base (100-year) flood elevations are not listed for each community in this notice. However, this rule includes the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection.

The modifications are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base (100-year) flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program.

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities.

These modified elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Federal Insurance Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the National Flood Insurance Program. No regulatory flexibility analysis has been prepared.

Regulatory Impact Analysis

This rule is not a major rule under Executive Order 12291, February 17, 1981. No regulatory impact analysis has been prepared.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 65 is amended to read as follows:

PART 65—[AMENDED]

1. The authority citation for part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community number
California:					
Riverside	City of Riverside (Docket No. 7054).	Nov. 27, 1992 and Dec. 4, 1992, *The Press Enterprise.*	Hon. Terry Frizzel, mayor, city of Riverside 3900 Main St., Riverside, CA 92522.	Oct. 28, 1992	060260
San Diego	Unincorporated areas (Docket No. 7056).	Nov. 23, 1992 and Nov. 30, 1992, *San Diego Union Tribune.*	Hon. George F. Bailey, chairman, San Diego County Board of Supervisors, 1600 Pacific Highway, San Diego, CA 92101.	Nov. 16, 1992.	060284
Solano	City of Fairfield (Docket No. 7054).	Nov. 2, 1992 and Nov. 9, 1992, *The Daily Republic.*	Hon. Gary Falati, mayor, city of Fairfield, 1000 Webster Street, Fairfield, CA 94533.	Oct. 28, 1992	060370

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community number
Solano	Unincorporated areas (Docket No. 7054).	Nov. 2, 1992 and Nov. 9, 1992, *The Daily Republic.*	Hon. Lee Simmons, chairperson, Solano County Board of Supervisors, 580 Texas St., Fairfield, CA 94533.	Oct. 28, 1992	060631
Florida:					
Broward (FEMA Docket No. 7052).	City of Pompano Beach.	Oct. 22, 1992 and Oct. 29, 1992, *The Pompano Ledger.*	Hon. Nate Braverman, mayor of the city of Pompano Beach, 100 West Atlantic Blvd., Pompano Beach, FL 33060.	Sept. 23, 1992.	120055 F
Broward (FEMA Docket No. 7052).	City of Tamarac	Oct. 7, 1992 and Oct. 14, 1992, *Sun-Sentinel.*	Hon. Larry Bender, mayor of the city of Tamarac, Broward County, 7525 Northwest 88th Ave., Tamarac, FL 33321.	Sept. 25, 1992.	120058 F
Pinellas (FEMA Docket No. 7049).	City of Gulfport	Aug. 6, 1992 and Aug. 13, 1992, *St. Petersburg Times.*	Robert E. Lee, manager of the city of Gulfport, Pinellas County, 2401 53d St. South, Gulfport, FL 33707.	July 27, 1992	125108 C
Pinellas (FEMA Docket No. 7052).	City of St. Petersburg	Sept. 25, 1992 and Oct. 2, 1992, *St. Petersburg Times.*	Hon. David Fischer, mayor of the city of St. Petersburg, Pinellas County, P.O. Box 2842, St. Petersburg, FL 33731.	Sept. 16, 1992.	125148 B
Georgia:					
Glynn (FEMA Docket No. 7054).	Unincorporated areas	Oct. 26, 1992 and Nov. 2, 1992, *The Brunswick News.*	E.C. Tillman, chairman of the Glynn County Commission, P.O. Box 879, Brunswick, GA 31521.	Oct. 19, 1992	130092 D
Illinois:					
Cook (FEMA Docket No. 7046).	Village of Orland Park	July 16, 1992 and July 23, 1992, *Orland Park Star.*	Hon. Frederick T. Owens, mayor of the Village of Orland Park, Cook County, 14700 South Ravinnia Ave., Orland Park, IL 60462.	June 17, 1992.	170140 D
Cook and Will (FEMA Docket No. 7046).	Village of Tinley Park	July 16, 1992 and July 23, 1992, *Tinley Park Star.*	Hon. Edward J. Zabrocki, mayor of the Village of Tinley Park, Cook and Will Counties, 16250 Oak Park Ave. Tinley Park, IL 60477.	June 17, 1992.	170169 E
Indiana:					
Lake (FEMA Docket No. 7054).	Town of Dyer	Oct. 29, 1992 and Nov. 5, 1992, *Post-Tribune.*	Michael J. Kapitan, president of the council for the town of Dyer, One Town Square, Dyer, IN 45311.	Oct. 19, 1992	18129 C
Tennessee:					
Shelby (FEMA Docket No. 7046).	City of Germantown	Aug. 6, 1992 and Aug. 13, 1992, *Germantown News.*	Hon. Charles Salvaggio, mayor of the City of Germantown, 1930 Germantown Rd. P.O. Box 38809, Germantown, TN 38183–0809.	June 5, 1992	470353 C
Virginia:					
Prince William (FEMA Docket No. 7054).	Unincorporated areas	Oct. 21, 1992 and Oct. 28, 1992, *The Prince William Journal* and the *Potomac News.*	Kathleen Seefeldt, chairwoman of the Prince William County Board of Supervisors, 1 County Complex Court, Prince William, VA 22192–9201.	Oct. 1, 1992	510119 B
Stafford (FEMA Docket No. 7054).	Unincorporated areas	Oct. 20, 1992 and Oct. 27, 1992, *Potomac News.*	C.M. Williams, Jr., administrator for Stafford County, P.O. Box 339, Stafford, VA 22554–0339.	Sept. 30, 1992.	510154 B

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Issued: March 9, 1993.

Francis V. Reilly,

Deputy Administrator, Federal Insurance Administration.

[FR Doc. 93–6104 Filed 3–16–93; 8:45 am]

BILLING CODE 6718–03–M

44 CFR Part 67

Final Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: Base (100-year) flood elevations and modified base (100-year) flood elevations are made final for the communities listed below.

The base (100-year) flood elevations and modified base flood elevations are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATES: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base flood elevations and modified base flood elevations for each

community. This date may be obtained by contacting the office where the maps are available for inspection as indicated on the table below.

ADDRESSES: The final base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: William R. Locke, Chief, Risk Studies Division, Federal Insurance Administration, 500 C Street, SW., Washington, DC 20427, (202) 646–2766.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA or Agency) gives notice of the final determinations of base flood elevations and modified base flood elevations for each community listed. The proposed base flood elevations and proposed modified base flood elevations were published in newspapers of local circulation and an opportunity for the community or individuals to appeal the proposed determinations to or through the community was provided for a period of ninety (90) days. The proposed base flood elevations and proposed modified base flood elevations were also published in the Federal Register.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67.

The Agency has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Federal Insurance Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because final or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the National Flood Insurance Program. No regulatory flexibility analysis has been prepared.

Regulatory Impact Analysis

This rule is not a major rule under Executive Order 12291, February 17, 1981. No regulatory impact analysis has been prepared.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and Flood Insurance Rate Map available at the address cited below for each community.

The base flood elevations and modified base flood elevations are made final in the communities listed below. Elevations at selected locations in each community are shown.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is amended as follows:

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.11 [Amended]

2. The tables published under the authority of § 67.11 are amended as follows:

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
ARIZONA	
Gila Bend (town), Maricopa County (FEMA Docket No. 7057)	
Gila Bend Canal:	
Approximately 300 feet east of the intersection of Old U.S. Highway 80 and Papago Street	#3
Approximately 100 feet east of the intersection of Watermelon Road and Gila Bend Canal	#2
Maps are available for review at the Town Administration Office, 644 West Pima Street, Gila Bend, Arizona.	
St. Johns (town), Apache County (FEMA Docket No. 7050)	
Little Colorado River:	
Approximately 5,800 feet downstream of U.S. Highway 666	*5,655
Approximately 100 feet downstream of U.S. Highway 666	*5,679
At the upstream corporate limits located approximately 4,100 feet upstream of U.S. Highway 666	*5,700
Maps are available for review at Apache County Development Community Services, 75 West Cleveland, St. Johns, Arizona.	
FLORIDA	
Charlotte County (unincorporated areas) (FEMA Docket No. 7050)	
Morningstar Waterway:	
At mouth	*9
Just downstream of Bachmann Boulevard	*15
Dorchester Waterway:	
At mouth	*10
Just downstream of Bachmann Boulevard	*13
Haverhill Waterway:	
At mouth	*10
Just downstream of Bachmann Boulevard	*19
Alligator Creek:	
Just upstream of CSX railroad	*8
Just upstream of Alfred Boulevard	*22
South Prong Alligator Creek:	
At mouth	*15
Just downstream of Jones Loop Road	*21
Myrtle Slough:	
At mouth	*8
Just downstream of County Highway 74	*20
Tributary 1 to Myrtle Slough:	
At mouth	*19
Just downstream of County Highway 74	*25
Shell Creek:	
Just upstream of CSX railroad	*8
About 1.0 mile upstream of confluence of Tributary 1 to Shell Creek	*13
Tributary 1 to Shell Creek:	
At mouth	*11
Just downstream of Prairie Creek Boulevard	*25
Prairie Creek:	
At mouth	*9
About 2.1 miles upstream of Washington Loop Road	*16
Lee Branch:	
At mouth	*8
Just downstream of U.S. Highway 17	*14
Maps available for inspection at the Zoning Department, 18500 Murdock Circle, Port Charlotte, Florida.	
GEORGIA	
Fannin County (unincorporated areas) (FEMA Docket No. 7047)	
Mineral Springs Creek:	
At the confluence with Weaver Creek	*1,580
Approximately 1.5 miles upstream of Aska Road	*1,671
Weaver Creek:	
Approximately 650 feet upstream of the confluence with Toccoa River	*1,553
Approximately 280 feet upstream of the confluence of Mineral Springs Creek	*1,585
Maps available for inspection at the Fannin County Courthouse, Land Development Office, Blue Ridge, Georgia.	

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
KENTUCKY	
Covington (city), Kenton County (FEMA Docket No. 7050)	
Banklick Creek:	
At mouth	*499
About 0.55 mile upstream of Bullock Pen Road	*525
Licking River: Within community	*499
Maps available for inspection at the Engineering Department, City Hall, 638 Madison Avenue, Covington, Kentucky.	
Ft. Wright (city), Kenton County (FEMA Docket No. 7050)	
Banklick Creek:	
About 2.16 miles downstream of Interstate 275	*499
About 0.82 mile upstream of State Route 17	*503
Banklick Creek Tributary:	
At mouth	*499
About 600 feet downstream of State Route 17	*503
Horse Branch:	
At mouth	*499
About 600 feet downstream of Interstate 275	*503
Horse Branch Tributary:	
At mouth	*499
About 790 feet upstream of SPCA Shelter Road	*506
Maps available for inspection at the City Hall, 409 Kyles Lane, Ft. Wright, Kentucky.	
MISSISSIPPI	
Rankin County (unincorporated areas) (FEMA Docket No. 7050)	
Turtle Creek:	
About 700 feet upstream of mouth	*306
About 0.98 mile upstream of mouth	*315
Hog Creek:	
About 2300 feet upstream of Illinois Central railroad	*290
About 3800 feet upstream of Luckney Road	*341
Hog Creek Tributary:	
At mouth	*312
Just downstream of Luckney Road	*331
Mill Creek:	
About 400 feet upstream of Spillway Road	*302
Just downstream of State Highway 471	*352
Mill Creek Tributary:	
At mouth	*316
Just Downstream of private road	*328
Plummer Slough:	
Just upstream of State Highway 471	*303
About 3200 feet upstream of Oakdale Road	*324
Pelahatchie Creek:	
Just upstream of State Highway 471	*303
About 2.88 miles upstream of confluence of Clark Creek	*315
Clark Creek:	
At mouth	*309
Just downstream of Stull Road	*339
Clark Creek Tributary:	
At mouth	*314
About 3600 feet upstream of Mt. Helen Road	*332
Spring Branch:	
About 3300 feet upstream of mouth	*306
About 3100 feet upstream of Church Road	*331
Pelahatchie Creek Tributary:	
Just downstream of State Highway 25	*306
About 3100 feet upstream of Hollybush Road	*325
Pearl River (Ross Barnett Reservoir):	
Downstream of State Highway 43	*300
Upstream of State Highway 43	*301
Pearl River:	
At county boundary	*251
About 9.0 miles upstream of State Highway 25	*286
Maps available for inspection at the Rankin County Tax Assesor's Office, 105 North Street, Brandon, Mississippi.	
NEW YORK	
Southold (town), Suffolk County (FEMA Docket No. 7048)	
Atlantic Ocean (Block Island Sound):	
Approximately .6 mile east northeast of Plum Gut Harbor	*9
Atlantic Ocean (Long Island Sound):	
Northern shoreline of Plum Island	*15
Maps available for inspection at the Southold Town Hall, Building Department, 53095 Main Road, Southold, New York.	
NORTH CAROLINA	
Cherokee County (unincorporated areas) (FEMA Docket No. 7053)	
Hiawasee River:	
Approximately 0.5 mile downstream of confluence of Peachtree Creek	*1,559
Approximately 300 feet upstream of County Route 1548	*1,591
Maps available for inspection at the County Commissioner's Office, Peachtree Street, Murphy, North Carolina.	
OHIO	
Bellville (village), Richland County (FEMA Docket No. 7055)	
Clear Fork Mohican River:	
About 1,150 feet downstream of Hines Avenue	*1,118
Just upstream of Abandoned Railroad	*1,131
Maps available for inspection at the Village Hall, 142 Park Place, Bellville, Ohio.	
Mount Gilead (village), Morrow County (FEMA Docket No. 7055)	
Whetstone Creek:	
About 0.5 mile downstream of Cardington Road	*1,049
Just downstream of State Route 95	*1,091
Maps available for inspection at the Municipal Building, 72 West High Street, Mt. Gilead, Ohio.	
PENNSYLVANIA	
Buckingham (township), Wayne County (FEMA Docket No. 7055)	
Delaware River:	
At corporate limits	*873
At confluence of East and West Branches Delaware River	*904
West Branch Delaware River:	
At confluence with Delaware River	*904
At corporate limits	*938
Maps available for inspection at the home of Ms. Marilyn Ryan, Township Secretary, Star Route, 20 Jerico Road, Lake Como, Pennsylvania.	
TENNESSEE	
Nashville and Davidson County (city) (FEMA Docket No. 7050)	
Collins Creek:	
At mouth	*515
About 750 feet upstream of Interstate 24	*526
Mill Creek Tributary A:	
At mouth	*492
Just downstream of Una-Anticoch Pike	*519
Just upstream of Una-Anticoch Pike	*526
About 4860 feet upstream of Radar Ridge	*557
Mill Creek Tributary B:	
At mouth	*496
Just downstream of Private Dam	*506
Just upstream of Private Dam	*511
About 500 feet upstream of Una-Anticoch Pike	*527
Sims Branch:	
At mouth	*418
Just downstream of Perimeter Place Drive	*432
Just upstream of Perimeter Place Drive	*438
Just downstream of Interstate Route 40	*449
About 0.5i mile upstream of Haywood Lane	*560
Sorghum Branch:	
At mouth	*476
Just upstream of Paragon Mills Road	*484
About 0.5 mile upstream of Haywood Lane	*560
Flat Creek:	
At mouth	*559
Just upstream of Harding Pike	*605
About 1100 feet upstream of Coronada Entrance Road	*671
Stoners Creek:	
At mouth	*425
At county boundary	*462
Scotts Hollow:	
At mouth	*474
Just downstream of Lebanon Pike	*475
Just upstream of Lebanon Pike	*481
At county boundary	*511
Scotts Creek:	
At mouth	*444
At county boundary	*488
Overall Creek:	
At mouth	*407
Just upstream of River Road Pike	*410
Just downstrem of U.S. Highway 70	*452
Hurricane Creek:	
About 4700 feet downstream of U.S. Route 41	*510
Just upstream of CSX Railroad Spur	*574
West Branch Hurrican Creek:	
At mouth	*575
About 650 feet upstream of Hell Quaker Boulevard	588
West Fork Browns Creek:	
At mouth	*489
Just downstream of Battery Lane	*580
Just upstream of Battery Lane	*585

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Just upstream of Sewanee Road	*603
Pages Branch:	
At mouth	*413
About 450 feet downstream of Interstate 65	*413
About 300 feet upstream of Interstate 65	*429
Just downstream of Jones Avenue	*504
Just upstream of Jones Avenue	*511
Just downstream of Oakwood Drive	*523
Just upstream of Oakwood Drive	*531
About 1150 feet upstream of Oakwood Drive	*556
Pages Branch Tributary A:	
At mouth	*467
Just downstream of Dellway Avenue	*492
Just upstream of Dellway Avenue	*497
About 475 feet upstream of Jones Avenue	*575
Pages Branch Tributary B:	
About 650 feet downstream of Brooklyn Avenue	*478
About 600 feet upstream of Brooklyn Avenue	*512
Maps available for inspection at the Department of Public Works, 720 South 5th Street, Nashville, Tennessee.	
Rogersville (city), Hawkins County (FEMA Docket No. 7053)	
Crockett Creek:	
Approximately 350 feet downstream of West Hills Drive	*1,167
Approximately 0.2 mile upstream of State Route 70	*1,337
Maps available for inspection at the Rogersville City Hall, 106 East Kyle, Rogersville, Tennessee.	
Sullivan County (unincorporated areas) (FEMA Docket No. 7050)	
South Fork Holston River (Near South Holston Dam):	
About 3200 feet downstream of State Highway 358	*1413
At Tailrace of South Holston Dam	*1496
Maps available for insecption at the Planning and Zoning Department, Blountville, Tennessee.	
Williamson County (unincorporated areas) (FEMA Docket No. 7053)	
Little East Fork:	
Just upstream of county boundary	*588
About 1,000 feet upstream of Old Charlotte Pike West	*662
Lynnwood Branch:	
About 450 feet downstream of Meadowgreen Drive	*613
About 200 feet upstream of Farmington Road	*658
Beech Creek:	
About 1,400 feet downstream of Highland Road	*666
About 3,400 feet upstream of Manly Lane	*742
Cartwright Creek:	
At confluence with Harpeth River	*584
Just upstream of Beech Creek Road	*651
Maps available for inspection at the County Planning Department, 1320 West Main Street, Suite 125, Franklin, Tennessee.	
WISCONSIN	
Eau Claire County (unincorporated areas) (FEMA Docket No. 7053)	
Chippewa River:	
At county boundary	*761
About 1,850 feet upstream of Interstate 94	*775
Sherman Creek:	
About 1.3 miles downstream of Cameron Street	*808
Just downstream of West Vine Street	*855
Just upstream of West Vine Street	*862
At county boundary	*897
Lake Eau Claire: Along shoreline	*911
Elk Creek:	
About 2,100 feet upstream of Elk Lake Dam	*807
About 3,400 feet downstream of Paquet Drive	*811
Eau Claire River:	
Just upstream of Lake Altoona Dam	*810
Just upstream of confluence of Sixmile Creek	*813
Maps available for inspection at the County Courthouse, 721 Oxford Avenue, Eau Claire, Wisconsin.	

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Issued: March 9, 1993.

Francis V. Reilly,

Deputy Administrator, Federal Insurance Administration.

[FR Doc. 93–6105 Filed 3–16–93; 8:45 am]

BILLING CODE 6718–03–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 5

[Gen. Docket No. 90–217; FCC 93–116]

Establishment of Procedures To Provide a Preference to Applicants Proposing an Allocation for New Services

AGENCY: Federal Communications Commission.

ACTION: Final rule; petition for further reconsideration.

SUMMARY: This action affirms the Commission's pioneer's preference rules, concluding that the Commission is permitted to award a qualified entity a license that is not subject to competing applications. The objective of the action is to encourage parties to propose innovations and new services that use the spectrum.

EFFECTIVE DATE: March 17, 1993.

FOR FURTHER INFORMATION CONTACT: Rodney Small, telephone (202) 653–8116.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Final Rule in General Docket 90–217, FCC 93–116, adopted February 24, 1993, and released March 8, 1993.

The action is taken in response to two petitions for reconsideration of the Commission's previous Memorandum Opinion and Order in FCC 92–57, released February 26, 1992, 57 FR 7879 (March 5, 1992).

The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Reference Center (room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision also may be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

Summary of Final Rule

1. In this Memorandum Opinion and Order, the Commission denies petitions for further reconsideration of its pioneer's preference rules filed by TRW, Inc. (TRW) and Loral Qualcomm Satellite Services, Inc. (Loral).[1] Specifically, the Commission affirms that the rules are consistent with the Supreme Court's *Ashbacker* decision, which provides that two *bona fide* applications that are mutually exclusive are entitled to comparative consideration.[2]

2. The pioneer's preference rules established a two-track system for processing applications for certain new services. Specifically, an applicant that demonstrates that it has developed an innovative proposal that leads to the establishment of a service not currently provided or an enhancement of an existing service will be placed on a pioneer's preference track, and will not be subject to competing applications. Thus, if otherwise qualified, such an applicant will receive a license. Other applicants, including both those that unsuccessfully applied for a preference and those that did not, will compete for the remaining licenses on a separate track.

3. The rules are designed to further the statutorily recognized public interest goal of encouraging the development of new technologies and services. However, TRW and Loral argued that

[1] In addition, PerTel, Inc. requested clarification that a tentative pioneer's preference may be awarded in connection with a further notice of proposed rule making as well as a notice of proposed rule making. The Commission hereby clarifies that, since a further notice falls within the category of a notice, it is covered by the rule.

[2] *Ashbacker Radio Corp.* v. *FCC*, 326 U.S. 327, 333 (1945).

the rules are inconsistent with their right to comparative consideration of their license applications under *Ashbacker*. The Ashbacker-based legal argument made by TRW and Loral was supported by the National Association of Broadcasters. Opposing arguments were submitted by Mobile Telecommunication Technologies Corporation, Motorola, Inc., and American Personal Communications.

4. The Commission affirms that the pioneer's preference rules are a valid exercise of its rulemaking authority. It is well-established that an agency may limit *Ashbacker* or other statutory hearing rights by rules establishing threshold eligibility standards designed to serve the public interest. The pioneer's preference rules establish threshold eligibility for participating on a pioneer's preference track. Applicants demonstrating that they meet the requirements for a preference will be placed on this track and not be subject to competing applications. Applicants who do not meet the requirements for a preference or who did not request a preference will be placed on a separate track and compete for the remaining licenses. Having determined in a rulemaking proceeding that it serves the public interest to reward innovators by placing them on a separate track for a license, the Commission is not required to relitigate this determination in each specific case.

5. The Commission also affirms its conclusion that there is a strong public interest basis for the pioneer's preference rules. The rules will encourage innovation and more rapid delivery of new services and technologies to the public. This result effectuates congressional goals explicitly incorporated into the Communications Act.

6. In sum, the Commission concludes that its pioneer's preference rules do not violate *Ashbacker* and are fully justified under applicable case law.

Ordering Clauses

7. Accordingly, *it is ordered that* the petitions for further reconsideration filed by TRW, Inc. and Loral Qualcomm Satellite Services, Inc. are denied.

8. *It is further ordered that* the Petition for Clarification filed by PerTel, Inc. is granted.

9. *It is further ordered that* the Motion for Leave to File Supplement to Petition for Reconsideration filed by TRW, Inc. is granted.

10. *It is further ordered that* this proceeding is terminated.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 93-6094 Filed 3-16-93; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 64

[CC Docket No. 86-309; FCC 92-529]

Telecommunications Service off the Island of Puerto Rico

AGENCY: Federal Communications Commission.

ACTION: Final rule; petition for reconsideration.

SUMMARY: The Commission received five petitions seeking reconsideration of the Puerto Rico Order in which the Commission found that the domestic and international Puerto Rico off-island markets should be opened to competition and that PRTC should be allowed to enter these markets subject to certain conditions designed to ensure fair competition. In this Order, the Commission affirmed the Commission's prior decisions in this proceeding. The Commission also clarified the requirements concerning the provision of customer proprietary network information (CPNI) by PRTC and provided an alternative method to meet these requirements.

EFFECTIVE DATE: April 16, 1993.

FOR FURTHER INFORMATION CONTACT: Rose Crellin, Policy and Program Planning Division, Common Carrier Bureau, (202) 632-1292.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Memorandum Opinion and Order, FCC 92-529, adopted November 25, 1992, and released December 31, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc. 2100 M Street, NW., suite 140, Washington, DC 20037, (202) 857-3800.

Summary of Memorandum Opinion and Order

1. In the *Puerto Rico Order*, the Commission concluded that the public interest would be served by allowing PRTC to enter off-island markets, and the Commission established a number of requirements concerning the provision of interim access to multiple carriers, and the expeditious implementation of full equal access comparable to that provided on the mainland.

2. The parties filling petitions for reconsideration requested that the Commission reconsider its decisions regarding: (1) PRTC market entry: (2) rates for interim access; (3) nonstructural safeguards; (4) interim access procedures; and (5) Commission procedures.

3. The Commission reaffirmed its conclusion that competitive entry in the Puerto Rico off-island domestic and international markets is feasible and in the public interest. The Commission stated its view that the open entry decision in the MTS and WATS Market Structure proceeding included the Puerto Rico domestic off-island market, although the Commission also found that competitive entry in this market is independently justified by the record in this proceeding and the Commission's experience observing the benefits of interstate competition on the mainland.

4. In the *Puerto Rico Order*, the Commission declined to establish a discount for interim access PRTC provides to other IXCs in Puerto Rico. That Order concluded that a discount was not appropriate because AT&T's overall access advantage was not sufficient to warrant a differential in access charges, and because the Commission's policy providing a discount to other IXCs on the mainland was established in a context altogether different from that before the Commission in Puerto Rico. The Commission here reaffirmed its finding in that order that differences between premium and non-premium access on the mainland are far greater than differences between premium and non-premium access in Puerto Rico. Accordingly, the Commission reaffirmed its decision in the *Puerto Rico Order* to require other IXCs to pay premium charges for interim access in Puerto Rico.

5. As a consequence of the provision of off-island service by TLD in place of integrated provision of off-island service by PRTC, as originally proposed, the Commission decided to modify the Commission's CPNI requirements for PRTC. Accordingly, PRTC may satisfy the Commission's CPNI requirements in either of two ways. As set forth in the *Puerto Rico Order*, PRTC can comply with the CPNI requirements that apply to the BOCs. Alternatively, PRTC can treat TLD in exactly the same manner that it treats other off-island IXCs, *i.e.*, withholding all individual CPNI unless disclosure is authorized by the customer. Thus, under the latter approach, CPNI must be released to all off-island carriers including TLD on the

same terms and conditions. If, however, PRTC wants to make CPNI information more readily available to TLD, then it must comply with the requirements established in the *Puerto Rico Order*.

6. Within 60 days of the release of this Order, PRTC must notify the Commission of the CPNI alternative it has selected. If PRTC has decided not to adopt a "prior authorization" approach for TLD, it must submit a revised CPNI plan at this time as well. The PRTC CPNI Plan should conform to the changes, clarifications, and implementing requirements we established for the BOCs in prior orders. PRTC's submittal in response to this requirement will be placed on public notice, and subject to comments by interested parties. The Commission delegated authority to review and act on the PRTC submittal to the Chief, Common Carrier Bureau.

7. The Commission also reaffirmed that: (1) PRTC's CPNI does not include information concerning off-island services used by customers; (2) PRTC should ensure that information about other off-island carriers' customers is not made available to PRTC (or TLD) off-island personnel; and (3) each off-island carrier including PRTC (or TLD) will be able to obtain from PRTC full information about the off-island services that the off-island carrier provides to its customers. In addition, the Commission reaffirmed the network information disclosure requirements established in the *Puerto Rico Order*.

8. Many of the concerns about interim access presented by the parties involved the question of whether PRTC would receive superior interconnection or service because of its position as a LEC. Based on the record, the Commission concluded that the interim access structure approved in the *Puerto Rico Order* was fair and reasonable given facilities constraints. In light of PRTC's responses to the concerns raised by the other off-island carriers, the Commission concluded that PRTC's (now TLD's) interim access was not superior to that of the other off-island carriers.

9. Finally, the Commission concluded that its actions in this proceeding, which results from the court's remand in *All America Cables and Radio*, satisfy the statutory standard of Section 402(h) and are entirely consistent with the terms of the court's remand. In its decision, the court found that the Commission had not developed a record sufficient to support competitive entry in the off-island markets. The Commission stated that since the remand was based on this conclusion that the existing record was inadequate, the court, in remanding the case "for further proceedings not inconsistent with this opinion," clearly expected the Commission to conduct further proceedings concerning competitive entry in the Puerto Rico off-island markets. The Commission also concluded that the Commission's use of rulemaking procedures to govern further proceedings on PRTC entry into the off-island market was a reasonable exercise of the Commission's discretion, and comports with the traditional use of rulemaking procedures to develop general market entry policies in other proceedings. Finally, the Commission concluded that the issues considered in this proceeding are entirely appropriate for resolution in a rulemaking proceeding since those issues involve the general terms and conditions for future competitive entry in the off-island Puerto Rico market by all carriers.

Ordering Clauses

10. Accordingly, *It is ordered*, pursuant to Sections 4(i), 4(j), 201, 202, 214, 308-310, 319 and 405 that the Petitions for Reconsideration ARE GRANTED to the extent indicated herein and ARE *Otherwise denied*.

11. *It is further ordered*, That the late comments filed by MCI Corporation, Inc. ARE ACCEPTED.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 93–6011 Filed 3–16–93; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AB66

Endangered and Threatened Wildlife and Plants; Endangered Status for Eight Freshwater Mussels and Threatened Status for Three Freshwater Mussels in the Mobil River Drainage

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines the upland combshell *(Epioblasma metastriata)*, southern acornshell *(Epioblasma othcaloogensis)* Coosa moccasinshell *(Medionidus parvulus)*, southern clubshell *(Pleurobema decisum)*, dark pigtoe *(Pleurobema furvum)*, southern pigtoe *(Pleurobema georgianum)*, ovate clubshell *(Pleurobema perovatum)*, and triangular kidneyshell *(Ptychobranchus greeni)* to be endangered species; and the fine-lined pocketbook *(Lampsilis altilis)*, orange-nacre mucket *(Lampsilis perovalis)*, and Alabama moccasinshell *(Medionidus acutissimus)* to be threatened species under the authority of the Endangered Species Act of 1973, as amended. These 11 species are found in localized portions of the Mobile River drainage in Alabama, Georgia, Mississippi and Tennessee. Critical habitat may be prudent but is not now determinable. This determination implements the protection of the Endangered Species Act of 1973, as amended, for these 11 freshwater mussels.

EFFECTIVE DATE: April 16, 1993.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the Jackson Field Office, U.S. Fish and Wildlife Service, 6578 Dogwood View Parkway, Jackson, Mississippi 39213.

FOR FURTHER INFORMATION CONTACT: Paul Hartfield at the above address (telephone 601/965–4900)

SUPPLEMENTARY INFORMATION:

Background

The Mobile River basin drains approximately 43,700 square miles and is the largest Gulf Coast drainage east of the Mississippi River. The basin is composed of seven major river systems: The Mobile Delta (Mobile and Tensaw Rivers), Tombigbee, Black Warrior, Alabama, Cahaba, Coosa, and Tallapoosa Rivers and their tributaries. These rivers drain a variety of physiographic provinces, including the Appalachian Plateau, Alabama Valley and Ridge, Piedmont Upland, and East Gulf Coastal Plain. The basin's size, diversity of habitat, and geographical isolation have resulted in a high degree of variation and endemism in the unionid mussel fauna. The 11 species addressed in this rule are known to have been collected from the Mobile drainage within the past 20 years and are believed to currently exist in the drainage. Historic distributions are based on the scientific literature, technical reports, and museum records. The names used in this rule follow mollusk nomenclature suggested by the American Fisheries Society (Turgeon *et al.* 1988).

The upland combshell (*Epioblasma metastriata* (Conrad 1838)) is a bivalve mollusk that rarely exceeds 60 millimeters (mm) (2.4 inches (in.)) in length. The shells are rhomboidal to

quadrate in outline and are sexually dimorphic. Males are moderately inflated with a broadly curved posterior ridge. Females are considerably inflated, with a sharply elevated posterior ridge that swells broadly post-ventrally forming a well-developed sulcus (the groove anterior to the posterior ridge). The posterior margin of the female is broadly rounded and comes to a point anterior to the posterior extreme. Periostracum (the epidermis) color varies from yellowish-brown to tawny, and may or may not have broken green rays, or small green spots. Hinge teeth are well-developed and heavy. Johnson (1978) considered the upland combshell to be a variation of the southern combshell (= penitent mussel, *Epioblasma penita*) and synonymized the two. Stansbery (1983a) recognized consistent morphological differences between the two and considered both species to be valid taxa. The upland combshell is distinguished from the southern combshell by the diagonally straight or gently rounded posterior margin of the latter, which terminates at the post-ventral extreme of the shell (Stansbery 1983a). The U.S. Fish and Wildlife Service (Service) recognizes *Unio metastriatus* Conrad and *Unio compactus* Lea as synonyms of *Epioblasma metastriata*.

The upland combshell was described from the Mulberry Fork of the Black Warrior River near Blount Springs, Alabama. The historic range included the Black Warrior River and tributaries (Mulberry Fork and Valley Creek); Cahaba River and tributaries (Little Cahaba River, Buck Creek); and the Coosa River and tributaries (Choccolocco Creek, Etowah, Conasauga, and Chatooga Rivers). The present range has declined substantially and this species now appears to be restricted to the Conasauga River in Georgia. It is possible that small populations may exist in portions of the upper Black Warrior and Cahaba River drainages. Hurd (1974) did not find the upland combshell during a 1971–73 mussel survey of the Coosa River drainage. However, he noted that Stansbery and Athearn had collected the species from that drainage during a 1966–68 survey. The most recent record from the Coosa River drainage is a Conasauga River collection of a single specimen by a Service biologist in 1988 (Richard Biggins, U.S. Fish and Wildlife Service, pers. comm., 1990). Pierson (1991) did not locate the species during his 1990 survey of the Coosa River drainage. The most recent records of the upland combshell in the Cahaba River drainage were made by Baldwin (1973). He reported the species to be greatly reduced as compared to a 1938 Cahaba River survey by van der Schalie. Pierson (1991) failed to find the species during a 1990 survey of the Cahaba River drainage. The most recent Black Warrior River drainage collections of the upland combshell were made by H.H. Smith in the early 1900's. More recent surveys of the drainage, conducted in 1974 (J. Williams, U.S. Fish and Wildlife Service, *in litt.*), 1980–82 (R. Hanley, Greenville, SC, *in litt.* 1990), 1985 (Dodd *et al.* 1986), and 1990 (Hartfield 1991), did not encounter the species.

The southern acornshell (*Epioblasma othcaloogensis* (Lea 1857)) is a small species that may grow up to 30 mm (1.2 in.) in shell length. The shells are round to oval in outline and sexually dimorphic, with a swollen posterior ridge in females. The periostracum is smooth, shiny, and yellow in color. Johnson (1978) included *Epioblasma othcaloogensis* in his synonymy of *Epioblasma penita*, and considered the southern acornshell to be an ecomorph of the latter. Stansbery (1983a) believed *Epioblasma othcaloogensis* was distinct, and belonged in a different subgenus. The southern acornshell is distinguished from the upland combshell and the southern combshell by its smaller size, round outline, a poorly developed sulcus, and its smooth, shiny, yellow periostracum. The Service recognizes *Unio othcaloogensis* Lea and *Unio modicellus* Lea as synonyms of *Epioblasma othcaloogensis*.

The southern acornshell was described from Othcalooga Creek, Gordon County, Georgia. Historically, the species occurred in the upper Coosa River system, including the Conasauga River, Cowan's Creek, and Othcalooga Creek. Collections from the Cahaba River above the fall line have also been reported. The present range of the southern acornshell appears to be restricted to streams in the Coosa River drainage in Alabama and Georgia. The most recent collections from this drainage were by Stansbery and Athearn in 1966–68 (Hurd 1974) and by Hurd (1974). However, he continued presence of the species in the Coosa River drainage has not been recently confirmed (Biggins, pers. comm., 1990; Williams, pers. comm., 1991; Pierson 1991). Several Cahaba River records exist in the literature and museum collections. The most recent of these was made by van der Schalie (1938), who collected two specimens from the Cahaba River at Lily Shoals in Bibb County which he tentatively identified as southern acornshells. Several specimen lots taken by Smith during the early 1990's from the Cahaba River tributary of Buck Creek, Shelby County, Alabama, are in the Florida Museum of Natural Science mollusk collection. Surveys of the Cahaba River drainage by Baldwin (1973) and Pierson (1991) have not relocated the species in that drainage.

The fine-lined pocketbook (*Lampsilis altilis* (Conrad 1834)) is a medium-sized mussel, suboval in shape, and rarely exceeds 100 mm (4 in.) in length. The ventral margin of the shell is angled posteriorly in females, resulting in a pointed posterior margin. The periostracum is yellow-brown to blackish and has fine rays on the posterior half. The nacre is white, becoming iridescent posteriorly. The fine-lined pocketbook can be distinguished from a similar species, the orange-nacre mucket (*Lampsilis perovalis*) by its more elongate shape, thinner shell, white nacre, pointed posterior, and ray ornamentation. The Service recognizes *Unio altilis* Conrad, *Unio clarkianus* Lea, and *Unio gerhardtii* Lea as synonyms of *Lampsilis altilis*.

The fine-lined pocketbook was described from the Alabama River near Claiborne, Monroe County, Alabama. This species was historically recorded from the Sipsey and Buttahatchee Rivers in the Tombigbee River drainage; Black Warrior River and tributaries (Sipsey Fork, Brushy and Capsey Creeks); Cahaba River and Tributaries (Little Cahaba and Buck Creeks); Alabama River and a secondary tributary, Tatum Creek; Chewacla and Opintlocco Creeks in the Tallapoosa River drainage; and the Coosa River and tributaries (Choccolocco and Talladega Creeks).

The current distribution of the fine-lined pocketbook appears to be limited to the headwaters of the Sipsey Fork of the Black Warrior River drainage; Tatum Creek in the Alabama River drainage; Little Cahaba River in the Cahaba River drainage; Conasauga River in the Coosa River drainage and one site in the main channel; and Chewacla and Opintlocco Creeks in the Tallapoosa drainage.

The species has not been reported from the Tombigbee River drainage since H.H. Smith's early 1900 collections from the Buttahatchee and Sipsey Rivers (Stansbery 1983b). Dodd *et al.* (1986) made collections of this species from the Black Warrior River tributaries Sipsey Fork, Brushy and Capsey Creeks in 1985. The species had not been reported from the Black Warrior River since the early 1900's. The species was not relocated during a 1990 survey of those streams by Service biologists (Hartfield 1991); however, Service and Forest Service biologists

recently encountered localized populations of the fine-lined pocketbook in the Sipsey Fork tributaries of Rush and Brushy Creeks (Butler *in litt.* 1992). Malcolm Pierson (Alabama Power Company, pers. comm., 1992) has also found the species at several locations in the Black Warrior River tributary North River. Baldwin's (1973) survey of the Cahaba River drainage reported the fine-lined pocketbook to be fairly abundant in the main channel and tributaries. Hanley (*in litt.* 1990) collected a single shell from the Cahaba River in 1979, and Watters (*in litt.* 1992) collected two living specimens in the Little Cahaba in 1986. Pierson (1991), however, did not encounter the species during his Cahaba River survey. The most recent Alabama River records of the species are the type collections in 1834. However, R. Hanley (*in litt.* 1990) collected two shells of the fine-lined pocketbook in 1981 from Tatum Creek, a tributary of Bogue Chitto Creek in the Alabama River drainage. Hurd (1974) recorded collections of the fine-lined pocketbook from 24 sites in the Coosa River drainage. Pierson's (1991) more recent survey of 15 sites in the Coosa River drainage found weathered dead shells in a short reach of the main channel below Jordan Dam, and fresh dead shells in a reach of the Conasauga River. Watters (*in litt.* 1992) collected live specimens from the Conasauga River in Tennessee in 1987, and fresh dead shells from the same locality in 1991. Pierson (1991) also found the species in Chewacla and Opintlocco Creeks in the Tallapoosa River drainage. Van der Schalie (1938), Baldwin (1973) and Williams (*in litt.* 1991) reported that the fine-lined pocketbook primarily inhabited small river and creek habitats. With the exception of Pierson's (1991) recent Coosa and Conasauga River records, this species may have been eliminated from most river habitat throughout its range. Currently, it appears to be restricted to creek habitat.

The orange-nacre mucket (*Lampsilis perovalis* (Conrad 1834)) is a medium-sized mussel, 50–90 mm (2–3.6 in.) in length. The shell is oval in shape, moderately thick, and inflated. The posterior margin of the shell of mature females is obliquely truncate. The nacre is usually rose colored, pink, or occasionally white. Its periostracum varies from yellow to dark reddish brown, and with or without green rays. Hurd (1974) included the orange-nacre mucket under *Lampsilis altilis*; however, he provided no justification for his synonymy. Stansbery (1983b) and Hanley (1983) have presented information that indicates both species deserve recognition. As noted previously, this species may be distinguished from the fine-lined pocketbook, *Lampsilis altilis*, by subtle shell characters, including shell shape and nacre color. When present, the rays are generally much wider in the orange-nacre mucket than they are in the fine-lined pocketbook. The Service recognizes the following names as synonyms of *Lampsilis perovalis*:

Unio perovalis Conrad
Unio doliaris Lea
Unio placitus Lea
Unio spillmani Lea

The orange-nacre mucket was described from the Alabama River near Clairborne, Monroe County, Alabama. It is historically known from Lubbub Creek, Buttahatchee, Sipsey and East Fork Tombigbee Rivers in the Tombigbee River drainage; Brushy Creek, Mulberry and Sipsey Forks in the Black Warrior River drainage; the Alabama River; and the Little Cahaba River in the Cahaba River drainage. The species continues to occur in the Buttahatchee River and in a short reach of the East Fork Tombigbee River (Hartfield and Jones 1989, 1990), the headwaters of the Sipsey Fork (Dodd *et al.* 1986) and in the Sipsey and Little Cahaba Rivers (Pierson 1991). A recent survey by Service biologists indicates the orange-nacre mucket may have been eliminated from the Mulberry Fork of the Black Warrior River (Hartfield 1991). The species has not been reported from the Alabama River since its description. Limited searches by Service biologists tend to confirm its absence from this river.

The Alabama moccasinshell (*Medionidus acutissimus* (Lea 1831)) is a small, delicate species, approximately 30 mm (1.2 in.) in length. The shell is narrowly elliptical, thin, with a well-developed, acute, posterior ridge terminating in an acute point on the posterior ventral margin. The posterior slope is finely corrugated. The periostracum is yellow to brownish yellow, with broken green rays across the entire surface of the shell. The thin nacre is translucent along the margins and salmon-colored in the umbos (beak cavity). The Alabama moccasinshell is distinguished from a similar species, the Coosa moccasinshell (*Medionidus parvulus*) by its acute posterior ridge, sharply pointed posterior apex, salmon colored nacre, and smaller size. The Service recognizes *Unio acutissimus* Lea and *Unio rubellinus* Lea as synonyms of *Medionidus acutissimus*.

The Alabama moccasinshell was described from the Alabama River, Alabama. Literature and collection records of the species are known from the Alabama River; Tombigbee River and tributaries (Luxapalila Creek, Buttahatchee and Sipsey Rivers); Black Warrior River and tributaries (Mulberry Fork, Brushy Creek); Cahaba River; and Coosa River and tributaries (Talladega, Choccolocco Creeks, Chatooga River). The species occurs in the Luxapalila Creek, Buttahatchee and Sipsey Rivers in the Tombigbee River drainage; the headwaters of the Sipsey Fork (Brushy Creek) in the Black Warrior River drainage; and the Conasuaga River. It has not been found in the Tombigbee River since construction of the Tennessee-Tombigbee Waterway. Dodd *et al.* (1986) collected the species from Brushy Creek, a Sipsey Fork tributary in the Black Warrior River drainage. The Alabama moccasinshell was collected in 1992 from the Brushy Creek and Rush Creek, another Sipsey Fork tributary (Butler, *in litt.* 1992). The last known collections in the Cahaba River drainage were in 1973 (Baldwin 1973). In 1974, Hurd (1974) collected only four lots from the Coosa River drainage. Service biologists collected a single specimen from the Conasauga River in 1990. Pierson (1991) did not find the species in the Coosa River drainage.

The Coosa moccasinshell (*Medionidus parvulus*) (Lea 1860)) is a small species occasionally exceeding 40 mm (1.6 in.) in length. The shell is thin and fragile, elongate and elliptical to rhomboidal in outline. The posterior ridge is inflated, smoothly rounded, terminating in a broadly rounded point; the posterior slope is finely corrugated. The periostracum is yellow-brown to dark brown and has fine green rays. The nacre is blue, occasionally with salmon-colored spots. As noted previously, the Coosa moccasinshell can be distinguished from the Alabama moccasinshell by its size, broadly rounded posterior ridge and apex, and nacre color. The Service recognizes *Unio parvulus* Lea as equivalent to *Medionidus parvulus*. The Coosa moccasinshell was described from the Coosa River, Alabama, and the Chatooga River, Georgia. The species has been collected from the Cahaba River; the Sipsey Fork of the Black Warrior River; and the Coosa River and tributaries (Choccolocco Creek, Chatooga, Conasauga and Little Rivers). In 1985, a Service biologist (J. Pulliam) collected a single specimen in the headwaters of the Sipsey Fork (Black Warrior River drainage). The most recent collection from the Little River is a single specimen taken by Hanley (*in litt.* 1990) in 1981. The existence of the Conasauga

River population has been confirmed by Pierson (1991) and a collection made by Service biologists in 1990. Watters (*in litt.* 1992) reports collecting live specimens from the Conasauga River in 1987 and 1991. Other Coosa River drainage records have not been recently confirmed. Mussel surveys in the Cahaba River by van der Schalie (1938), Baldwin (1973) and Pierson (1991) did not find the species.

The southern clubshell (*Pleurobema decisum* (Lea 1831)) is a medium-sized mussel about 70 mm (2.8 in.) long, with a thick shell, and heavy hinge plate and teeth. The shell outline is roughly rectangular, produced posteriorly with the umbos terminal with the anterior margin, or nearly so. The posterior ridge is moderately inflated and ends abruptly with little development of the posterior slope at the dorsum of the shell. The periostracum is yellow to yellow-brown with occasional green rays or spots on the umbo in young specimens. The southern clubshell is distinguished from a closely related species, the black clubshell (=Curtus' pearly mussel, *Pleurobema curtum*) by its elongate shape, lighter color, and the presence of a well-defined sulcus in the latter species. The Service recognizes the following names as synonyms of *Pleurobema decisum:*

Unio decisus Lea
Unio anaticulus Lea
Unio crebrivittatus Lea
Unio pallidovulvus Lea

The southern clubshell was described from the Alabama River, Alabama. Except for the Mobile Delta, this species was formerly known from every major stream system in the Mobile River basin. This includes the Alabama River and Bogue Chitto Creek; Tombigbee River and tributaries (Buttahatchee, East Fork Tombigbee, and Sipsey Rivers and Bull Mountain, Luxapalila, and Lubbub Creeks); Black Warrior River; Cahaba and Little Cahaba Rivers; two Tallapossa tributaries, Uphapee and Chewacla Creeks; and the Coosa River and tributaries (Oostanaula, Conasauga, Etowah, Chatooga, and Coosawattee Rivers and Kelly, Talladega and Shoal Creeks). Currently, the species is known in Bogue Chitto Creek in the Alabama River drainage; Buttahatchee, East Fork Tombigbee and Sipsey Rivers in the Tombigbee River drainage; and Chewacla Creek in the Tallapossa River drainage. The most recent Coosa River drainage records are -from the late 1960's and 1970's in the Conasauga River, and Shoal and Kelly Creeks. The most recent Cahaba River drainage records were Baldwin's (1973) collections in the Cahaba River. Pierson (1991) was unable to confirm the continued existence of the species in either the Coosa or Cahaba River drainages.

The dark pigtoe (*Pleurobema furvum* (Conrad 1834)) is a small- to medium-sized mussel, occasionally reaching 60 mm (2.4 in.) in length. The shell is oval in outline, and moderately inflated. Beaks are located in the anterior portion of the shell. The posterior ridge is abruptly rounded and terminates in a broadly rounded, subcentral, posterior point. The periostracum is dark, reddish brown with numerous and closely spaced, dark growth lines. The hinge plate is wide and the teeth are heavy and large, especially in older specimens. The nacre approaches white in the umbos, and is highly iridescent on the posterior margin. Specimens of the dark pigtoe are occasionally confused with the Warrior pigtoe, *Pleurobema rubellum* (Conrad 1834). This confusion can be attributed to a paucity of recent specimens of either species, and an incorrect association of the nomenclature with specimens. The Warrior pigtoe is a smaller species, suborbicular in outline, with the beaks more centrally located, and with pink or purplish nacre. The dark pigtoe may also be confused with old specimens of the southern pigtoe, *Pleurobema georgianum.* The latter is more elliptical in outline, is not as pointed posteriorly, and is more compressed than the dark pigtoe. Its hinge plate and teeth are smaller than those of the black pigtoe. The southern pigtoe has yellow to yellow-brown periostracum, and occasionally has broken green rays along the posterior slope and ridge. It has a white nacre. The Service recognizes *Unio furvus* Conrad as equivalent to *Pleurobema furvum.*

The dark pigtoe was described from the Black Warrior River, Alabama. The historic distribution of the dark pigtoe was probably restricted to the Black Warrior River above the fall line. Dodd *et al.* (1986) collected this species, misidentified as *Pleurobema rubellum* (Hartfield pers. obs., February 1990), from the headwaters of the Sipsey Fork in 1985. Shells from this population were collected by a Service biologist in 1990 (Hartfield 1991). Badly weathered specimens were also found in the Locust Fork of the Black Warrior River near the Jefferson-Blount County line. Butler (*in litt.* 1992) found two live specimens in the Sipsey Fork tributary Rush Creek in 1992. Fresh dead shells of the species have also been recently collected from the North River above Lake Tuscaloosa (Stuart McGregor, Geological Survey of Alabama, personal communication 1991; Pierson, personal communication 1992).

The southern pigtoe (*Pleurobema georgianum* (Lea 1841)) is a small- to medium-sized mussel occasionally exceeding 60 mm (2.4 in.) in length. The shell is elliptical to oval in outline and somewhat compressed. The posterior slope is smoothly rounded. The pseudocardinal teeth are small but well-developed, and the nacre is white. The periostracum is yellow to yellow-brown. Growth lines are numerous and may be dark brown. Small specimens may have green spots at the growth lines along the posterior ridge and near the umbo. As discussed for the previous species, older specimens of the southern pigtoe may be confused with the dark pigtoe, *Pleurobema furvum.* The Service recognizes *Unio georgianus* as equivalent to *Pleurobema georgiana.*

The southern pigtoe was described from the upper Coosa River drainage in Georgia. The historic distribution appears to have been restricted to the Coosa River drainage. Service biologists have examined museum records of this species from the Coosa River, Shoal Creek, and the Chatooga and Conasauga Rivers. The most recent records of the species include a single specimen taken by a Service biologist (Richard Biggins) from the Conasauga River in 1990; two live specimens in 1987, and a single fresh dead specimen in 1991 by Watters (*in litt.* 1992). Hurd (1974) reported collecting seven lots of southern pigtoes, and examined 35 museum lots from the Coosa River and its tributaries. However, Pierson (1991) did not encounter the species in the Coosa River drainage.

The ovate clubshell (*Pleurobema perovatum* (Conrad 1834)) is a small to medium-sized mussel that rarely exceeds 50 mm (2.0 in.) in length. The shell is oval to elliptical in shape, and has nearly terminal, inflated umbos. The posterior ridge is well-developed, broadly rounded, and often concave. The posterior slope is produced well beyond the posterior ridge. Periostracum color varies from yellow to dark brown, and occasionally has broad green rays that may cover most of the umbo and posterior ridge. The nacre is white. Due to the nearly terminal umbos in some specimens, ovate clubshells may be mistaken for young southern clubshells (*Pleurobema decisum*). They may be distinguished from the latter by their thinner shells, and a gently sloping, well developed posterior slope The Service recognizes the following names as synonyms of *Pleurobema perovatum:*

Unio perovatus Conrad

Unio nux Lea
Unio cinnamonicus Lea
Unio pinkstoni Wright
Unio concolor Lea
Unio flavidulus Lea
Unio johannis Lea

The ovate clubshell was described from small streams in Greene County, Alabama. The species occurred in the Tombigbee River and tributaries (Buttahatchee and Sipsey Rivers; Luxapalila, Coalfire and Lubbub Creeks); Black Warrior River and tributaries (Locust Fork; Village, Prairie, Big Prairie, Brushy and Blackwater Creeks); Alabama River; Cahaba River and the tributary Buck Creek; Chewacla, Uphapee and Opintlocco Creeks in the Tallapoosa drainage; and the Coosa River and tributaries (Conasauga and Etowah Rivers, and Holly Creek). Currently, the species is known from the Buttahatchee and Sipsey Rivers in the Tombigbee River drainage; Blackwater Creek and Locust Fork in the Black Warrior drainage; and Chewacla Creek in the Tallapoosa drainage (Dodd *et al.* 1986, Hartfield and Jones 1989, Pierson 1991). The most recent records from the Coosa drainage are two lots collected by Hurd (1974). The ovate clubshell was last collected in the Cahaba River in 1978 by Hanley (*in litt.* 1990). Pierson (1991) did not find the ovate clubshell in the Coosa River drainage or the Cahaba River drainage.

The triangular kidneyshell (*Ptychobranchus greeni* (Conrad 1834)) is oval to elliptical in outline, and may approach 100 mm (4.0 in.) in length. The shell is generally compressed, and may be flattened ventral to the umbos. The posterior ridge is broadly rounded and terminates in a broad round point post-ventrally. The pseudocardinal teeth are heavy, and the laterals are heavy, gently curved and short. The periostracum is straw-yellow in young specimens, but becomes yellow-brown in older ones. It may have fine and wavy, or wide and broken, green rays anterior to the posterior ridge. This species is morphologically variable and may be confused with some species in *Pleurobema*. Ecomorphs of this species are best identified by a process of elimination. The Service recognizes the following names as synonyms of *Ptychobranchus greeni:*

Unio greenii Conrad
Unio brumbleyanus Lea
Unio brumbyanus Lea
Unio foremanianus Lea
Unio woodwardius Lea
Unio woodwardianus Lea
Unio trinacrus Lea
Unioflavescens Lea
Unio simplex Lea

The triangular kidneyshell was described from the headwaters of the Black Warrior River, Alabama. The historic range includes the Black Warrior River and tributaries (Mulberry Fork, Locust Fork, North and Little Warrior Rivers, Brushy Creek, Sipsey Fork); Cahaba River; and the Coosa River and tributaries (Choccolocco Creek; Chatooga, Conasauga, and Etowah Rivers). The species is currently known from the headwaters of the Sipsey Fork and Little Warrior River in the Black Warrior River drainage (Dodd *et al.* 1986, Hartfield 1991); and in the Conasauga River in the Coosa drainage (Pierson 1991). The triangular kidneyshell was last collected from the Cahaba River in 1979 by Hanley (*in litt.* 1990). Recent surveys have failed to find other historically known populations (Hartfield 1991; Pierson 1991; J. Williams, pers. comm., 1991).

All of these mussels are usually found on stable gravel and sandy-gravel substrates in high quality lotic habitats. Little else is known of the habitat requirements of these species. Their life histories are presumed to follow that of other, better known, related species. Sexes in unionid mussels are usually separate. Males release sperm into the water column, which enter the incurrent siphons of females through normal respiratory and feeding activities. Eggs are held in the females gills' where they may come into contact with the sperm. Fertilized eggs develop into larva called glochidia. Mature glochidia are released into the water column and they must find and attach to the gills or fins of a suitable host fish species. Once attached, they metamorphose to a juvenile mussel. The duration of the parasitic stage varies with water temperature, mussel species, and perhaps host species. After metamorphosis, the juvenile mussels release from the host. To survive, they must drop onto a suitable substrate (Oesch 1984). Host species and duration of the parasitic stage are unknown for the mussel species in this rule.

The orange-nacre mussel (*Lampsilis perovalis*) was included as a category 2 species in the May 22, 1984, Federal Register (49 FR 21675). This species was again included as a category 2 species in the January 6, 1989, Federal Register (54 FR 578–579), along with the upland combshell (*Epioblasma metastriata*), southern combshell (*E. othcaloogensis*), and fine-lined pocketbook (*Lampsilis altilis*). Category 2 species are those for which there is some evidence of vulnerability, but for which there are not enough data to support listing proposals at the time the notice is published. There are no Service actions in the public record for any of the other species in this rule prior to publication of the proposed rule in the Federal Register (56 FR 58339) on November 19, 1991.

Summary of Comments and Recommendations

In the November 19, 1991, proposed rule (56 FR 58339) and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate State agencies, county governments. Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. Newspaper notices were published in *The Clarion-Ledger*, Jackson, Mississippi, on December 6, 1991; the *Mobile Press Register*, Mobile, Alabama, on December 7, 1991; *The Atlanta Constitution*, Atlanta, Georgia, the *Commercial Dispatch*, Columbus, Mississippi, and the *Montgomery Advertiser*, Montgomery, Alabama, on December 8, 1991.

A total of eight letters were received during the comment period, and are covered in the following summary. The Mississippi Department of Wildlife, Fisheries and Parks expressed support for listing the four species with portions of their range in Mississippi and offered no position on the remaining species. The University of Georgia, Museum of Natural History indicated concurrence with the need for protection for the four species with portions of their range in Georgia, and offered no position on the others. One Federal agency commented but offered no positions on the listing. Letters of support for the listing were received from two individuals. One individual commented on taxonomy, range, and abundance of species as presented in the proposal without taking a position on the listing. A second letter was received from this commenter containing additional records for several of the species. A private organization raised an issue, but did not take a position on the proposal.

Comments of a similar nature or point have been grouped into a number of general issues. These issues and the Service's response to each are discussed below:

Issue 1: Listing may impact agricultural practices by prohibiting the use of certain agricultural chemicals in the range of these species, therefore, a takings analysis under Executive Order 12630 is required.

Response: The Service agrees that Executive Order 12630 may require preparation of Takings Implication Assessments (TIA) for some species

listings pursuant to the Act. However, since the Act precludes consideration of economic factors during listing decisions, consideration of takings implications will follow publication of this final rule.

Issue 2: Two commenters believe that critical habitat designation is required to protect the species.

Response: Changes in State regulations concerning the harvest of commercial mussels has diminished the threat of incidental take since publication of the proposed rule, and the Service now considers that designation of critical habitat may be prudent but is not now determinable. This issue is addressed under "Critical Habitat" in this rule.

Issue 3: Restoration and preservation plans should be developed for these species.

Response: Section 4(f) of the Act requires the Service to develop and implement plans for the conservation and survival of listed species. The Service's goal is to develop a recovery plan within 2½ years after a species is listed.

Issue 4: One commenter disagreed with the taxonomy and range of *Lampsilis altilis* and *Lampsilis perovalis* as discussed in the proposed rule. He considered these species allopatric, that is, there is no overlap of range; recognized at least one subspecies for each; and believed the type locality for *L. perovalis* in error. He also provided additional records for several of the species.

Response: The commenter provided no substantive evidence to support his taxonomic opinions. The Service has used the best available scientific data and conferred with recognized experts in its assessment of these species' taxonomy, range, and status. However, when a species is listed, any existing or subsequently described subspecies are also protected under the Act. Upon a request by the Service for additional information regarding his distribution records, this individual provided records from 1987 to live specimens of two *Lampsilis altilis*, two *Pleurobema georgianum*, and four *Medionidus parvulus* from the Conasauga River, Bradley County, Tennessee; records from 1991 of one fresh dead individual of each of those species taken from the same locality; and a record from 1986 of two live *Lampsilis altilis* from the Little Cahaba River, Bibb County, Alabama. These records support the range and distribution of these species as discussed in the rule (see Background, above).

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that the 11 species in this rule should be added to the Federal List of Endangered and Threatened Wildlife. Procedures found at section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to the upland combshell (*Epioblasma metastriata*), southern acornshell (*Epioblasma othcaloogensis*), Coosa moccasinshell (*Medionidus parvulus*), southern clubshell (*Pleurobema decisum*), dark pigtoe (*Pleurobema furvum*), southern pigtoe (*Pleurobema georgianum*), ovate clubshell (*Pleurobema perovatum*), triangular kidneyshell (*Ptychobranchus greeni*), fine-lined pocketbook (*Lampsilis altilis*), orange-nacre mucket (*Lampsilis perovalis*), and Alabama moccasinshell (*Medionidus acutissimus*) are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of its Habitat or Range

Habitat modification, sedimentation, and water quality degradation represent the major threats to the 11 species discussed above. None of the species are known to tolerate impoundments. More than 1000 miles of large and small river habitat in the Mobile River drainage has been impounded for navigation, flood control, water supply, and/or hydroelectric production purposes. Impoundments adversely affect riverine mussels by: killing them during construction and dredging; suffocation by accumulating sediments; lowered food and oxygen availability by the reduction of water flow; and the local extirpation of host fish. Other forms of habitat modification such as channelization, channel clearing and de-snagging, and gravel mining result in stream bed scour and erosion, increased turbidity, reduction of groundwater levels, sedimentation, and changes in the aquatic community structure. Sedimentation may cause direct mortality by deposition and suffocation (Ellis 1936) and eliminate or reduce recruitment of juvenile mussels (Negus 1966). Suspended sediments can also interfere with feeding (Denis 1984). Activities that historically and currently cause sedimentation of streams and rivers in the drainages where these mussel species occur include: channel modification, agriculture, forestry, mining, and industrial and residential development.

Other types of water quality degradation from both point and non-point sources affect these mussel species. Stream discharge from these sources may result in decreased dissolved oxygen concentration, increased acidity and conductivity, and other changes in water chemistry which may impact mussels and/or their host fishes. Point sources of water quality degradation include municipal and industrial effluents, and coalbed methane produced water discharge. Non-point sources include runoff from cultivated fields, pastures, private wastewater effluents, agricultural feed-lots and poultry houses, active and abandoned coal mine sites, and highway and road drainage.

The orange-nacre mucket, Alabama moccasinshell, southern clubshell, and ovate clubshell have been found in the Tombigbee River and some of its tributaries (van der Schalie 1981; Hartfield and Jones 1989, 1990; U.S. Army Corps of Engineers 1975). Six lock and dams, constructed by the U.S. Army Corps of Engineers (COE) between Coffeeville, Alabama, and Aberdeen, Mississippi, have impounded the Tombigbee River. Almost 300 miles of free-flowing riverine habitat has been eliminated. The lower portions of the Sipsey, Buttahatchee, and East Fork Tombigbee Rivers have also been affected by these impoundments. The COE (1990) estimated that approximately 200 linear miles of streams had been channelized in the Tombigbee River basin by Federal agencies, and an additional 321 miles of future channel modifications were authorized.

The southern clubshell has been collected from Bull Mountain Creek in the upper Tombigbee River drainage (Pierson 1991). The canal section of the Tennessee-Tombigbee Waterway (Waterway) bisected Bull Mountain Creek, impounding and isolating a portion of the stream that provided habitat for this species.

The East Fork Tombigbee River provides habitat for the southern clubshell and orange-nacre mucket in a short reach between the confluence of Bull Mountain Creek and the Waterway's Lock B spillway (Hartfield and Jones 1989). Bull Mountain Creek flood flows have been redirected by the Waterway from the natural creek drainage at the upper end of this reach to the Lock B spillway at the lower end.

This change in the hydrological regime will eventually result in the accumulation of finer sediments over the gravel substrates above the spillway that the mussels now occupy (COE 1988). Western tributaries draining into the East Fork Tombigbee River have been channelized, have degraded, and as a result, have contributed almost two million tons of sediment into the river annually (COE 1989). Sedimentation of the upper river has resulted in channel blockage in the near past. The COE currently conducts annual channel maintenance in the East Fork Tombigbee River above the mussel habitat. This maintenance project may contribute to siltation in that portion of the river that provides mussel habitat.

The Buttahatchee river provides habitat for the orange-nacre mucket, Alabama moccasinshell, southern clubshell and ovate clubshell (Hartfield) and Jones 1990). However, these species have been eliminated from the lower reach of the river (below U.S. Highway 45) by impoundment of the Tombigbee River and stream capture by gravel mines (Hartfield and Jones 1990). Above Highway 45, the mussels are affected by runoff from abandoned kaolin mines. These mines are estimated to deliver as much as 27,000 tons of fine sediments into the system per year (COE 1990). The COE has been authorized to do a 59 mile channel modification project in the Buttahatchee River (COE 1977) that would impact existing mussel habitat.

Luxapalila Creek provided habitat for the southern clubshell near its confluence with the Tombigbee River (Pierson 1991). This portion of the creek has been affected by impoundment of the Waterway. It has also been dredged and channeled for flood control. The Alabama moccasinshell has been collected from the middle reaches of the Luxapalila Creek in Mississippi (Hartfield, pers. obs., 1984), as has the southern clubshell, orange-nacre mucket, and the ovate clubshell (Jones, *in litt.*, 1992) The COE (1985) has been authorized and funded to do channel modification and desnagging for flood control in this portion of Luxapalila Creek. Upstream of the Alabama State line, the creek has been extensively channelized, has aggraded, and has sedimentation problems.

The lower half of Sipsey River in Tuscaloosa and Greene Counties, Alabama, provides habitat for the orange-nacre mucket, southern clubshell, and ovate clubshell (Pierson 1991). Historic populations of these species and the fine-lined pocketbook in the upper half of the drainage (van der Schalie 1981) have not been recently found (Hartfield, pers. obs.). The Alabama Department of Environmental Management (ADEM) has received permit applications for discharge of produced waters from coalbed methane wells into the Sipsey River. The effect of these discharges on mussel survival and reproduction is unknown. The COE (1977) has been authorized to modify 84.5 miles of Sipsey River channel. This action will impact existing mussel habitat.

The Black Warrior River basin provided habitat for the upland combshell, fine-lined pocketbook, orange-nacre mucket, Alabama moccasinshell, Coosa moccasinshell, southern clubshell, dark pigtoe, ovate clubshell and triangular kidneyshell (van der Schalie 1981, Hartfield 1991). Mussel surveys over the past 20 years suggest some of these species may be extirpated, and others have been severely restricted in distribution (Hartfield 1991). More than 170 miles of the main channel of the Black Warrior River, and portions of its lower tributaries, have been impounded by a series of four locks and dams. None of these species have been collected from the main channel of the Black Warrior River, or its coastal plain tributaries, for at least 20 years (Williams, pers. comm., 1990; Hartfield 1991). The effects of the upper-most structure, John Hollis Bankhead Lock and Dam, extend at least 20 miles into the lower Locust Fork and over 40 miles into the lower Mulberry Fork.

North River, a Black Warrior River tributary, provided habitat for the triangular kidneyshell (van der Schalie 1981). At least 30 miles of the North River was impounded in 1969 by the City of Tuscaloosa to create a municipal water supply. This impoundment, as well as point and non-point pollution, has apparently eliminated most riverine mussel species from the North River (Hartfield 1991). In 1992, however, fresh dead shells of the dark pigtoe were collected from a free-flowing portion of the river above Lake Tuscaloosa (Stuart McGregor, Geological Survey of Alabama, pers. comm., 1991).

Another tributary of the Black Warrior River, Sipsey Fork, was impounded by Alabama Power Company in 1961 for hydroelectric generation. This impoundment has affected over 60 miles of river and stream habitat. The Coosa and Alabama moccasinshells exist in a short reach of the unimpounded headwaters of the Sipsey Fork (Hartfield 1991). The fine-lined pocketbook, orange-nacre mucket, dark pigtoe, and triangular kidneyshell have recently been collected from the same portion of the Sipsey Fork, as well as from an unimpounded headwater reach of its tributary, Brushy Fork (Dodd *et al.* 1986, Hartfield 1991). Service and Forest Service biologists recently discovered live populations of the fine-lined pocketbook, dark pigtoe, and Alabama moccasinshell in another Sipsey Fork tributary, Rush Creek (Butler *in litt.*, 1992).

Additional smaller impoundments have also been constructed in the Black Warrior River drainage, and other major impoundments are planned. The Birmingham Water Works and Sewer Board is planning to construct a dam on the Locust Fork near the Blount-Jefferson County line that would impound about 3000 acres. Construction of this reservoir will likely impact the only location where the ovate clubshell and triangular kidneyshell have recently collected in the main channel of the Locust Fork (Dodd *et al.* 1986).

Pollution is a major problem in the Black Warrior River basin. Pollution sources are located throughout the area, but are particularly concentrated in and around the Birmingham-Jefferson County area. Organic pollution from poultry and cattle feedlot operations has been implicated in the decline of native mollusks of the free-flowing Mulberry and Locust Forks in Cullman and Blount Counties (Hartfield 1991). The upper Black Warrior River basin is underlaid by the Black Warrior and Plateau coal fields. Surface coal mines have had a significant impact on the aquatic resources of the basin. Acidification, increased mineralization, and sediment loading from surface mines has resulted in the local exclusion of fish species (Mettee *et al.* 1989b). The enforcement of recent, more stringent, mining regulations has reduced the impact of mines in compliance with the new regulations. However, past mining practices, mines that are not in compliance, and abandoned mines may still be contributing sediment and chemical pollution to the streams in this portion of the basin.

The Alabama River drainage provided historic habitat for the fine-lined pocketbook, orange-nacre mucket, Alabama moccasinshell, southern clubshell, and ovate clubshell (Conrad 1834; Lea 1831, 1860). Dredging of the Alabama River channel began in 1878 and has continued to the present. Locks and dams on this river were completed in the 1960's, impounding more than 200 miles of the main channel from Claibourne, Alabama, to the confluence of the Coosa and Tallapossa Rivers. Many Alabama River tributaries in the impounded portion of the drainage are affected in their lower reaches by backwater. Of the species listed above,

only the fine-lined pocketbook (Tatum Creek) and the southern clubshell (Bogue Chitto Creek) have been recently confirmed to continue to exist in the Alabama River drainage (Hanley, *in litt.*, 1990; Pierson 1991).

The upland combshell, southern combshell, fine-lined pocketbook, Alabama moccasinshell, Coosa moccasinshell, southern clubshell, southern pigtoe, ovate clubshell, and triangular kidneyshell were known from the Coosa River and tributaries (Hurd 1974). Recent records of these seven species in the Coosa River drainage are from the Conasauga River above Dalton, Georgia. Only one species, the fine-lined pocketbook mussel, has recently been collected in the Coosa River (Pierson 1991). Approximately 230 river miles of the Coosa River have been impounded for hydropower by a series of six dams. The Coosawattee River has been impounded in Murray and Gilmer Counties, Georgia, and a dam on the Etowah River in Bartow County, Georgia, has impounded a significant portion of that drainage.

Hurd (1974) noted the local extirpation of historically known mussel communities from several streams due to water quality degradation. These streams included the Conasauga River below Dalton, Georgia, the Chatooga River and Tallaseehatchee Creek. These waters were polluted by textile and carpet mill wastes. He also noted that the unionid fauna had been extirpated, perhaps because of organic pollution and siltation, from the Etowah River, Talladega and Swamp Creeks, and from many of the lower tributaries of the Coosa River.

None of the 11 species considered in this review are known to have been collected in the Tallapoosa River. However, three species (fine-lined pocketbook, southern clubshell, ovate clubshell) are known from the Uphapee Creek and its tributary, Chewacla Creek, in the Tallapoosa River drainage (Jenkinson 1973, Pierson 1991). Uphapee Creek populations of the southern clubshell and the ovate clubshell have not been recently confirmed. Sand and gravel mining operations along Uphapee Creek have caused an increase in siltation and shifting sand in the stream channel (Pierson 1991). All three species, however, have been recently collected in Chewacla Creek (Pierson 1991).

The upland combshell, southern acornshell, fine-lined pocketbook, orange-nacre mucket, Alabama moccasinshell, Coosa moccasinshell, southern clubshell, ovate clubshell and triangular kidneyshell were known from the Cahaba River system (van der Schalie 1938, Baldwin 1973). Of these nine species, the fine-lined pocketbook (Watters, *in litt.*, 1992) and the orange-nacre mucket (Pierson 1991) have been recently found in the drainage. The most recent records of the southern acornshell, ovate clubshell and the Coosa moccasinshell were made by van Schalie (1938). Van der Schalie also noted that the southern clubshell was the most abundant species of *Pleurobema* encountered in the Cahaba River drainage at that time. Baldwin (1973) reported an apparent decline in the numbers of southern clubshells in the Cahaba River since van der Schalie's earlier collections. In 1990, Pierson (1991) found only a few badly weathered and eroded southern clubshell shells from two locations in the Cahaba River drainage. Baldwin's (1973) collections of the upland combshell, Alabama moccasinshell and triangular kidneyshell are the most recent records of these species in the drainage.

Water quality degradation is a major problem in the Cahaba River basin (Pierson 1991). There are 10 municipal wastewater treatment plants, 35 surface mining areas, one coalbed methane operation and 67 other permitted discharges in the Cahaba River Basin (ADEM, *in litt.*, 1990). Water quality in the drainage is also affected by siltation from surface mining, road construction, and site preparation for drilling operations. No major impoundments have been constructed in the main channel of the Cahaba River. However, the lowermost reach of the river has been affected by the impoundment of the Alabama River, and one headwater channel, the Little Cahaba River, has been impounded as a water supply for the City of Birmingham. Current plans to enlarge this impoundment have the potential to alter low water flows in the upper river.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

These species may be dislodged from the substrate, or taken in routine commercial mussel harvest. Although a dramatic increase in the price of shell has caused an increase in the number of commercial shellers in Tennessee and Alabama, and pressure to open the waters of Mississippi and Georgia to commercial harvest, the small rivers and streams where these species occur have not traditionally supported a commercial mussel harvest. As these species become more uncommon, the interest of scientific and recreational collectors increases. Populations of the mussels considered in this rule are generally localized, exposed during low flow periods, and are vulnerable to take for fish bait, curiosity, or vandalism.

C. Disease or Predation

Diseases of freshwater mussels are virtually unknown. However, an unidentified disease may be implicated in a series of localized mussel dieoffs that occurred primarily in the Mississippi River basin during the past ten years. Juvenile and adult mussels are prey items for some invertebrate predators and parasites, and provide prey for a few vertebrate predators. Predation by native animals is a normal aspect of the population dynamics of a healthy mussel population. However, Neves and Odum (1989) have suggested that muskrat predation may jeopardize the recovery of some endangered mussels and might cause local extirpation of rare mussel species. Muskrat predation on mussels has been observed in all of the drainage where these 11 mussel species are found.

D. The Inadequacy of Existing Regulatory Mechanisms

None of these species are given any special consideration when project impacts are reviewed for compliance with existing State and Federal environmental laws and regulations. All the States where these species occur require scientific collecting permits. However, enforcement of these permit requirements is difficult.

E. Other Natural or Manmade Factors Affecting its Continued Existence

The ranges of these species have been fragmented by reservoirs, resulting in the isolation of populations within and among drainages. Isolation may also cause a decrease in genetic diversity and reduce the reproductive and recruitment potential. All extant populations of these species are susceptible to extirpation by a single catastrophic event, such as a chemical spill or major channel modification.

These endemic Mobile basin mussels would be adversely affected by the loss of the fish hosts essential to their parasitic glochidial stage. Although their fish hosts are unknown, the host is usually a specific component of the ecosystem where the mussel species is found. Impoundment, water quality degradation, and siltation have been identified as factors in the fragmentation, isolation and local extirpation of fish species in the Mobile River basin (Mettee *et al.* 1989a, 1989b; Boschung 1989; Pierson *et al.* 1989).

The rapid spread of the introduced asiatic clam, *Corbicula fluminea*, may impact the native bivalve mussels in the

Mobile River basin. This species may actively compete with native mussels for space and nutrients (Clarke 1988). Hurd (1974) was concerned that the introduction of the asiatic clam would disrupt the cyclical prey-predator balance between muskrats and native mussels. Prior to the introduction of the asiatic clam, muskrat predation on native mussels was probably naturally regulated by the migration of muskrats when the mussel populations declined. Hurd suggested the high reproductive and growth potential of asiatic clams might eliminate the need for muskrats to migrate when native mussel numbers decreased. Consequently, predation pressure would continue regardless of the abundance of native mussels. He was also concerned that large numbers of asiatic clams would allow the muskrat population to expand, thus increasing predatory pressure on native mussels. Recently, it has been noted that in many drainages the only shells found in muskrat middens are asiatic clams (Hartfield 1991, Pierson 1991).

Another highly competitive exotic species, the zebra mussel, *Dreissena polymorpha*, may also pose a threat to several of these species. The zebra mussel has been rapidly expanding its range, and has recently been discovered in the Tennessee River at Savannah, Tennessee (Williams, pers. comm., 1992). It is highly likely this species will invade the Mobile River drainage via the Tennessee-Tombigbee Waterway. The East Fork Tombigbee River provides a refugium for the Tombigbee River mussel fauna, including the southern clubshell and orange-nacre mucket. This stream receives flow augmentation from the Tennessee-Tombigbee Waterway. Barge traffic also has the potential to introduce the zebra mussel into the Black Warrior and Alabama Rivers.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by these 11 species of freshwater mussels in making this determination. Based on this evaluation, the preferred action is to list the upland combshell (*Epioblasma metastriata*), southern combshell (*Epioblasma othcaloogensis*), Coosa moccasinshell (*Medionidus parvulus*), southern clubshell (*Pleurobema decisum*), dark pigtoe (*Pleurobema furvum*), southern pigtoe (*Pleurobema georgianum*), ovate clubshell (*Pleurobema perovatum*), and triangular kidneyshell (*Ptychobranchus greeni*) as endangered. It is also the preferred action to list the fine-lined pocketbook (*Lampsilis altilis*), orange-nacre mucket (*Lampsilis perovalis*), and the Alabama moccasinshell (*Medionidus acutissimus*) as threatened. Endangered status is appropriate for eight of these species because of the loss of habitat to impoundment, channelization and water quality degradation, and the increased vulnerability to take. The currently known populations of these species are fragmented, isolated, and threatened by channel modification projects and water quality degradation. The remaining three species are confronted with similar threats, but are more widely distributed throughout their historical range making threatened status more appropriate. Critical habitat is not being designated at this time as discussed below.

Critical Habitat

Section 3 of the Act defines critical habitat as the specific areas containing the physical and biological features essential to the conservation of the species and which may require special management considerations or protection. "Conservation" means the use of all methods and procedures needed to bring the species to the point at which listing under the Act is no longer necessary. Section 4(a)(3) of the Act requires that, to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time the species is proposed to be endangered or threatened. Service regulations (50 CFR 424.12(a)(2)) state that critical habitat is not determinable if information sufficient to perform required analysis of the impacts of the designation is lacking or if the biological needs of the species are not sufficiently well known to permit identification of an area as critical habitat. Section 4(b)(2) of the Act requires the Service to consider economic and other relevant impacts of designating a particular area as critical habitat on the basis of the best scientific data available. The Secretary may exclude any area from critical habitat if he determines that the benefits of such exclusion outweigh the benefits of its inclusion, unless to do so would result in the extinction of the species.

In the proposed rule, the designation of critical habitat was considered to be not prudent for any of these 11 mussel species due to the threat of incidental take, particularly during harvest of commercial mussel species. Commercial harvest pressure had been increasing due to high shell prices and increased competition.

Since publication of the proposal to list these species, the threat of take incidental to commercial harvest has diminished. The State of Alabama has implemented regulation changes that close areas to commercial harvest where these 11 species are known to occur. Portions of the species' ranges in the States of Mississippi, Georgia and Tennessee are also closed to commercial harvest. All States where these species occur require scientific collecting permits, and are under cooperative agreement with the Service to manage and protect federally listed species. Consideration of these developments has resulted in a finding that designation of critical habitat may be prudent, but is not now determinable.

Section 4(b)(6)(C) of the Act provides that a concurrent critical habitat determination is not required and that the final critical habitat designation may be postponed for 1 additional year beyond the period specified in section 4(b)(6)(A), if the Service finds that a prompt determination of endangered or threatened status is essential to the conservation of the species. The Service believes that a prompt determination of endangered status for the upland combshell, southern combshell, Coosa moccasinshell, southern clubshell, dark pigtoe, southern pigtoe, ovate clubshell, triangular kidneyshell, and threatened status for the fine-lined pocketbook, orange-nacre mucket, and Alabama moccasinshell, is essential to their conservation. Listing these species will provide immediate protection while also allowing the Service additional time to evaluate critical habitat needs. The Service is attempting to identify occupied and potential habitat and to ascertain the biological needs of these 11 mussels. Once maps of occupied and potential habitat have been prepared and a recovery plan developed, the Service will make a decision on designation of critical habitat and assess whether designation of critical habitat is prudent. In assessing critical habitat, the Service will consider the mussels' biological requirements such as host fish, substrate stability, water quality, and instream flow needs that are essential to the conservation of the mussels and that may require special management considerations or protection. Adequate protection of these species' habitat will be provided during the interim through the recovery process, the section 7 consultation process, and section 9 prohibitions on take.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal,

State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

Federal involvement is expected to include the Environmental Protection Agency through the Clean Water Act's provisions for pesticide registration and waste management actions. The Corps of Engineers will consider these species in project planning and operation and during the permit review process. The Federal Highway Administration will consider impacts of federally funded bridge and road construction when known habitat may be impacted. Continuing urban development within the drainage basins may involve the Farmers Home Administration and their loan programs. The Soil Conservation Service will consider the species during project planning and under their farmer's assistance programs.

The Act and implementing regulations found at 50 CFR 17.21 for endangered species, and 17.21 and 17.31 for threatened species set forth a series of general prohibitions and exceptions that apply to all endangered or threatened wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take (includes harass, harm, pursue, hunt, shoot, wound, kill, trap, or collect; or to attempt any of these), import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered or threatened wildlife species under certain circumstances. Regulations governing permits are at 50 CFR 17.22, 17.23 and 17.32. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities. For threatened species, there are also permits for zoological exhibition, educational purposes, or special purposes consistent with the purposes of the Act.

In some instances, permits may be issued for a specified time to relieve undue economic hardship that would be suffered if such relief were not available. Since these species are not in trade, no permit requests are expected.

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

A complete list of all references cited herein, as well as others, is available upon request from the Complex Field Supervisor (see **ADDRESSES** section).

Author

The primary author of this rule is Paul Hartfield (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Regulations Promulgation

PART 17—[AMENDED]

Accordingly, part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, is amended as set forth below:

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. Amend § 17.11(h) by adding the following, in alphabetical order under "CLAMS", to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*	*	
Acornshell, southern	*Epioblasma othcaloogensis.*	U.S.A. (AL, TN, GA)	NA	E	495	NA	NA
*	*	*	*	*	*	*	
Clubshell, ovate	*Pleurobema perovatum.*	U.S.A. (AL, GA, MS, TN).	NA	E	495	NA	NA
*	*	*	*	*	*	*	
Clubshell, southern	*Pleurobema decisum*	U.S.A. (AL, GA, MS, TN).	NA	E	495	NA	NA
*	*	*	*	*	*	*	
Combshell, upland	*Epioblasma metastriata.*	U.S.A. (AL, GA, TN)	NA	E	495	NA	NA

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*	*	*
Kidneyshell, triangular.	*Ptychobranchus greeni.*	U.S.A. (AL, GA, TN)	NA	E	495	NA	NA
*	*	*	*	*	*	*	*
Moccasinshell, Alabama.	*Medionidus acutissimus.*	U.S.A. (AL, GA, MS)	NA	T	495	NA	NA
*	*	*	*	*	*	*	*
Moccasinshell, Coosa	*Medionidus parvulus*	U.S.A. (AL, GA, TN)	NA	E	495	NA	NA
*	*	*	*	*	*	*	*
Mucket, orange-nacre	*Lampsilis perovalis* ..	U.S.A. (AL, MS)	NA	T	495	NA	NA
*	*	*	*	*	*	*	*
Pigtoe, dark	*Pleurobema furvum* .	U.S.A. (AL)	NA	E	495	NA	NA
*	*	*	*	*	*	*	*
Pigtoe, southern	*Pleurobema georgianum.*	U.S.A. (AL, GA, TN)	NA	E	495	NA	NA
*	*	*	*	*	*	*	*
Pocketbook, fine-lined.	*Lampsilis altilis*	U.S.A. (AL, GA)	NA	T	495	NA	NA
*	*	*	*	*	*	*	*

Dated: March 1, 1993.

Richard N. Smith,

Acting Director, Fish and Wildlife Service.

[FR Doc. 93–6162 Filed 3–16–93; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 652

[Docket No. 920789–3017]

RIN 0648 AE27

Atlantic Surf Clam and Ocean Quahog Fishery

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to amend the regulations implementing the Fishery Management Plan for the Atlantic Surf Clam and Ocean Quahog Fisheries (FMP). This rule will: (1) Require vessel owners or operators to notify NMFS prior to departure and provide information including vessel name, vessel permit number, date and time of departure, species targeted, and date and time of expected landing; (2) add a provision that all surf clams or ocean quahogs landed under the notification requirements specified above would be deemed to be landed from the exclusive economic zone (EEZ); (3) make it illegal to fish for, retain, or land surf clams and ocean quahogs on the same trip; (4) make it illegal to fish for, retain, or land surf clams on a trip designated by a vessel operator as being an ocean quahog fishing trip or ocean quahogs on a designated surf clam fishing trip; and (5) require that any owner or operator who discontinues a fishing trip in the EEZ must return to port and offload any catch of surf clams or ocean quahogs harvested in the EEZ prior to commencing fishing operations in the waters under the jurisdiction of any state. The intended effect of this rule is to enhance enforcement, provide more accurate tracking of individual quotas, and allow for adequate monitoring of the fishery.

EFFECTIVE DATE: April 15, 1993.

ADDRESSES: Copies of the Regulatory Impact Review and Environmental Assessment for Amendment 8 may be obtained from John C. Bryson, Mid-Atlantic Fishery Management Council, room 2115 Federal Building, 300 South New Street, Dover, DE 19901–6790.

Comments regarding the burden-hour estimates or any other aspect of the collection-of-information requirements contained in this final rule should be sent to the Northeast Regional Director, National Marine Fisheries Service, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930, and the Office of Management and Budget (Attention NOAA Desk Officer), Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Myles A. Raizin, Resource Policy Analyst, (508–281–9104).

SUPPLEMENTARY INFORMATION: A final rule implementing Amendment 8 to the Fishery Management Plan for the Atlantic Surf Clam and Ocean Quahog Fishery was published on June 14, 1990 (55 FR 24184), with the regulations becoming fully effective on September 30, 1990. Existing § 652.9(a) allows the Regional Director, by publication of a notice in the **Federal Register**, to specify notification requirements that vessel owners or operators would have to comply with prior to departure from port or return from a fishing trip for surf clams or ocean quahogs. A proposed rule to implement these notification requirements was published in the **Federal Register** on October 27, 1992 (57 FR 48589). The comment period ended November 25, 1992.

This rule requires vessel owners or operators to provide the following information accurately to the Office of Law Enforcement nearest the point of offloading prior to the departure of their vessel from the dock to fish for surf clams or ocean quahogs in the EEZ:

(1) The name of the vessel;

(2) The NMFS permit number assigned to the vessel;

(3) The expected date and time of departure from port;

(4) Whether the trip will be directed on surf clams or ocean quahogs;

(5) The expected date, time and location of landing; and •

(6) The name of the individual providing notice.

NMFS will monitor enforcement efforts under the notification requirements for a 1-year period following publication of the final rule to determine its effectiveness. At that time, the Regional Director, in consultation with the Council, will decide whether to withdraw, amend, or continue the notification requirement.

Changes From the Proposed Rule to the Final Rule

This rule adds some language to clarify the intent of the notification requirements with respect to cancelled or discontinued fishing trips in §§ 652.8(c)(22) and (652.9(d). Similar language appeared in the preamble to the proposed rule but is more appropriately cast in the final rule as a regulatory provision. Thus, if it becomes necessary to cancel, postpone, or discontinue a trip due to bad weather, mechanical breakdown, or other circumstance, the vessel owner or operator must immediately contact the Office of Law Enforcement to which the original notification was provided. If a trip in the EEZ is discontinued, the vessel owner or operator must offload any EEZ harvested surf clams or ocean guahogs prior to commencing fishing operations in State waters. This provision will enable the vessel owners or operators to harvest surf clams or ocean quahogs from State waters without having them be counted against their Federal allocation by operation of § 652.9(c).

In § 652.8, existing paragraph (c)(20) was redesignated as paragraph (c)(22) in the proposed rule, but is now redesignated as paragraph (c)(23) in this final rule, and new paragraph (c)(22) is added in the final rule.

In § 652.9, paragraph (b) in the proposed rule is paragraph (c) in this final rule and new paragraphs (b) and (d) are added to this final rule.

Comments and Responses

Eight sets of comments were received during the public comment period. All commenters were opposed to the proposed notification requirements.

Comment: There is no protection from false or malicious reporting.

Response: NMFS realizes that false or malicious reporting is a potential weakness of an any reporting system. However, NMFS' experience with the reporting system in place under the moratorium that preceded the implementation of Amendment 8 leads to the conclusion that such a possibility is extremely remote. In administering the reporting system for allowable days at sea and the bad weather make-up day for over a decade, there was not one instance in which false or malicious reporting was encountered. The considerable experience that NMFS enforcement agents have with administering a vessel notification system coupled with the small number of vessels in the fishery should enable them to discern instances of false or malicious reporting. If false or malicious reporting is discovered, those involved will be prosecuted to the extent permitted by law.

Comment: There is no need for notification requirements during the months that the New Jersey inshore fishery is closed.

Response: NMFS recognizes that these notification requirements will have the greatest impact in New Jersey where surf clams caught in the EEZ have been landed using State of New Jersey tags. However, there are a number of other inshore fisheries that may be claimed by unscrupulous operators to mask fishing operations in the EEZ. If law enforcement agents are unable to ascertain on a real time basis when vessels are fishing and the ports at which they will be landing, their ability to enforce the individual transferable quota management regime will be seriously compromised. These requirements will aid enforcement in its investigation of vessels that may be in violation of the regulations put forth in 50 CFR part 652. NMFS enforcement agents have testified that surveillance activities at processing plants and docks are the most productive form of enforcement activity. Attempts to use random surveillance have kept agents occupied for hours and have proven to be economically inefficient. By having prior knowledge as to where landings may occur, enforcement agents will use their limited resources in the most efficient manner.

Comment: This action will lead to a duplication of reporting effort since logbook reporting is mandatory in the fishery.

Response: The intent of this rule is to give enforcement agents prior knowledge of fishing activities to enhance surveillance operations. The data reported via these notification requirements are immediately accessible, whereas logbook data may take several days to be entered into the logbook system. Thus, logbook data is inappropriate to serve the needs of law enforcement.

Comment: Two minutes is an unrealistic reporting time.

Response: This collection of information required modification of existing collections under OMB #0648–0202 to reflect the reporting burden (2 minutes per response). A request to collect this information has been approved by the Office of Management and Budget. A phone call to provide the necessary information should not take longer than 2 minutes.

Comment: NMFS ignored the Industry Panel's compromise position, which was approved by the Council.

Response: In January 1992, upon urging of the industry, NMFS withdrew a notice imposing notification requirements for this fishery. At that time, the industry's sole complaint was that the 24-hour notice before departure provision was unfair. The Regional Director listened to arguments, both pro and con, regarding these notification requirements at two Council meetings where the Industry Panel and NMFS enforcement agents were present. In addition, NMFS has accepted public comment on the proposed rule to implement these requirements. Based on this record and the importance of maintaining the integrity of the individual transferable allocation scheme, the Regional Director concluded that it was more prudent than not to implement the current notification requirements.

Comment: With new $100,000.00 limits on fines and a proposal to allow the sanctioning of individual transferable allocations, the penalties may be major for a minor violation.

Response: NMFS General Counsel assesses penalties for violations based on several factors. Minor and unintentional violations of notification requirements will not carry the maximum fine. Sanctions of allocation for certain violations have been discussed, but the Office of General Counsel has made no determinations on this matter. The imposition of the maximum penalty occurs only in the instance of an offense committed successively or in the case of an egregious resource violation. Intentional violations of the notification requirements will be and should be treated more severely.

Comment: The notification requirements remove the flexibility of processors to schedule trips quickly and create a safety hazard for crews.

Response: This comment was justified with respect to the previous notifications requirement that required 24-hour notice of departure. This requirement was withdrawn. Since vessels may now call anytime before departure on days they decide to fish, notification requirements do not cause scheduling and safety problems.

Comment: One commenter argued that these requirements would affect his

operation since he fishes in several areas and lands product in both Massachusetts and New Jersey ports depending upon market price.

Response: NMFS agrees that this commenter's operations may be inconvenienced by the implementation of notification requirements. However, this individual's method of operation is an exception to the general operations of vessels participating in this fishery. It is still possible to operate efficiently within the constraints of the notification requirements.

Comment: One commenter complained that there are only two inspectors to cover a large area in Wickford, Rhode Island; therefore, most of the call-ins will be to an answering machine.

Response: NMFS enforcement agents at each location will be responsible for administering their notification programs. If answering machines are the most efficient method to gather this information, then they may be used to facilitate the program. Providing the information required to a law enforcement answering machine fully complies with the regulation.

Comment: These notification requirements do not allow vessels to react in a timely manner to changes in the weather that may force them to fish inshore after calling in an EEZ trip. One commenter described a situation where a vessel could steam northeast from Atlantic City for 50 miles, encounter bad weather and be forced to return to port instead of steaming due west to a closer inshore bed. The vessel will lose 7 hours of fishing time at a cost of $5,600 per trip. Two or three hundred trips will be affected each year.

Response: NMFS recognizes that situations will arise where the call-in provision may be burdensome. However, these situations are the exception rather than the norm. NOAA weather forecasts are highly reliable, and in times of uncertainty, most vessel operators would not risk fishing far offshore. NMFS believes that the number of trips affected will not be substantial. In any event, the regulations do not require a vessel owner or operator to return to the same port from which the vessel departed. If a fishing trip is discontinued, a vessel could return to a port nearer the inshore fishing grounds, provided proper notification is provided to the Office of Law Enforcement to which the original notification was provided.

Classification

The Regional Director has determined that this rule is necessary for the conservation and management of the surf clam and ocean quahog fishery and is consistent with the Magnuson Fisheries Conservation and Management Act and other applicable law.

The Regional Director has determined that this rule is consistent with the FMP.

The Assistant Administrator for Fisheries, NOAA, has determined that this rule, which would revise the language in the regulations implementing the FMP, as amended, does not alter the scope or intent of the FMP or the conclusions arrived at in the regulatory impact review (RIR), and regulatory flexibility analysis (RFA) for Amendment 8 to the FMP, or its implementing regulations, Therefore, this rule is consistent with E.O. 12291 and the Regulatory Flexibility Act.

This action is categorically excluded by NOAA Directive 02–10 from the requirement to prepare an environmental assessment (EA). The action does not alter or affect the human environment and is taken to enhance programmatic functions associated with the FMP, as amended; specifically, the functions of enforcement of the regulations and monitoring of the individual quotas.

Copies of the RIR, EA, and RFA for Amendment 8 may be obtained from the Mid-Atlantic Fishery Management Council (see ADDRESSES).

The notification requirement is a new collection-of-information subject to the Paperwork Reduction Act. The collection of this information required modification of existing collections under OMB #0648–0202 to reflect the reporting burden (2 minutes per response). The Office of Management and Budget has approved the request to collect this information. Send any comments regarding this burden hour estimate and any other aspect of this collection-of-information requirement to Richard B. Roe, Northeast Regional Director, NMFS, and to the Office of Management and Budget (Attention: NOAA Desk Officer) (see ADDRESSES).

This rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under E.O. 12612.

The Regional Director determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal management programs of New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, and North Carolina. This determination was submitted for review by the responsible State agencies under section 307 of the Coastal Zone Management Act. Massachusetts, Delaware, Rhode Island, New Hampshire, and New York agreed with the determination. None of the other states commented within the statutory time period, and, therefore, consistency is automatically inferred.

List of Subjects in 50 CFR Part 652

Fisheries, Reporting and recordkeeping requirements

Dated: March 10, 1993

Samuel W. McKeen,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 652 is amended as follows:

PART 652—ATLANTIC SURF CLAM AND OCEAN QUAHOG FISHERIES

1. The authority citation for part 652 continues to read as follows:

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

2. In § 652.8, existing paragraph (c)(19) is revised, existing paragraph (c)(20) is redesignated as paragraph (c)(23), and new paragraphs (c)(20), (c)(21) and (c)(22) are added to read as follows:

§ 652.8 Prohibitions.

* * * * *

(c) * * *

(19) Fish for surf clams or ocean quahogs in the EEZ without giving prior notification or fail to comply with any of the notification requirements specified in § 652.9;

(20) Fish for, retain, or land surf clams and ocean quahogs in or from the EEZ on the same trip;

(21) Fish for, retain, or land ocean quahogs in or from the EEZ on a trip designated as a surf clam fishing trip under § 652.9(a)(4), or fish for, retain, or land surf clams in or from the EEZ on a trip designated as an ocean quahog fishing trip under § 652.9(a)(4); or

(22) Fail to offload any surf clams or ocean quahogs harvested in the EEZ from a trip discontinued pursuant to § 652.9 prior to commencing fishing operations in waters under the jurisdiction of any State.

* * * * *

3. In § 652.9, existing paragraph (a) is revised, existing paragraphs (b) and (c) are redesignated as paragraphs (e) and (f), and new paragraphs (b), (c), and (d) are added to read as follows:

§ 652.9 Facilitation of enforcement.

(a) *Notification requirements.* Vessel owners or operators are required to provide the following information accurately prior to the departure of their vessel from the dock to fish for surf clams or ocean quahogs in the EEZ:

(1) The name of the vessel;
(2) The NMFS permit number assigned to the vessel;
(3) The expected date and time of departure from port;
(4) Whether the trip will be directed on surf clams or ocean quahogs;
(5) The expected date, time and location of landing; and
(6) The name of the individual providing notice.

(b) Vessel owners or operators are required to call the Office of Law Enforcement nearest to the point of offloading at the following locations to provide the information required above:

Rockland, ME—(207) 594–7742
Otis AFB, MA—(508) 563–5721
Wakefield, RI—(401) 789–8022
Brielle, NJ—(908) 528–3315
Marmora, NJ—(609) 390–8303
Salisbury, MD—(301) 749–3545
Newport News, VA—(804) 441–6760

(c) All landings of surf clams or ocean quahogs from a trip for which notification was provided under this section are deemed to have been harvested in the EEZ and will count against the annual individual allocation.

(d) Owners or operators that have given notification of a fishing trip under this section who decide to cancel or postpone the trip prior to departure must immediately provide notice of cancellation by telephone to the Office of Law Enforcement to which the original notification was provided. A separate notification shall be provided for the next fishing trip. Owners or operators that discontinue a fishing trip in the EEZ must immediately provide notice of discontinuance by telephone to the Office of Law Enforcement to which the original notification was provided. The owner or operator providing notice of discontinuance shall advise of any changes in landing time or port of landing. The owner or operator discontinuing a fishing trip in the EEZ must return to port and offload any surf clams or ocean quahogs prior to commencing fishing operations in the waters under the jurisdiction of any state.

* * * * *

[FR Doc. 93–6039 Filed 3–16–93; 8:45 am]
BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 58, No. 50
Wednesday, March 17, 1993

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1098

[Docket No. AO–184–A55; DA–93–03]

Milk in the Nashville, Tennessee Marketing Area; Extension of Time for Conducting Referendum on Proposed Amended Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Extension of time for conducting referendum on proposed rule.

SUMMARY: This document extends the time for conducting the referendum on a proposed amended milk order for the Nashville, Tennessee, marketing area. Many independent dairy farmers who market their milk under the order requested the additional time to return ballots.

DATES: The referendum period is extended to March 25, 1993.

ADDRESSES: Ballots should be sent to the referendum agent, Arnold M. Stallings, Market Administrator, P.O. Box 18030, Louisville, Kentucky 40261–0030.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, room 2968, South Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 720–4829.

SUPPLEMENTARY INFORMATION: Prior documents in the proceeding:

Advance Notice of Proposed Rulemaking: Issued March 29, 1990; published April 3, 1990 (55 FR 12369).

Notice of Hearing: Issued July 11, 1990; published July 17, 1990 (55 FR 29034).

Recommended Decision: Issued November 6, 1991; published November 22, 1991 (56 FR 58972).

Final Decision: Issued February 5, 1993.

Notice is hereby given that the time for completing the referendum on the proposed amended Nashville, Tennessee, milk order is extended two weeks from the date of issuance of this notice. The proposed amended order was included in the Final Decision document issued February 5, 1993. A referendum order was included in that document and it afforded 30 days to complete the referendum.

This notice is issued pursuant to the provision of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR part 900).

List of Subjects in 7 CFR Part 1098

Milk marketing orders.

The authority citation for 7 CFR part 1098 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

Dated: March 11, 1993.

Kenneth C. Clayton,

Acting Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 93–6050 Filed 3–16–93; 8:45 am]

BILLING CODE 3410–02–M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 110

RIN 3150—AE31

Specific Licensing of Exports of Certain Alpha-Emitting Radionuclides and Byproduct Material

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to amend its general licenses for the export of special nuclear material, source material, and byproduct material. The amendments are necessary to conform the export controls of the United States to international export control guidelines and treaty obligations. The NRC also is proposing that appendix A to part 110 be restructured for clarification and to emphasize the distinction between nuclear reactor equipment controlled by the NRC and the Department of Commerce.

DATES: Comment period expires April 16, 1993. Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before this date.

ADDRESSES: Mail written comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch.

Deliver comments to: 11555 Rockville Pike, Rockville, Maryland, 20852 between 7:45 am and 4:15 pm Federal workdays.

Copies of comments received may be examined at: the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC 20037.

FOR FURTHER INFORMATION CONTACT: Elaine O. Hemby, Office of International Programs, Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 504–2341, or Joanna M. Becker, Office of the General Counsel, Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 504–1740.

SUPPLEMENTARY INFORMATION:

Introduction

The Nuclear Regulatory Commission (NRC) is proposing to amend its export licensing regulations to conform with the export control guidelines of the international Nuclear Suppliers Group (NSG), the International Atomic Energy List of the Coordinating Committee for Multilateral Export Controls (COCOM), and a treaty obligation between the United States and Canada. The NRC would amend its general licenses for the export of dispersed tritium, bulk tritium, americium-242m, californium-249, californium-251, curium-245, curium-247, and the following alpha-emitting radionuclides: special nuclear material—plutonium-238; source material—thorium-227, thorium-228, uranium-232; and byproduct material—actinium-225, actinium-227, californium-248, californium 250, californium-252, curium-242, curium-243, curium-244, polonium-208, polonium-209, polonium-210, radium-223, including compounds and mixtures containing these radionuclides with a total alpha activity of 1 curie per kilogram or greater. The alpha-emitting radionuclides when contained in devices in quantities of less than 100 millicuries of alpha activity per device would continue to be generally licensed for export. Export of the alpha-emitting

radionuclides to member states of the NSG would continue to be generally licensed, but export to other countries would require a specific license. Each exporter covered by these regulations would have to meet the new requirements, as well as existing regulations.

The NRC also proposes revision of appendix A to part 110, which covers the nuclear reactor equipment under the NRC export licensing authority. The proposed revision would aid exporters and U.S. agencies regulating exports in determining the reactor equipment under the NRC jurisdiction.

The following is a summary of the proposed changes and the reasons for the changes:

(1) In the spring of 1992, the international Nuclear Suppliers Group (NSG), in which the United States participates, established common export control guidelines applicable to nuclear-related, dual-use commodities to prevent the proliferation of nuclear weapons. The NRC has licensing authority over two items on the NSG control list, alpha-emitting radionuclides and tritium. The remaining items are subject to the licensing controls of the Department of Commerce and are contained on a list referred to as the Nuclear Referral List. The proposed rule would conform U.S. controls for exports of alpha-emitting radionuclides and tritium to the NSG control list.

To reduce additional requirements imposed on U.S. exporters resulting from the general license revisions, the NRC proposes new general licenses to permit (1) exports of small quantities of alpha-emitting radionuclides to most countries, (2) exports of any quantity of alpha-emitting radionuclides to the member states of the NSG, and (3) exports of dispersed tritium when contained in a product or device in quantities of not more than 40 curies of tritium to the member states of the NSG. The following changes are proposed:

In § 110.21, which describes the general licenses for the export of special nuclear material, paragraphs (a)(3) and (b)(1) would be revised to remove plutonium-238 and new paragraphs would be added for the export of plutonium-238 under general license when contained in devices in quantities of less than 100 millicuries of alpha activity per device.

In § 110.22, which describes the general licenses for the export of source material, paragraphs (a)(1), (a)(2), (b), and (c) would be revised to remove uranium-232, thorium-227, and thorium-228 and new paragraphs would be added for the export of uranium-232, thorium-227, and thorium-228 under general license when contained in devices in quantities of less than 100 millicuries of alpha activity per device.

In § 110.23, which describes the general licenses for the export of byproduct material, paragraph (a)(1) would be revised to add actinium-225, actinium-227, californium-248, californium-250, californium-252, curium-242, curium-243, curium-244, polonium-208, polonium-209, and radium-223 to the list of byproduct material which may not be exported under general license except as authorized in that section. The general license for polonium-210, an alpha-emitting radionuclide, would be revised to clarify that polonium-210 when contained in static eliminators may not exceed 100 millicuries per device or a total of 100 curies per individual shipment. The general license in paragraph (c) covering the export of bulk tritium would be removed. A new general license would be added as paragraph (c) for the export of tritium in dispersed form to NSG member states, not to exceed 40 curies per item. The general license for tritium in luminescent safety devices installed in aircraft would be changed to specify a limit of 40 curies per light source for this purpose. Some changes would be made of an editorial nature to the general licenses for americium-241, neptunium-237, and tritium in dispersed form to present the provisions in a clear manner.

A new § 110.30 to subpart C would be established that is comprised of the member states of the NSG. The NSG member countries would continue to be eligible recipients under the general licenses for alpha-emitting radionuclides in any quantity and for dispersed tritium when contained in a product or device in quantities of not more than 40 curies of tritium.

(2) Because a new § 110.30 would be added, some changes would be required in other sections of part 110. Sections 110.30 and 110.31 would be redesignated as § 110.31 and § 110.32, and the references to §§ 110.30 and 110.31 in § 110.7 would be changed to § 110.31 and § 110.32 to be consistent, as would the reference to § 110.31 in § 110.30. In § 110.20, the references in paragraphs (a) and (f) to general license sections would be revised to add § 110.30.

(3) Section 110.22(b) would be revised further to reduce the total quantity of Canadian-origin natural uranium which can be exported under general license to any one country from 1,000 kilograms to 500 kilograms per year. The reduced quantity would provide assurances against inadvertent violation of the U.S.-Canada Agreement for Cooperation.

(4) Section 110.23(a)(1) would be amended to conform the NRC's export regulations with the export guidelines of the Coordinating Committee for Multilateral Export Controls (COCOM), in which the United States participates. The amendment would add americium-242m, californium-249, californium-251, curium-245 and curium-247 to the list of byproduct material which may not be exported under general license except as authorized in that section.

(5) Appendix A to part 110 would be amended to clarify the nuclear reactor equipment subject to the NRC licensing authority. Paragraphs (8) and (9) would be redesignated as paragraphs (9) and (10), and a new paragraph (8) would be added to cover "reactor control rods", as specific nuclear reactor equipment under the licensing authority of the NRC, but not constituting a utilization facility. Paragraph (10), covering other specially designed or prepared equipment and components controlled by the NRC, would be revised by adding the phrase "that are especially relevant from the standpoint of export control, as determined by the Commission, except for the items licensed by the Department of Commerce pursuant to 15 CFR Part 799." The revision is intended to call attention to the licensing interface with the Department of Commerce in respect to exports of incidental reactor equipment and dual-use items.

(6) In § 110.26(a), the reference to paragraph (9) of appendix A would be changed to paragraph (10) of appendix A, as would the reference to paragraph (9) of appendix A in the footnote to § 110.42.

The provisions of the Administrative Procedure Act (5 U.S.C. 553), requiring notice of proposed rulemaking and opportunity for public participation, do not apply, pursuant to 5 U.S.C. 553(a)(1) because the amendments which follow involve a foreign affairs function of the United States. However, because of the importance of the requirements on affected exporters, this proposed rule is being issued and comments received will be considered in the development of the final rule. Accordingly, the NRC encourages interested persons who wish to comment to do so at the earliest possible time to permit the fullest consideration of their views.

Environmental Impact: Categorical Exclusion

The NRC has determined that this proposed rule is the type of action described as a categorical exclusion under 10 CFR 51.22 (c)(1) and (c)(2). Therefore, neither an environmental

impact statement nor an environmental assessment has been prepared for this proposed rule.

Paperwork Reduction Act Statement

This proposed rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). This rule has been submitted to the Office of Management and Budget for review and approval of the paperwork requirements.

The public reporting burden for this collection of information is estimated to average less than 3 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Information and Records Management Branch (MNBB–7714), U.S. Nuclear Regulatory Commission, Washington, DC 20555; and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB–3019, (3150–0036 and 3150–0027) Office of Management and Budget, Washington, DC 20503.

Regulatory Analysis

The Commission has considered alternatives to as well as the costs and benefits of the proposed rule and has concluded that the rule would have a minimum impact on the affected exporters. The export controls of the international Coordinating Committee for Multilateral Export Controls (COCOM) and the international Nuclear Suppliers Group (NSG) list certain alpha-emitting radioisotopes, bulk tritium compounds, and the byproduct material americium-242m, californium-249 and -251, and curium-245 and -247. The NRC has regulatory authority under the Atomic Energy Act over these materials, and its current regulations permit a person to export these materials to most countries under general license provisions. To implement the export controls of COCOM and the NSG, in which the United States participates, it is necessary for the NRC to amend the general license regulations in §§ 110.21 through 110.23 for the export of special nuclear material, source material, and byproduct material. This will mean that a person previously using these general license provisions as providing authority to export may be required to submit specific export license applications. There are no alternatives for achieving the stated objective. The proposed rule would satisfy the U.S. Government's international and treaty obligations.

Based on data obtained from the Department of Energy's national laboratories and industry sources, the proposed general license changes should have a minimal impact on the public since most commercial activity for alpha-emitting radionuclides could continue under general licenses that would be developed to permit exports in small quantities to most countries and in any quantity to the twenty-six eligible countries. The NRC is not aware of any appreciable U.S. export traffic in alpha-emitting radionuclides that would not be covered by the proposed general licenses. Likewise, laboratory personnel indicate that the effect of deleting the bulk tritium general license should be minimal because tritium in bulk form is typically exported in large quantities which already require specific licenses. The foregoing discussion constitutes the regulatory analysis for this proposed rule.

Regulatory Flexibility Certification

Based upon the information available at this stage of the rulemaking proceeding and in accordance with the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the Commission certifies that this rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. This proposed rule would not affect the export of alpha-emitting radionuclides to those countries where the principal commercial activity exists or to other countries in de minimis quantities. Likewise, the effect of the proposed rule on small shipments of bulk tritium should be minimal. In all, the proposed amendments of the general licenses contained in Part 110 are expected to result in fewer than ten new export licenses per year.

Any small entity subject to this regulation which determines that, because of its size, it is likely to bear a disproportionate adverse economic impact should notify the Commission.

Backfit Analysis

The NRC has determined that a backfit analysis is not required for this proposed rule because these amendments do not include any provisions that would require backfits as defined in 10 CFR 50.109(a)(1).

List of Subjects in 10 CFR Part 110

Administrative practice and procedure, Classified information, Criminal penalties, Export, Import, Incorporation by reference, Intergovernmental relations, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements, Scientific equipment.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is proposing to adopt the following amendments to 10 CFR part 110.

PART 110—EXPORT AND IMPORT OF NUCLEAR EQUIPMENT AND MATERIAL

1. The authority citation for part 110 is revised to read as follows:

Authority: Secs. 51, 53, 54, 57, 63, 64, 65, 81, 82, 103, 104, 109, 111, 126, 127, 128, 129, 161, 181, 182, 183, 187, 189, 68 Stat. 929, 930, 931, 932, 933, 936, 937, 948, 953, 954, 955, 956, as amended (42 U.S.C. 2071, 2073, 2074, 2077, 2092–2095, 2111, 2112, 2133, 2134, 2139, 2139a, 2141, 2154–2158, 2201, 2231–2233, 2237, 2239); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); sec. 5, Pub. L. 101–575, 104 Stat. 2835 (42 U.S.C. 2243).

Sections 110.1(b)(2) and 110.1(b)(3) also issued under Pub. L. 96–92, 93 Stat. 710 (22 U.S.C. 2403). Section 110.11 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152) and secs. 54c and 57d., 88 Stat. 473, 475 (42 U.S.C. 2074). Section 110.27 also issued under sec. 309(a), Pub. L. 99–440. Section 110.50(b)(3) also issued under sec. 123, 92 Stat. 142 (42 U.S.C. 2153). Section 110.51 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 110.52 also issued under sec. 186, 68 Stat. 955 (42 U.S.C. 2236). Sections 110.80–110.113 also issued under 5 U.S.C. 552, 554. Sections 110.130–110.135 also issued under 5 U.S.C. 553.

§ 110.7 [Amended]

2. In § 110.7, second sentence, the reference to "§ 110.30", where it appears twice, is revised to read "§ 110.31" and the reference to "§ 110.31" is revised to read "§ 110.32".

§ 110.20 [Amended]

3. In § 110.20, paragraph (a), the reference to "110.29" is revised to read "110.30" and the reference to "§§ 110.30–110.31" is revised to read "§§ 110.31–110.32", and in the first sentence of paragraph (f), the phrase "§§ 110.21 through 110.26, 110.28, and 110.29" is revised to read "§§ 110.21 through 110.26, 110.28, 110.29, and 110.30".

4. In § 110.21, paragraphs (a)(3) and (b)(1) are revised and new paragraphs (a)(4) and (c) are added to read as follows:

§ 110.21 General license for the export of special nuclear material.

(a) * * *

(3) Special nuclear material, other than plutonium-238, in sensing components in instruments, if no more than 3 grams of enriched uranium or 0.1 gram of plutonium or U–233 are contained in each sensing component.

(4) Plutonium-238 when contained in devices in quantities of less than 100 millicuries of alpha activity per device.

(b) * * *

(1) Special nuclear material, other than plutonium-238, in individual shipments of 0.001 effective kilograms or less (e.g., 1.0 gram of plutonium, U–233 or U–235, or 10 kilograms of 1 percent enriched uranium), not to exceed 0.1 effective kilogram per year to any one country.

* * * * *

(c) A general license is issued to any person to export plutonium-238 to any country listed in § 110.30 in individual shipments of 1 gram or less, not to exceed 0.1 effective kilogram per year to any one country.

5. In § 110.22, paragraphs (a) (1), (2), (b), and (c) are revised and new paragraphs (a) (3), (4), and (d) are added to read as follows:

§ 110.22 General license for the export of source material.

(a) * * *

(1) Uranium or thorium, other than uranium-232, thorium-227, and thorium-228, in any substance in concentrations of less than 0.05 percent by weight.

(2) Thorium, other than thorium-228, in incandescent gas mantles or in alloys in concentrations of 5 percent or less.

(3) Thorium-227 and thorium-228 when contained in devices in quantities of less than 100 millicuries of alpha activity per device.

(4) Uranium-232 when contained in devices in quantities of less than 100 millicuries of alpha activity per device.

(b) A general license is issued to any person to export uranium or thorium, other than uranium-232, thorium-227, or thorium-228, in individual shipments of 10 kilograms or less to any country not listed in § 110.28 or § 110.29, not to exceed 1,000 kilograms per year to any one country or 500 kilograms per year to any one country when the uranium or thorium is of Canadian origin.

(c) A general license is issued to any person to export uranium or thorium, other than uranium-232, thorium-227, or thorium-228, in individual shipments of 1 kilogram or less to any country listed in § 110.29, not to exceed 100 kilograms per year to any one country.

(d) A general license is issued to any person to export uranium-232, thorium-227 and thorium-228 in individual shipments of 10 kilograms or less to any country listed in § 110.30, not to exceed 1,000 kilograms per year to any one country or 500 kilograms per year to any one country when the uranium or thorium is of Canadian origin.

6. Section 110.23 is revised to read as follows:

§ 110.23 General license for the export of byproduct material.

(a) A general license is issued to any person to export the following to any country not listed in § 110.28:

(1) All byproduct material (see Appendix F to this part), other than actinium-225, actinium-227, americium-241, americium-242m, californium-248, californium-249, californium-250, californium-251, californium-252, curium-242, curium-243, curium-244, curium-245, curium-247, neptunium-237, polonium-208, polonium-209, polonium-210, radium-223, and tritium, unless authorized in the general licenses in paragraphs (a)(2) through (a)(10), (b), and (c) of this section.

(2) Americium-241, except that exports exceeding one curie per shipment or 100 curies per year to any country listed in § 110.29 must be contained in industrial process control equipment or petroleum exploration equipment in quantities not to exceed 20 curies per device or 200 curies per year to any one country.

(3) Actinium-225 and actinium-227 when contained in devices in quantities of less than 100 millicuries of alpha activity per device.

(4) Californium-248, californium-250, and californium-252 when contained in devices in quantities of less than 100 millicuries of alpha activity per device.

(5) Curium-242, curium-243, and curium-244 when contained in devices in quantities of less than 100 millicuries of alpha activity per device.

(6) Neptunium-237 in individual shipments of 1 gram or less, not to exceed 10 grams per year to any one country.

(7) Polonium-208 and polonium-209 when contained in devices in quantities of less than 100 millicuries of alpha activity per device.

(8) Polonium-210 when contained in devices in quantities of less than 100 millicuries of alpha activity per device, except that exports of polonium-210 when contained in static eliminators must not exceed 100 millicuries of alpha activity per eliminator or 100 curies per individual shipment.

(9) Tritium in any dispersed form (e.g., luminescent light sources, luminescent paint, accelerator targets, calibration standards, labeled compounds) when in quantities of 10 curies or less per item, not to exceed 1,000 curies per shipment or 10,000 curies per year to any one country.

(10) Tritium in luminescent safety devices installed in aircraft when in quantities of 40 curies or less per light source.

(b) A general license is issued to any person to export to any country listed in § 110.30, actinium-225, actinium-227, californium-248, californium-250, californium-252, curium-242, curium-243, curium-244, polonium-208, polonium-209, polonium-210, and radium-223, except that polonium-210 when contained in static eliminators must not exceed 100 curies per individual shipment.

(c) A general license is issued to any person to export to any country listed in § 110.30, tritium in any dispersed form (e.g., luminescent light sources, luminescent paint, accelerator targets, calibration standards, labeled compounds) when in quantities of 40 curies or less per item, not to exceed 1,000 curies per shipment or 10,000 curies per year to any one country.

§ 110.26 [Amended]

7. In § 110.26(a), the reference to "paragraphs (5) through (9) of appendix A" is revised to read "paragraphs (5) through (10) of appendix A".

§§ 110.30 and 110.31 [Redesignated as §§ 110.31 and 110.32]

8. Sections 110.30 and 110.31 are redesignated as § 110.31 and § 110.32.

9. A new § 110.30 is added to read as follows:

§ 110.30 Countries that are Member States of the Nuclear Suppliers Group.

Australia	Japan
Austria	Luxembourg
Belgium	Netherlands
Bulgaria	Norway
Canada	Poland
Czech Republic	Portugal
Denmark	Romania
Finland	Russia
France	Slovak Republic
Germany	Spain
Greece	Sweden
Hungary	Switzerland
Ireland	United Kingdom
Italy	

§ 110.31 [Amended]

10. In § 110.31, in paragraph (d), the reference to "§ 110.31" is revised to read "§ 110.32".

§ 110.42 [Amended]

11. In § 110.42, in the second sentence of footnote 2, the reference to "paragraphs (5) through (9) of appendix A" is revised to read "paragraphs (5) through (10) of appendix A".

12. Appendix A to part 110 is revised to read as follows:

Appendix A to Part 110—Illustrative List of Nuclear Reactor Equipment Under NRC Export Licensing Authority

(1) Reactor pressure vessels—metal vessels, as complete units or as major shop-fabricated parts therefor, specially designed or prepared to contain the core of a nuclear reactor and capable of withstanding the operating pressure of the primary coolant;

(2) Reactor primary coolant pumps—pumps specially designed or prepared for circulating the primary coolant in a nuclear reactor;

(3) On-line reactor fuel charging and discharging machines—manipulative equipment specially designed for inserting or removing fuel in a nuclear reactor capable of on-load operation (CANDU type);

(4) Complete reactor control rod system—rods specially designed or prepared for the control of the reaction rate in a nuclear reactor, including the neutron absorbing part and the support or suspension structures therefor;

(5) Reactor pressure tubes—tubes specially designed or prepared to contain fuel elements and the primary coolant in a nuclear reactor at an operating pressure in excess of 50 atmospheres;

(6) Zirconium tubes—zirconium metal and alloys in the form of tubes or assemblies of tubes specially designed or prepared for use in a nuclear reactor;

(7) Reactor internals—core support structures, control and rod guide tubes, thermal shields, baffles, core grid plates and diffuser plates specially designed or prepared for use in a nuclear reactor;

(8) Reactor control rods—exported separately from those described in paragraph (4) of this appendix;

(9) Reactor control rod drive mechanisms, including detection and measuring equipment to determine flux levels; and

(10) Other specially designed or prepared items within or attached directly to the reactor vessel, the equipment which controls the level of power in the core, and the components which normally contain or come in direct contact with or control the primary coolant of the reactor core that are especially relevant from the standpoint of export control, as determined by the Commission, except for items licensed by the Department of Commerce pursuant to 15 CFR part 799.

Dated in Rockville, Maryland, this 22nd day of February, 1993.

For the Nuclear Regulatory Commission.

James M. Taylor,

Executive Director for Operations.

[FR Doc. 93–5970 Filed 3–16–93; 8:45 am]

BILLING CODE 7590–01–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

Domestic Exchange-Traded Commodity Options; Recordkeeping Requirements

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Commodity Futures Trading Commission ("Commission") is proposing to amend Rule 1.37, 17 CFR 1.37, by deleting the requirement that futures commission merchants ("FCMs"), introducing brokers ("IBs"), and clearing members keep, for each commodity option account, a record indicating an occupational code and a symbol indicating whether an option customer is commercial or non-commercial. The requirement that this information be kept was included in the Commission's rules as part of the pilot program for the reintroduction of domestic exchange-traded options. In light of the infrequent use of this information, especially since exchange trading of commodity options was made permanent, the Commission believes that it is now appropriate to delete this recordkeeping requirement.

DATES: Comments must be received by April 16, 1993.

ADDRESSES: Comments should be sent to Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581, and should make reference to "Revision to Rule 1.37."

FOR FURTHER INFORMATION CONTACT: Paul M. Architzel, Chief Counsel, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581, (202) 254–6990.

SUPPLEMENTARY INFORMATION:

Commission Rule 1.37 generally required that certain information be kept by FCMs, IBs and clearing members concerning commodity futures and option accounts. Among the information which must be maintained is the name and address of the person for whom a commodity futures or option account is carried, the principal occupation or business of that person, and the name of any other person guaranteeing the account or exercising trading control of the account. For commodity options accounts, information must also be kept showing the name of the person who has solicited the account and is responsible for it, an occupational code, from a list promulgated by the Commission, and a symbol identifying the option customer as a commercial or noncommercial for each option position carried. 17 CFR 1.37(a).

The requirement that option accounts be identified by occupational code and that they be identified by code as commercial/noncommercial was added as part of the pilot program for the introduction of exchange-traded options. At the outset of the program, the Commission anticipated that it would make several market-wide surveys to ascertain the nature of option market participants. Accordingly, the Commission mandated that this occupational information be kept so that the necessary information could be readily collected with as minimal a cost as possible. By specifying the necessary information in advance, the information to be required by these surveys could be anticipated and would be provided more readily. See, 46 FR 54500, 54513 (Nov. 3, 1981). This provision was retained at the termination of the pilot option program in light of the Commission's intention to collect future survey information in machine-readable form. It was anticipated that this would provide a relatively cost-efficient means to conduct such surveys. See, 51 FR 17464, 17471 (May 13, 1986).

Since the termination of the pilot option program, however, such market-wide surveys have been rare. In fact, only one survey has been conducted which made use of this occupational code information. This survey was undertaken in 1987 by the Commission in connection with its study of the cattle market. Other surveys conducted during this period, such as one involving trading by commodity pools did not rely on this occupational information.

In light of the infrequent use of this information, a commenter on another proposed rule suggested that the cost of continued compliance with this requirement, which is applicable only to options positions, outweighs the benefit of the rule. This commenter, a futures industry association, stated that:

> [T]he collection and storing of this data on a regular basis is expensive and burdensome. Its original purpose when approved as part of the options pilot program was to provide information on which periodic evaluations of the economic purpose of options markets could be undertaken. After ten years we think that the economic purpose underlying options contracts has been established, and there is no reason to conduct such periodic evaluations of options contracts. Moreover, if these 1.37(a) recordkeeping requirements were also deleted, the Commission would still retain the ability to request the information directly from the exchanges or through the 'special call' procedures found in

CFTC Rule 21.02 on an "as needed" basis. We believe this is a less costly alternative to the current requirement of making such records a routine part of an FCMs' permanent files.

The Commission agrees that this suggestion has merit. In light of the infrequent requests that the Commission has made for such information, it believes that the FCMs, Ibs and contract market members who may be directly affected by future requests for this information should be free to make a business determination whether they wish to keep such information as part of their permanent records, or whether they wish to amass the required occupational information in response to future special calls.

As the commenter observed, the Commission retains the authority to issue special calls for this information under Commission rule 21.02, 17 CFR 21.02. As an aid to those FCMs that have an automated system for incorporating this information into their permanent records, and wish to continue to do so, the Commission will continue to update and publish its list of occupational codes.[1] In this regard, FCMs must assess the cost and disruption that the manual compilation of the required information may entail if the Commission were to issue a special call in the future versus the cost to it of maintaining current systems, especially where those systems are automated.

For the reasons discussed above, the Commission is proposing to delete from Rule 1.37 the requirements that the appropriate occupational code and a symbol indicating whether the option customer is a commercial or noncommercial be included in the permanent records of the FCM, introducing broker and member of a contract market. The Commission is also proposing a technical amendment clarifying the requirement that the records kept by such futures commission merchants, introducing brokers, and members of a contract market show the name of the person who has solicited and is responsible for each option customer's account. This amendment clarifies that the requirement can be satisfied not only by showing the name of the person who solicited and is responsible for the account, but also by an account numbering, or other coding, system which will identify the name of that person. Many FCMs have in place such account numbering systems which can be used to identify the person who has solicited and is responsible for an account. The Commission believes that identification of individuals who have solicited and are responsible for option accounts in this manner is consistent with routine business practices.

[1] The last update of the list of occupational codes was published by the Commission in the Federal Register on September 4, 1992. 57 FR 40645.

Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*, requires that agencies, in proposing rules, consider the impact of these rules on small entities. The Commission has previously determined that "'FCMs" and similar entities are not "small entities" for purposes of the RFA. 47 FR 18618 (April 30, 1982). These proposed rules modify certain recordkeeping requirements for FCMs, IBs and members of contract markets. The proposed amendment does not impose and additional burdens, but rather, alleviates already existing obligations. Accordingly, if promulgated, these rules would have no significant impact on a substantial number of small entities. For the above reasons, and pursuant to section 3(a) of the RFA, 5 U.S.C. 605(b), the Acting Chairman, on behalf of the Commission, hereby certifies that these regulations will not have a significant economic impact on a substantial number of small entities. However, the Commission particularly invites comments from any firms or other persons which believe that the promulgation of these proposed rule amendments might have a significant impact upon their activities.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, ("PRA") imposes certain requirements on Federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the PRA. In compliance with the Act the Commission has submitted these amended rules and their associated information collection requirements to the Office of Management and Budget ("OMB").

OMB approved the collection of information associated with this rule on April 10, 1991, and assigned OMB control number 3038–0024. The Commission does not expect the burden associated with this collection to significantly change since many FCMs may voluntarily continue to collect the information. The burden associated with this entire collection is as follows:

Average Burden Hours per Response—124.13
Number of Respondents—489
Frequency of Response—On occasion

The burden associated with this specific rule is as follows:

Average Burden Hours per Response—11.625
Number of Respondents—189
Frequency of Response—On occasion

Persons wishing to comment on the estimated paperwork burden associated with these amended rules should contact Gary Waxman, Office of Management and Budget, room 3228, N.E.O.B., Washington, DC 20503. Copies of the information collection submission to OMB are available from Joe F. Mink, C.F.T.C. Clearance Officer, 2033 K Street, NW., Washington, DC 20581, (202) 254–9735.

List of Subjects in 17 CFR Part 1

Commodity options, Reporting and recordkeeping requirements.

In consideration of the foregoing, and pursuant to the authority contained in the Commodity Exchange Act and, in particular, sections 4c, 4g, and 8a of the Act, 7 U.S.C. 6c, 6g, and 12a (1988), the Commission hereby proposes to amend Chapter I of Title 17 of the Code of Federal Regulations as follows:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

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

Authority: 7 U.S.C. 2, 4, 4a, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6j, 6k, 6l, 6m, 6n, 6o, 7, 7a, 9, 12, 12a, 12c, 13a–1, 13a–2, 16, 19, 21, 23 and 24, unless otherwise noted.

2. Section 1.37 is proposed to be amended by revising paragraph (a) to read as follows:

§ 1.37 Customer's or option customer's name, address, and occupation recorded; record of guarantor or controller or account.

(a) Each futures commission merchant, introducing broker, and member of a contract market shall keep a record in permanent form which shall show for each commodity futures or option account carried or introduced by it the true name and address of the person for whom such account is carried or introduced and the principal occupation or business of such person as well as the name of any other person guaranteeing such account or exercising any trading control with respect to such account. For each such commodity option account, the records kept by such futures commission merchant, introducing broker, and member of a contract market must also show the name of the person who has solicited

and is responsible for each option customer's account or assign account numbers in such a manner to identify that person.

* * * * *

Issued in Washington, DC, this 11th day of March, 1993, by the Commodity Futures Trading Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 93-6040 Filed 3-16-93; 8:45 am]

BILLING CODE 635-01-M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 242

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 100

Alaska Federal Subsistence Board Meeting

AGENCY: Forest Service, Department of Agriculture, U.S. Fish and Wildlife Service, Department of the Interior.

ACTION: Notice of meeting and request for public comment.

SUMMARY: The Alaska Federal Subsistence Board will hold meetings to discuss business relative to management of the Federal subsistence management program on Federal public lands. The primary area of discussion will be the Federal subsistence seasons, bag limits, methods, and means for the 1993–1994 regulatory year.

The public is invited to attend and participate in the proceedings. Public testimony will be accepted at this meeting. A substantive portion of each meeting will be open to the public; however, some of the meeting may be closed to the public.

DATES: April 5–9, 1993.

ADDRESSES: The meeting will be held in Anchorage, Alaska, beginning at 8:30 each morning. The location will be announced via local and Statewide media.

FOR FURTHER INFORMATION CONTACT: Richard S. Pospahala, Office of Subsistence Management, U.S. Fish and Wildlife Service, 1011 East Tudor Road, Anchorage, Alaska 99503; telephone (907) 786–3447, or Norman Howse, Assistant Director, Subsistence, USDA, Forest Service, Alaska Region, Post Office Box 21628, Juneau, Alaska 99802–1628; telephone (907) 586–8890.

SUPPLEMENTARY INFORMATION: As empowered by 36 CFR 242.18 and 50 CFR 100.18, the Board will meet to discuss and take action on the proposals submitted during the public comment period for Federal subsistence seasons, bag limits, methods, and means for the 1993–1994 regulatory year.

On September 17, 1992, a proposed rule was published in the **Federal Register** (57 FR 43074–43105). The purpose of that publication was to initiate the formal process to develop Federal regulations pertaining to subsistence taking of fish and wildlife for Federal public lands in Alaska during the 1993–94 regulatory year (July 1, 1993–June 30, 1994) The public comment period on the proposed rule closed November 16, 1992. Ten public hearings were held during October 1992, at various locations in the State to provide opportunity for the public to propose changes to the 1993–94 regulations.

Subsequently, the public comments were compiled in the form of a proposal booklet and distributed for public review and comment. The public was requested to submit any comments on the proposal booklet by February 13, 1993. The proposal booklet and public comments will be reviewed by agency staff prior to the Board meeting. The April meeting provides the public opportunity to review the proposals and draft regulations and involvement in the establishment of final regulations. The Board will review the staff recommendations and act on the proposals at the meeting.

Dated: March 1, 1993.

Ronald B. McCoy,

Interim Chair, Federal Subsistence Board.

[FR Doc. 93-5741 Filed 3-16-93; 8:45 am]

BILLING CODE 4310-55-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-7063]

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed base (100-year) flood elevations and proposed base flood elevation modifications for the communities listed below. The base (100-year) flood elevations are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: The proposed base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: William R. Locke, Chief, Risk Studies Division, Federal Insurance Administration, 500 C Street, SW., Washington, DC 20472, (202) 646–2766.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA or Agency) gives notice of the proposed determinations of base (100-year) flood elevations and modified base flood elevations for each community listed, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed base flood and modified base flood elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

National Environmental Policy Act

This proposed rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Federal Insurance Administrator has determined that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act because proposed or modified base flood elevations are required by the Flood

Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the National Flood Insurance Program. As a result, a regulatory flexibility analysis has not been prepared.

Regulatory Impact Analysis

This proposed rule is not a major rule under Executive Order 12291, February 17, 1981. No regulatory impact analysis has been prepared.

Executive Order 12612, Federalism

This proposed rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This proposed rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subject in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements. Accordingly, 44 CFR part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.4 [Amended]

2. Section 67.4 is proposed to be amended as follows:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified
Arizona	City of Chandler, Maricopa County.	Flooding behind Southern Pacific Spur.	Approximately 100 feet southeast of the intersection of Southern Pacific Spur and West Tremaine Drive.	None	*1,212
			At the intersection of Santan Street and Sacramento Street.	None	*1,217
			Just east of the intersection of Germann Road and Southern Pacific Spur.	None	*1,218
			Approximately 200 feet northeast of the intersection of Chandler Heights Road and Southern Pacific Spur.	None	*1,217
			Approximately 500 feet east of the intersection of Riggs Road and Southern Pacific Spur.	None	*1,216
		Flooding behind Southeast branch and Southern Pacific Spur.	Approximately 1,500 feet southeast of the intersection of Chandler Heights Road and Southern Pacific Spur.	None	*1,219
		Flooding behind Consolidated Canal East Branch.	Approximately 200 feet south and 300 feet east of Chandler Heights Road and Consolidated Canal East Branch.	None	*1,221
			Just south of the intersection of McQueen Road and Consolidated Canal East Branch.	None	*1,228
			Approximately 700 feet south of the intersection of Germann Road and Consolidated Canal East Branch.	None	*1,229
			Just northeast of the intersection of Willis Road and Consolidated Canal East Branch.	None	*1,231
			Just northeast of the intersection of Pecos Road and Consolidated Canal East Branch.	None	*1,233
		Flooding behind Consolidated Canal East Branch.	Approximately 2,800 feet south and 700 feet east of the intersection of Ray Road and Cooper Road.	None	*1,236

Maps are available for review at the Department of Public Works, 200 East Commonwealth Avenue, Chandler, Arizona.

Send comments to The Honorable Coy Payne, Mayor, City of Chandler, 25 South Arizona Place, Suite 301, Chandler, Arizona 85225.

Arizona	Coconino County, Unincorporated Areas.	Oak Creek	Approximately 4,435 feet downstream of the confluence with Munds Canyon Creek.	*4,485	*4,485
			Approximately 3,820 feet downstream of the confluence with Munds Canyon Creek.	*4,496	*4,500
			Approximately 3,000 feet downstream of the confluence with Munds Canyon Creek.	*4,513	*4,519
			Approximately 1,050 feet downstream of the confluence with Munds Canyon Creek.	*4,552	*4,552

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified
Maps are available for review at Coconino County, Department of Community Development, 219 East Cherry, Flagstaff, Arizona. Send comments to The Honorable Paul J. Babbit, Jr., Chairman, Coconino County Board of Supervisors, Administrative Center, 219 East Cherry, Flagstaff, Arizona 86001.					
Arizona	Town of Gilbert, Maricopa County.	Flooding behind Southern Pacific Railroad.	Approximately 200 feet south of the intersection of McQueen Road and Baseline Road.	#2	*1,213
			At Guadalupe Road	#2	*1,220
			Just downstream of Western Canal	#2	*1,226
			Approximately 200 feet west of the intersection of Western Canal and Oak Street.	#2	*1,231
			Approximately 500 feet east of the intersection of Southern Pacific and Roosevelt Water Conservation District Canal.	None	*1,322
			At Power Road	None	*1,332
		Flooding behind Southern Pacific Spur.	Approximately 200 feet southeast of the intersection of Southern Pacific Spur and Baseline Road.	None	*1,212
			Approximately 500 feet southeast of the intersection of Elliot Road and Southern Pacific Spur.	None	*1,214
		Flooding behind Consolidated Canal East Branch.	Approximately 400 feet north of the intersection of Ray Road and 131st Street.	None	*1,239
			Approximately 2,000 feet southwest along Consolidated Canal from the intersection of Southern Pacific and Consolidated Canal East Branch.	None	*1,240
			At the intersection of Elliot Road and Lindsay Road.	None	*1,243
			Just southeast of the intersection of Baseline Road and Consolidated Canal East Branch.	None	*1,247
		Flooding behind Eastern Canal.	Approximately 1,200 feet south and 300 feet west of the intersection of Germann Road and Lindsay Road.	None	*1,260
			Approximately 600 feet south of the intersection of Ray Road and Eastern Canal.	None	*1,267
			Approximately 1,000 feet east of the intersection of Southern Pacific and Eastern Canal.	None	*1,271
			Approximately 400 feet south of the intersection of Guadalupe Road and Eastern Canal.	None	*1,278
			Approximately 2,000 feet north of the intersection of Guadalupe Road and Eastern Canal.	None	*1,279
			Just south of the intersection of Baseline Road and South Greenfield Road.	None	*1,281
Maps are available for review at the Engineering Department, Municipal Center, 1025 South Gilbert Road, Gilbert, Arizona. Send comments to The Honorable Larry Morrison, Acting Mayor, Town of Gilbert, 1025 South Gilbert Road, Gilbert, Arizona 85234.					
Arizona	City of Mesa, Maricopa County.	Flooding Behind Southern Pacific Railroad.	At Power Road	None	*1,332
			At the intersection of Sossaman Road and Germann Road.	None	*1,356
Maps are available for review at the Engineering Department, 20 East Main Street, Suite 400, Mesa, Arizona. Send comments to the Honorable Willie Wong, Mayor, City of Mesa, P.O. Box 1466, Mesa, Arizona 85211.					
Arizona	Town of Queen Creek, Maricopa County.	Flooding Behind Southern Pacific Railroad.	Approximately 200 feet southeast of the intersection of Sossaman Road and Southern Pacific.	None	*1,356
			Just east of the intersection of Southern Pacific and Ellsworth Road.	None	**1,396
			At Signal Butte Road	None	*1,437

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified
Maps are available for review at the Planning Department, Town Hall, 22350 South Ellsworth Road, Queen Creek, Arizona. Send comments to The Honorable Mark Schnepf, Mayor, Town of Queen Creek, P.O. Box 650, Queen Creek, Arizona 85242.					
Arizona	City of Tucson	Flowing Wells Wash and Navajo Wash.	Approximately 350 feet downstream of Fort Lowell Road.	*2,300	*2,296
			Just upstream of Fort Lowell Road	*2,301	*2,301
			Approximately 150 feet upstream of Oracle Road.	*2,329	*2,329
			At Altos Avenue	*2,348	*2,348
			Approximately 800 feet downstream of Mountain Avenue.	*2,368	*2,368
		Wilson Wash	Approximately 200 feet upstream of East Fort Lowell Road.	*2,369	*2,369
			At Olsen Avenue	None	*2,387
			At Glenn Street	None	*2,401
			Just upstream of Water Street	None	*2,416
			Just downstream of East Grant Road	None	*2,419
		Cemetery Wash	Approximately 70 feet upstream of Erma Avenue.	None	*2,310
			At Fairview Avenue	None	*2,316
			Approximately 70 feet downstream of Oracle Road.	*2,327	*2,327
			Just downstream of Stone Avenue	*2,339	*2,335
		Christmas Wash	Approximately 100 feet upstream of Roger Road.	*2,351	*2,351
			Just downstream of East Prince Road	*2,371	*2,373
			Just downstream of Fort Lowell Road	*2,396	*2,396
			Just downstream of Country Club Road	*2,402	*2,402
		Columbus Wash and Midway Wash.	Approximately 200 feet upstream of the confluence with Alvernon Wash.	*2,412	*2,412
			At the intersection of Desert Avenue and Blacklidge Drive.	*2,424	*2,421
			Approximately 50 feet upstream of Monte Vista Drive.	*2,433	*2,332
			Just upstream of East Grant Road	*2,453	*2,453
			Approximately 70 feet downstream of East Pima Street.	None	*2,472
			At East Speedway Boulevard	None	*2,490
			Just downstream of East Fifth Street	None	*2,505
		Van Buren Wash	At the confluence with Alamo Wash	None	*2,490
			Approximately 50 feet downstream of Waverly Place.	None	*2,493
			At East Pima Street	None	*2,500
			Just downstream of Bellevue Street	None	*2,513
			Just downstream of East Speedway Boulevard.	None	*2,518
		Sahuara Wash	At the confluence with Alamo Wash	None	*2,503
			Just upstream of East Pima Street	None	*2,509
			Approximately 50 feet downstream of Fairmount Street.	None	*2,516
			Just downstream of East Speedway Boulevard.	None	*2,522
		El Rio Wash	At the confluence with Silvercroft Wash	*2,309	*2,309
			Just downstream of El Rio Drive	None	*2,311
			Approximately 100 feet upstream of Riverview Boulevard.	None	*2,321
			Just downstream of Speedway Boulevard	None	*2,325
		Bronx Wash	At the confluence with Santa Cruz River	*2,318	*2,318
			Approximatley 150 feet upstream of Interstate Highway 10.	None	*2,333
			Just downstream of Miracle Mile Road	None	*2,356
			At Seventh Avenue	None	*2,373
			Just downstream of North First Avenue	None	*2,399
		High School Wash	At Second Avenue	*2,387	*2,387
			Just upstream of Martin Avenue	*2,425	*2,425
			At Wilson Avenue	*2,446	*2,444
			Approximately 150 feet upstream of Wilson Avenue.	*2,448	*2,446
		Rolling Hills Wash	At the confluence with Pantano Wash	*2,618	*2,618
			Just downstream of Sarnoff Drive	None	*2,653

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified
			Just upstream of Olympic Club Drive	None	*2,702
			At Cathy Avenue	None	*2,746
			Approximately 300 feet upstream of Kevin Drive.	None	*2,802
		Este Wash	At the confluence with Tanque Verde Creek.	None	*2,569
			Just upstream of Bonanza Avenue	None	*2,614
			Just downstream of Fifth Avenue	None	*2,656
			Approximatley 40 feet upstream of East 22nd Street.	None	*2,830
			Just downstream of Houghton Road	None	*2,843

Maps are available for review at the Department of Transportation, Engineering Division, Floodplain Section, 201 North Stone Avenue, Tucson, Arizona.

Send comments to the Honorable George Miller, Mayor, City of Tucson, 255 West Alameda, P.O. Box 27210, Tucson, Arizona 85710–7210.

California	City of Richmond, Contra Costa County.	Rheem Creek	At the confluence with San Pablo Bay	*6	*6
			Just upstream of Southern Pacific Railroad.	*16	*17
			At Atchison, Topeka and Santa Fe Railroad Bridge.	*23	*21

Maps are available for review at the Building Regulations Department, 2600 Barrett Avenue, Richmond, California.

Send comments to The Honorable George Livingston, Mayor, City of Richmond, 2600 Barrett Avenue, P.O. Box 40406, Richmond, California 94804.

California	City of Sacramento, Sacramento County.	American River	Just upstream of the confluence with the Sacramento River.	*31	*31
			Just upstream of State Highway 160	*32	*36
			Approximately 8,000 feet upstream of Business Interstate 80.	*37	*42
			Approximately 2,000 feet upstream of H Street.	*41	*46
			Approximately 700 feet downstream of Watt Avenue.	*46	*52
		American River (Detailed flooding adjacent to the River).	At the intersection of N Street and 28th Street.	None	*26
			At the intersection of W Street and 33rd Street.	None	*26
			At the intersection of 35th Street and Folsom Boulevard.	None	*28
			At the intersection of 41st Street and M Street.	None	*30
			At the intersection of D Street and 46th Street.	None	*32
			Just north of the intersection of Business Route 80 and the Southern Pacific Railroad.	None	*43
			At the intersection of Callister and Carlson Drive.	None	*44
			Approximately 3,000 feet south of the intersection of Arden Way and Challenge Way.	*34	*44
			At the intersection of Jordan Way and Jed Smith Drive.	None	*45
			At the intersection of Julliard Drive and Occidental Drive.	None	*48
			At the Mossglen Circle	None	*49
		Arcade Creek	Just upstream of the confluence with Natomas East Main Drainage Canal.	*32	*36
			Approximately 1,300 feet upstream of Rio Linda Boulevard.	*33	*37
			Just upstream of Marysville Boulevard	*39	*40
		Deep Ponding	At the intersection of Deer Gren Drive and Red Deer Way.	#1	*15

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified
			Approximately 1,000 feet west of the intersection of Archean Way and Deer Creek Drive.	None	*15
			At the intersection of Decathalon Circle and Archean Way.	*13	*15
			Approximately 500 feet west of the intersection of Deer Gren Drive and Red Deer Way.	None	*15
			Approximately 800 feet west of Black Trail Drive and Deer Gren Drive.	None	*15
			At the intersection of Deer Lake Drive and Evalita Way.	None	*15
			Approximately 300 feet east of the intersection of Deer Water Way and Sea Meadow Way.	*12	*15
			Approximately 800 feet southeast of the intersection of Deer Lake Drive and Sea Forest Way.	*12	*15
			At the intersection of Amina Way and Chinquapin Way.	*12	*15
			Approximately 2,000 feet southwest of the intersection of Emhardt Avenue and Franklin Boulevard.	None	*15
			Approximately 3,000 feet southwest of the intersection of Emhardt Avenue and Franklin Boulevard.	None	*15
			Approximately 400 feet southwest of the intersection of Emhardt Avenue and Franklin Boulevard.	None	*15
			Approximately 400 feet north of the intersection of Eddington Court and Euler Way.	#2	*15
			At the intersection of Deer Creek Drive and Decathlon Circle.	#2	*15
			Approximately 200 feet south of the intersection of Mack Road and Archean Way.	*14	*15
			South of the intersection of Deer Lake Drive and De la Vina Way.	*12	*15
			Approximately 300 feet east of the intersection of Deer Water Way and Deer Lake Drive.	*12	*15
			Approximately 50 feet southwest of the intersection of Valley Hi Drive and Chinquapin Way.	None	*15
			Approximately 800 feet south of the intersection of Deer Lake Drive and Sea Forest Way.	*12	*15
			At the intersection of Valley Hi Drive and Halker Way.	None	*15
			Approximately 1,000 feet south of the intersection of La Coruna Drive and Valley Hi Drive.	*13	*15
			Approximately 8,000 feet south of the intersection of 23rd Street and Craig Avenue.	*14	*15
			At the intersection of Meadowview Road and 24th Street.	None	*18
			At the intersection of Meadowgate Drive and Winner Way.	None	*18
			At the intersection of Golfview Drive and Mangrum Avenue.	None	*18
			At the intersection of Greenhaven Drive and Pocket Road.	None	*19
			At the intersection of Havenside Drive and Florin Road.	None	*19
			At the intersection of Riverside Boulevard and Park Riviera Drive.	None	*19
			At the intersection of 26th Avenue and Euclid Avenue.	None	*19

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified
			At the intersection of Freeport Boulevard and Wentworth Avenue.	None	*24
			At the intersection of 9th Avenue and 33rd Street.	None	*24
			At the intersection of P Street and 19th Street.	None	*24
			At the intersection of Truxel Road and West El Camino Avenue.	None	*33
			At the intersection of Del Paso Road and El Centro Road.	None	*33
			At the intersection of Orchard Lane and West El Camino Avenue.	None	*33
			At the intersection of Bercut Drive and Richards Boulevard.	None	*35
			At the intersection of North 12th Street and Sitka Street.	None	*35
			At the intersection of Bell Court Avenue and Englewood Street.	None	*36
			At the intersection of Taylor Street and Interstate Highway 880.	None	*36
			At the intersection of Norwood Avenue and Las Palmas Avenue.	None	*36
			Approximately 2,000 feet west of the intersection of 20th Street and A Street.	None	*38
			At the intersection of Response Road and Heritage Lane.	None	*41
		Dry Creek	Just upstream of the confluence with Natomas East Main Drainage Canal.	*33	*38
			Approximately 8,700 feet upstream of the confluence with Natomas East Main Drainage Canal.	*38	*38
		Lower Magpie Creek	Approximately 500 feet upstream of Natomas East Main Drainage Canal.	*20	*36
			Just downstream of Rio Linda Boulevard .	*33	*36
		Morrison Creek	Approximately 300 feet upstream of Elk Grove Florin Road.	None	*47
		Natomas East Drainage Canal.	Just upstream of the confluence with Natomas Main Drainage Canal.	*9	*33
			Just downstream of Elkhorn Boulevard	*12	*33
		Natomas East Main Drainage Canal.	Approximately 1,000 feet upstream of Northgate Boulevard.	*32	*35
			Just downstream of Interstate 880	*32	*37
			Approximately 2,500 feet upstream of Main Avenue.	*33	*38
			Just downstream of the City of Sacramento Corporate Limits.	*33	*38
		Natomas Main Drainage Canal.	Just upstream of Garden Highway	*8	*33
			Just upstream of Interstate 880	*9	*33
		Natomas West Drainage Canal.	Just upstream of the confluence with Natomas Main Drainage Canal.	*9	*33
			Just downstream of Del Paso Road	*12	*33
		Robla Creek	Just upstream of the confluence with Natomas East Main Drainage Canal.	*34	*36
			Just upstream of Rio Linda Boulevard	*39	*39
		Sacramento River	Approximately 4,000 feet downstream of Sleepy River Way.	*24	*26
			Approximately 200 feet upstream of Evros River Court.	*26	*27
			Approximately 1,200 feet upstream of 43rd Avenue.	*28	*29
			Approximately 1,000 feet upstream of Darnel Way.	*29	*30
			Approximately 3,000 feet upstream of I Street.	*31	*31
		Shallow Flooding	Approximately 500 feet southeast of the intersection of Arden Way and Challenge Way.	None	#2
			At the intersection of Woodbine Avenue and 47th Avenue.	None	#2

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified
			Approximately 500 feet north of the intersection of 47th Avenue and Romack Circle.	None	#3
			At the intersection of Kitchner Avenue and Zelda Way.	None	#3
			At the intersection of Edna Street and 24th Street.	None	#3
			At the intersection of Alvarado and Rivera Drive.	None	#2
			At the intersection of Arcade Boulevard and Clay Street.	None	#1
			Approximately 1,500 feet north of the intersection of Tunis Road and Barros Drive.	None	#2
			Approximately 800 feet south of the intersection of Arden Way and Evergreen Street.	None	#1
		Unionhouse Creek	Just upstream of the confluence with Morrison Creek.	*14	*15
			Approximately 400 feet downstream of Franklin Boulevard.	*15	*15

Maps are available for review at the Department of Public Works, Engineering Division, 927 10th Street, Room 100, Sacramento, California.

Send comments to The Honorable Joe Serna, Jr., Mayor, City of Sacramento, 915 I Street, Room 101, Sacramento, California 95814.

California	Sacramento County, Unincorporated Areas.	American River	Just downstream of Northrop Avenue	*38	*42
			Approximately 1,000 feet downstream of Watt Avenue.	*45	*52
			Approximately 14,000 feet upstream of Watt Avenue.	*53	*58
			Approximately 22,000 feet upstream of Watt Avenue.	*60	*60
			Approximately 7,000 feet downstream of the confluence with Carmichael Creek.	*64	*66
			Approximately 1,900 feet upstream of the confluence with Carmichael Creek.	*73	*76
			Approximately 5,500 feet upstream of the confluence with Carmichael Creek.	*75	*80
			Approximately 9,700 feet upstream of the confluence with Carmichael Creek.	*85	*86
			Approximately 500 feet downstream of Sunrise Boulevard.	*95	*92
			Approximately 6,600 feet upstream of Sunrise Boulevard.	*95	*102
			Approximately 300 feet downstream of Hazel Avenue.	*102	*106
			Approximately 300 feet upstream of Hazel Avenue.	*104	*118
			Just upstream of Nimbus Dam	*126	*126
		American River (Detailed Flooding Adjacent to the River).	At the intersection of Ethan Drive and El Camino Drive.	None	*41
			At the intersection of Keith Way and Violet Street.	None	*41
			At the intersection of Fair Oaks Boulevard and Munroe Street.	None	*44
			At the intersection of the Southern Pacific Railroad and Reith Court.	None	*49
			At the intersection of Watt Avenue and La Riviera Drive.	None	*50
			At the intersection of Manlove Road and Folsum Boulevard.	None	*50
			At the intersection of Estates Drive and American River Drive.	None	*55
			At the intersection of American River Drive and Whitehall Way.	None	*55

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified
			Approximately 200 feet east of the intersection of Hunstman Drive and Mayhew Road.	None	*56
			At the intersection of Mayhew Road and Folsum Road.	None	*56
			Approximately 7,000 feet downstream of Hazel Avenue, South Overbank.	None	*102
		American River (Shallow Flooding).	Approximately 8,000 feet upstream of Watt Avenue, south overbank.	None	#1
			Approximately 8,000 feet upstream of Watt Avenue and approximately 2,000 feet south of the southern overbank.	None	#1
			Approximately 8,000 feet upstream of Watt Avenue and south of Folsum Boulevard.	None	#2
			Approximately 9,000 feet upstream of Watt Avenue, South Overbank.	None	#3
			Approximately 9,000 feet upstream of Watt Avenue, and approximately 2,000 feet south of the southern overbank.	None	#3
			Approximately 1,500 feet downstream of the Nimbus Dam, South Overbank.	None	#2
		Carmichael Creek	Just upstream of the confluence with the American River.	*70	74
			Approximately 900 feet downstream of Palm Drive.	*74	*74
		Chicken Ranch Slough	Approximately 1,100 feet downstream of Hurley Way.	*33	*44
			Just downstream of Hernando Road	*43	*44
		Deep Ponding	At the intersection of Beach Lake Road and Interstate Route 5.	*14	*15
			At the intersection of the Western Pacific Railroad and Laguna Creek.	*14	*15
			At the intersection of the two unnamed roads approximately 6,000 feet east of Interstate Route 5.	None	*15
			Approximately 2,000 feet southeast of the intersection of Unionhouse Creek and the Western Pacific Railroad.	None	*15
			Approximately 200 feet southeast of the intersection of Unionhouse Creek and the Western Pacific Railroad.	#13	*15
			At the intersection of Stonecrest Avenue and Interstate Route 5.	None	*18
			Approximately 3,000 feet west of the intersection of Sacramento Boulevard and Franklin Boulevard.	None	*24
			Just east of the Franklin Boulevard Elkhorn Boulevard and Garden Parkway.	None	*33
			At the intersection of Delta Road and Walnut Road.	None	*33
			At the intersection of Elverta Road and Powerline Road.	None	*33
			At the intersection of El Centro Road and Elverta Road.	None	*33
			Approximately 2,500 feet east of the intersection of Elverta Road and Natomas East Drainage Canal.	None	*33
			At the intersection of Interstate Route 5 and School house Road.	None	*33
			At the intersection of Del Paso Road and Powerline Road.	None	*33
			At the intersection of Meister Way and Powerline Road.	None	*33
			At the intersection of the private drive and Elkhorn Boulevard.	None	*33
			Just west of the intersection of Garden Highway and San Juan Road.	None	*33

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified
			Approximately 2,000 feet west of the intersection of Elverta Road and the Western Pacific Railroad.	None	*33
			Just west of the intersection of Sorento Road and Del Paso Road.	None	*33
		Dry Creek	Approximately 800 feet west of 2nd Street, along 4th Street.	None	*38
			Approximately 500 feet downstream of Rio Linda Boulevard.	#2	*38
			Approximately 400 feet west of the intersection of Ascot Avenue and 2nd Avenue.	*35	*38
			At the intersection of Ascot Avenue and 2nd Avenue.	None	*38
			Approximately 1,000 feet south of the intersection of E Street and 2nd Avenue.	None	*38
		Dry Creek North	500 feet west of the confluence with Dry Creek.	None	*39
			Approximately 500 feet upstream of the confluence with Dry Creek, West Overbank.	None	*39
			Just upstream of Marysville Avenue, North Overbank.	None	*40
		Natomas East Drainage Canal.	Just upstream of Elkhorn Boulevard	*12	*33
			Just downstream of the Sacramento County Corporate Limits.	*16	*33
		Natomas East Main Drainage Canal.	Approximately 7,300 feet downstream of Elkhorn Avenue.	*33	*38
			Just downstream of the confluence with Natomas East Main Drainage Canal Tributary #3.	*33	*38
			Approximately 5,800 feet upstream of the confluence with Natomas East Main Drainage Canal Tributary #1.	*33	*39
		Natomas East Main Drainage Canal (Shallow Flooding).	Approximately 2,500 feet downstream of Elkhorn Boulevard, West Overbank.	None	#2
			At Elkhorn Avenue, West Overbank	None	#2
			Approximately 1,300 feet upstream of Elkhorn Boulevard, West Overbank.	None	#2
			Approximately 4,500 feet upstream of Elverta Road, West Overbank.	None	#2
		Natomas East Main Drainage Canal Tributary #1.	Just upstream of the confluence with Natomas East Main Drainage Canal.	*33	*38
			Just downstream of Rio Linda Boulevard .	*38	*38
		Natomas East Main Drainage Canal Tributary #2.	Just downstream of the Western Pacific Railroad.	*33	*38
			Just downstream of Elwyn Avenue	*38	*38
		Natomas East Main Drainage Canal Tributary #3.	Just upstream of the confluence with Natomas East Main Drainage Canal.	*33	*38
			Just downstream of West 2nd Street	*38	*38
		Natomas Main Drainage Canal.	Just upstream of the Sacramento County Corporate Limits.	*9	*33
		Natomas North Drainage Canal.	Approximately 2,000 feet downstream of the Access Road.	*23	*33
			Just downstream of the Sacramento County Corporate Limits.	*23	*33
		Natomas West Drainage Canal.	Just upstream of the confluence with Natomas Main Drainage Canal.	*9	*33
			Just downstream of Elkhorn Boulevard	*14	*33
		Sacramento River	Approximately 200 feet upstream of Freeport Bridge.	*24	*25
			Approximately 5,000 feet upstream of Freeport Bridge.	*24	*26
			Approximately 4,000 feet downstream of Interstate Route 80.	*30	*31
			Approximately 5,000 feet upstream of San Juan Road.	None	*32

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified
			Approximately 6,000 feet upstream of Powerline Road.	None	*33
			Approximately 5,000 feet downstream of Interstate Highway 5.	None	*35
			Approximately 4,500 feet downstream of Elkhorn Boulevard.	None	*36
			Just upstream of Elkhorn Boulevard	None	*37
			Approximately 5,000 feet upstream of Elverta Road.	None	*38
		Shallow Flooding	Approximately 1,000 feet northwest of the intersection of 47th Avenue and Franklin Avenue.	None	#1
		Strong Ranch Slough	Approximately 2,400 feet downstream of Howe Avenue.	*33	*44
			Just downstream of Wyda Way	*43	*44

Maps are available for review at the Department of Public Works, Water Resources Division, 827 Seventh Street, Room 301, Sacramento, California.

Send comments to The Honorable Grantland Johnson, Chairman, Sacramento County Board of Supervisors, 700 H Street, Room 2450, Sacramento, California 95814.

California	City of San Pablo, Contra Costa County.	Rheem Creek	Just upstream of Giant Highway	*24	*24
			Just upstream of 12th Street	*28	*28
		Along Giant Road from Standard Oil Tank to Rheem Creek.	Rheem Creek Bridge at Giant Road	*23	*26
			At Miner Avenue	*28	*28

Maps are available for review at the Building Department, Number One Alvarado Square, San Pablo, California.

Send comments to The Honorable Joe Gomes, Mayor, City of San Pablo, Number One Alvarado Square, San Pablo, California 94806.

California	Sutter County Unincorporated Areas.	Cross Canal (Distance upstream of confluence with Sacramento River).	Just upstream	None	*39
			Approximately 10,000 feet	None	*40
			Approximately 20,000 feet	None	*40
			Approximately 28,000 feet	None	*40
		Curry Creek	Approximately 1,500 feet downstream of the Union Pacific Railroad.	*38	*41
			Just upstream of the Union Pacific Railroad.	*38	*41
			Just downstream of Pleasant Grove Road	*39	*41
			Approximately 2,000 feet upstream of Pleasant Grove Road.	*40	*41
			Approximately 3,000 feet upstream of Pleasant Grove Road.	*41	*41
		Deep Ponding	At the intersection of Riego Road and Power Line Road.	None	*33
			At the intersection of Pacific Avenue and Riego Road.	None	*33
			At the intersection of Sankey Road and Power Line Road.	None	*33
			At the intersection of Sankey Road and Pacific Avenue.	None	*33
			Just south of the intersection of Howsley Road and Route 70/90.	None	*33
		Howsley Creek	Approximately 5,000 feet downstream of the Union Pacific Railroad.	*37	*40
			Approximately 1,000 feet downstream of the Union Pacific Railroad.	*38	*40
			Approximately 1,000 feet upstream of the Union Pacific Railroad.	*39	*40
			Approximately 3,800 feet upstream of the Union Pacific Railroad.	*41	*41
		Natomas East Main Drainage Canal.	Approximately 5,800 feet downstream of Riego Road.	None	*39
			Approximately 1,000 feet downstream of Riego Road.	None	*39

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified
			Approximately 5,000 feet upstream of Riego Road.	None	*40
			Approximately 7,500 feet upstream of Riego Road.	None	*40
		Natomas East Main Drainage Canal (Shallow Flooding).	Approximately 5,000 feet downstream of Riego Road, west overbank.	None	#3
			Approximately 3,000 feet downstream of Riego Road, west overbank.	None	#2
			Approximately 1,500 feet downstream of Riego Road, west overbank.	None	#2
			Approximately 2,000 feet upstream of Riego Road, west overbank.	None	*2
			Approximately 4,500 feet upstream of Riego Road, west overbank.	None	#3
			Approximately 6,000 feet upstream of Riego Road, west overbank.	None	#3
			Approximately 7,500 feet upstream of Riego Road, west overbank.	None	#1
			Approximately 1,000 feet downstream of Sankey Road.	None	#2
		Pleasant Grove Creek	Approximately 4,000 feet downstream of the Union Pacific Railroad.	*38	*41
			Approximately 500 feet upstream of the Union Pacific Railroad.	*39	*41
			Approximately 1,400 feet upstream of Fifield Road.	*41	*41
		Pleasant Grove Creek Canal (Shallow Flooding).	Just downstream of Sankey Road, west overbank.	None	#1
		Pleasant Grove Creek Bypass.	Approximately 2,000 feet downstream of the Union Pacific Railroad.	*38	*40
			Approximately 500 feet upstream of the Union Pacific Railroad.	*39	*40
			Approximately 2,500 feet upstream of the Union Pacific Railroad.	*40	*41
			Approximately 3,800 feet upstream of the Union Pacific Railroad.	*41	*41
		Pleasant Grove Creek Canal.	Just downstream of Howsley Road	*37	*40
			Approximately 400 feet upstream of Fifield Road.	*38	*41
			Approximately 200 feet downstream of Keys Road.	*38	*41
			Just downstream of Sankey Road	*38	*41
		Sacramento River	Approximately 5,000 feet downstream of Riego Road.	None	*38
			Approximately 1,000 feet upstream of the confluence with Cross Canal.	None	*39
		Yolo Bypass	Just downstream of the Freemont Weir ...	None	*36
			Just upstream of the Freemont Weir	None	*39

Maps are available for review at the Sutter County Department of Public Works, Planning Department, 1160 Civic Center Boulevard, Suite A, Yuba City, California.

Send comments to The Honorable Pete Licari, Chairperson, Sutter County Board of Supervisors, 1160 Civic Center Boulevard, Yuba City, California 95993.

California	City of West Sacramento Yolo County.	Sacramento River	Approximately 36,000 feet downstream of Tower Bridge.	None	*28
			Approximately 26,000 feet downstream of Tower Bridge.	None	*29
			Approximately 13,500 feet downstream of Tower Bridge.	None	*30
			Approximately 4,000 feet upstream of Tower Bridge.	None	*31
			Approximately 1,400 feet downstream of Interstate 80.	None	*31
		Deep Ponding	At the intersection of Bevan Avenue and Jefferson Boulevard.	None	*25

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified
			At the intersection of Interstate Highway 80/National Highway 40 and Harbor Boulevard.	None	*25
			Approximately 1,500 feet north of the intersection of Enterprise Boulevard and Lake Road.	None	*27
			At the intersection of F Street and Fifth Street.	None	*28
			At the intersection of Reed Avenue and Interstate Highway 80.	None	*30
		Sacramento River Deep Watership Channel.	Approximately 24,000 feet downstream of Jefferson Boulevard.	None	*25
			Approximately 32,000 feet downstream of Jefferson Boulevard.	None	*25
		Yolo Bypass	Approximately 17,000 feet downstream of Interstate Highway 80/National Highway 40.	None	*26
			Approximately 3,500 feet downstream of Interstate Highway 80/Interstate Highway 40.	None	*27

Maps are available for review at the Department of Public Works, Community Development Department, 1951 South River Road, West Sacramento, California.

Send comments to The Honorable Greg Potnick, Mayor, City of West Sacramento, P.O. Box 966, West Sacramento, California 95691.

Colorado	City of Greenwood Village, Arapahoe County.	Goldsmith Gulch	Approximately 650 feet downstream of East Orchard Road.	*5,643	*5,643
			Just upstream of East Orchard Road	*5,667	*5,670
			At the corporate limits just upstream of South Dayton Street.	*5,672	*5,670

Maps are available for review at the Planning and Zoning Department, City Hall, City of Greenwood Village, 6060 South Quebec Street, Greenwood Village, Colorado,

Send comments to The Honorable Rollin Barnard, Mayor, City of Greenwood Village, 6060 South Quebec Street, Greenwood Village, Colorado 80111–4591.

Colorado	Town of Wellington Larimer County.	Boxelder Creek	At County Road 62	*5,184	*5,180
			At Burlington Northern Railroad	*5,190	*5,185
			Just upstream of Cleveland Avenue	*5,200	*5,194
			Approximately 1,000 feet downstream of County Road 64.	*5,212	*5,205
			Approximately 450 feet upstream of County Road 64.	*5,218	*5,213

Maps are available for review at Town Hall, 3735 Cleveland Street, Wellington, Colorado.

Send comments to The Honorable Walt Kuemmerlin, Mayor, Town of Wellington, P.O. Box 127, Wellington, Colorado 80549.

Georgia	DeKalb County (Unincorporated Areas).	Peavine Creek	Approximately 1,800' upstream of Old Briarcliff Road.	*847	*846
			Approximately 400' downstream	*857	*856
			Approximately 100' downstream of Oxford Road.	*857	*858
			Approximately 100' downstream of Durand Falls Drive.	*923	*924

Send comments to Ms. Liane Levetan, Chief Executive Officer of DeKalb County, 1300 Commerce Drive, Decatur, Georgia 30030.

Idaho	Canyon County Unincorporated Areas.	Boise River	Approximately 1,300 feet upstream of the confluence with the Snake River.	None	*2,187
			Approximately 200 feet downstream of Hexon Road.	*2,211	*2,212
			Just downstream of Parma-Roswell Road (State Highway 18).	*2,224	*2,223
			Approximately 400 feet downstream of U.S. Highway 95.	*2,246	*2,245
			Just downstream of Notus-Greenleaf Road.	*2,297	*2,297

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified
			Approximately 100 feet upstream of Union Pacific Railroad.	*2,396	*2,396
			Approximately 900 feet downstream of Canyon-Ada County Line.	*2,451	*2,451
		Mill Slough	At the upstream corporate limits of City of Middleton.	*2,398	*2,398
			Approximately 1,700 feet upstream of the upstream Corporate Limits of City of Middleton.	None	*2,400
Maps are available for review at the Department of Planning and Zoning, 1115 Albany, Caldwell, Idaho.					
Send comments to The Honorable Walter Opp. Chairman, Canyon County Board of Commissioners, 1115 Albany, Caldwell, Idaho 83605.					
Idaho	City of Middleton, Canyon County.	Boise River	At the west corporate limits located approximately 1,300 feet to the west of Whiffin Lane.	*2,381	*2,380
			At the confluence of Mill Creek	*2,384	*2,383
Maps are available for review at City Hall, City of Middleton, 15 North Dewey, P.O. box 176, Middleton, Idaho.					
Send comments to The Honorable Leon Swigert, 15 North Dewey, P.O. Box 176, Middleton, Idaho 83644.					
Idaho	City of Notus, Canyon County.	Boise River	Approximately 6,100 feet downstream of Notus-Greenleaf Road.	None	*2,287
			At the intersection of Alpine Avenue and First Street.	*2,295	*2,295
			At Notus-Greenleaf Road	*2.297	*2,297
			Approximately 1,450 feet upstream of Notus-Greenleaf Road.	None	*2,300
Maps are available for review at City Hall, 375 Notus Road, Notus, Idaho.					
Send comments to the Honorable Greg Kadel, Major, City of Notus, 375 Notus Road, P.O. Box 257, Notus, Idaho 83656.					
Idaho	City of Parma, Canyon County.	Boise River	Along Main Street 1,200 feet west of Roswell Boulevard, just north of the railroad.	*2,219	*2.217
			At Parma Airport	*2,224	*2,223
			At the extreme southeastern corner of the City of Vista.	*2,228	*2,226
Maps are available for review at City Hall, 305 North Third Street, Parma, Idaho.					
Send comments to The Honorable Patricia Romanko, Mayor, City of Parma, 305 North Third Street, P.O. Box 608, Parma, Idaho 83660.					
Mississippi	Smith County (Unincorporated Areas).	Lyon Creek	At confluence with Leaf River	None	*250
			Approximately 2.4 miles upstream of State Highway 37.	None	*289
		Tributary of Lyon Creek	At confluence with Lyon Creek	None	*251
			Approximately 1,250 feet upstream of State Highway 28.	None	*297
		Leaf River	Approximately 1.0 mile downstream of confluence of Lyon Creek.	None	*247
			Approximately 1.4 miles upstream of State Highway 28.	None	*257
Maps available for inspection at the Smith County Office Building, Tax Assessor's Office, Raleigh, Mississippi.					
Send comments to Mr. Benjie Ford, President of the Smith County Board of Supervisors, P.O. Box 792, Taylorsville, Mississippi 39168.					
Mississippi	Taylorsville, Town (Smith County).	Tributary of Lyon Creek	Approximately 1,600 feet downstream of Norris Street.	None	*257
			Approximately 200 feet upstream of the Illinois Central Railroad.	None	*277
		Leaf River	Affecting southeast corner	None	*251
			Affecting northeast corner	None	*257
Maps available for inspection at the Taylorsville Town Hall, Building Official's Office, 125 Eaton Street, Taylorsville, Mississippi.					
Send comments to The Honorable Dennis Robinson, Mayor of the Town of Taylorsville, Smith County, P.O. Box 385, Taylorsville, Mississippi 39168.					
Missouri	City of Herculaneum, Jefferson County.	Bonacher Creek	Just upstream of Gravel Road	*418	*418

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified
			Just upstream of relocated Coachman Drive.	*419	*425
			At the confluence of Bonacher Tributary ..	*429	*429
Maps are available for review at No. 1 Parkwood Court, Herculaneum, Missouri.					
Send comments to The Honorable Tom Robart, Mayor, City of Herculaneum, No. 1 Parkwood Court, Herculaneum, Missiouri 63048.					
Missouri	City of Rolla, Phelps County.	Burgher Branch	Approximately 70 feet upstream of the corporate limits.	*967	*967
			Approximately 100 feet upstream of Soest Road.	*990	*993
			Approximately 120 feet upstream of 10th Street.	*1,015	*1,015
			Just downstream of Old St. James Road .	*1,057	*1,058
			Approximately 0.57 mile upstream of old St. James Road.	N/A	*1,085
		East Fork of Burgher Branch.	At the confluence with Burgher Branch	*987	*987
			Approximately 60 feet upstream of Soest Road.	*992	*991
			Approximately 80 feet upstream of 10th Street.	*1,022	*1,024
		Burgher Branch Tributary .	Approximately 270 Feet upstream of the confluence with Burgher Branch.	*1,000	*1,002
			Just downstream of Holloway Street	*1,044	*1,046
			Approximately 100 feet downstream of Iowa Street.	*1,055	*1,055
		Dutrocarter Creek	At the corporate limits, located approximately 900 feet downstream of State Highway "0".	*976	*977
			Just upstream of Pete Avenue	*1,030	*1,031
			Approximately 100 feet upstream of State Highway 72.	*1,050	*1,050
			Approximately 80 feet downstream of Burlington Northern Railway.	*1,064	*1,069
		Deible Branch	At the confluence with Dutrocarter Creek	None	*980
			Just upstream of State Highway "0"	None	*985
			At the corporate limits located approximately 0.25 mile upstream of State Highway "0".	None	*992
		Spring Creek Tributary	At the limit of detailed study located at the downstream most corporate limits.	*963	*963
			Just downstream of Meadow Brook Drive	*973	*973
			Approximately 50 feet downstream of Vichy Road.	*990	*991
			At the upstream limit of detailed study, located approximately 0.4 mile upstream of Vichy Road.	N/A	*1,019
Maps are available for review at City Hall, City of Rolla, 102 West 9th Street, Rolla, Missouri.					
Send comments to the Honorable Floyd Ferrell, Mayor, City of Rolla, 102 West 9th Street, P.O. Box 979, Rolla, Missouri 65401.					
Missouri	City of West Plains, Howell County.	North Fork Howell Creek ..	At the confluence with Howell Creek	*964	*964
			Just upstream of Thornburgh Street	*970	*969
			Approximately 1,700 feet upstream of Thornburgh Street (streamside/landside of levee).	*973/N/A	*973/*972
			Approximately 600 feet downstream of Burlington Northern Railroad (streamside/landside of levee).	*976/N/A	*975/*972
			Just downstream of Burlington Northern Railroad.	*978	*976
		South Fork Howell Creek .	Approximately 2,700 feet upstream of Outer Road.	*1,018	*1,018
			Just upstream of Unnamed Road	None	*1,023
			Approximately 800 feet upstream of Unnamed Road.	None	*1,026
		Burton Branch	Approximately 1,000 feet upstream of Davis Drive.	*1,011	*1,011

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified
			Approximately 600 feet upstream of Harrison Road.	*1,022	*1,021
			Approximately 4,000 feet upstream of U.S. Highway 63.	None	*1,031

Maps are available for review at the City Hall, 1910 Holiday Lane, West Plains, Missouri.

Send comments to The Honorable Harry B. Kelly, Mayor, City of West Plains, P.O. Box 710, West Plains, Missouri 65775.

North Carolina	Charlotte, City, Mecklenburg County.	Taggart Creek	Approximately 1,000 feet upstream of the confluence with Sugar Irwin Creek.	*605	*604
			Approximately 300 feet downstream of Mulberry Church Road.	*686	*687

Maps available at Charlotte City Hall, 600 East 4th Street, Charlotte, North Carolina 28202.

Send comments to the Honorable Richard Vinroot, Mayor of the City of Charlotte, Mecklenburg County, 600 East 4th Street, Charlotte, North Carolina 28202.

North Carolina	Winston-Salem, City (Forsyth County).	Hanes Park Branch	Just downstream of Buena Vista Road	*808	*808
			Approximately 1,300 feet upstream of Robinhood Road.	*829	*830
		Monarcas Creek	Just downstream of Bethabara Road	*801	*801
			Just upstream of Bethabara Road	*808	*807
			Just downstream of North Cliffe Drive	*822	*822
			Just upstream of North Cliffe Drive	*823	*829
			Just upstream of University Parkway	*840	*840

Maps are available for inspection at the Building Inspector's Office, 100 Liberty Walk, Winston-Salem, North Carolina.

Send comment to The Honorable Martha Wood, Mayor of the City of Winston-Salem, Forsyth County, P.O. 2511, Winston-Salem, North Carolina 27102–2511.

North Dakota	City of Forest River, Walsh County.	Forest River	Approximately 2,400 feet downstream of Burlington Northern Railroad.	*860	*858
			Just upstream of County Road 6	*865	*863
			Approximately 3,500 feet upstream of Soo Line Railroad.	*868	*865

Maps are available for review at the First American Bank, Main Street, Forest River, North Dakota.

Send comments to The Honorable Lee Ferguson, Mayor, City of Forest River, P.O. Box 128, Forest River, North Dakota 58233.

North Dakota	City of Forest River, Walsh County.	Forest River	Approximately 2,400 feet downstream of Burlington Northern Railroad.	*860	*858
			Just upstream of County Road 6	*865	*863
			Approximately 3,500 feet upstream of Soo Line Railroad.	*868	*865

Maps are available for review at the First American Bank, Main Street, Forest River, North Dakota.

Send comments to The Honorable Lee Ferguson, Mayor, City of Forest River, P.O. Box 128, Forest River, North Dakota 58233.

North Dakota	City of Grafton, Walsh County.	Park River	At Field Road extended, approximately 6,660 feet downstream of Burgamott Avenue.	None	*824
			At Burgamott Avenue	None	*824
			Just downstream of Hill Avenue extended	None	*830
			Approximately 8,020 feet upstream of Kittson Avenue.	None	*831

Maps are available for review at the Department of Public Works, City of Grafton, 5 East Fourth Street, Rolla, North Dakota.

Send comments to The Honorable Jeff Peterson, Mayor, City of Grafton, 5 East Fourth Street, P.O. Box 578, Grafton, North Dakota 58237.

Rhode Island	Johnston, Town, Providence Co.	Pocasset River	At downstream of corporate limits	*81	*76
			0.8 mile upstream of Interstate Route 295 (southbound).	None	*255
		Woonasquatucket River	Approximately 250 feet upstream of Manton Avenue.	*70	*69
			At upstream corporate limits	*116	*115

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified
Maps are available for inspection at the Johnston Town Hall, 1385 Harford Avenue, Johnston, Rhode Island. Send comments to The Honorable Ralph R. Arusso, Mayor of the Town of Johnston, Providence County, 1385 Harford Avenue, Johnston, Rhode Island 02919.					
Rhode Island	North Smithfield, Town (Providence County).	Crook Fall Brook	At confluence with Blackstone River	None	*116
			Approximately 630′ upstream of Old Great Road.	None	*279
Maps are available for inspection at the Town Clerk's Office, Memorial Town Building, 1 Main Street, Slatersville, Rhode Island. Send comments to Mr. Kenneth M. Bianchi, Town of North Smithfield Administrator, Providence County, Memorial Town Building, 1 Main Street, Slatersville, Rhode Island 02876.					
Tennessee	Anderson County (Unincorporated Areas).	Hinds Creek	Approximately 0.83 mile downstream of confluence of Buffalo Creek.	None	*836
			At downstream side of Mountain Road	None	*848
		Buffalo Creek	At confluence with Hinds Creek	None	*840
			Approximately 0.48 mile upstream of Park Road.	None	*971
Maps are available for inspection at the Planning and Zoning Office, Anderson County Courthouse, 100 North Main Street, Clinton, Tennessee. Send comments to Mr. David Bolling, Anderson County Executive, Anderson County Courthouse, 100 North Main Street, Room 208, Clinton, Tennessee 37716.					
Tennessee	Norris, City (Anderson County).	Buffalo Creek	At a point approximately 0.4 mile downstream of U.S. Route 441.	None	*905
			Approximately 225 feet upstream of State Route 61.	None	*930
Maps are available for inspection at the Norris Community Building, 20 Chestnut Drive, Norris, Tennessee. Send comments to The Honorable Richard Dyer, Mayor of the City of Norris, Anderson County, Norris Community Building, 20 Chestnut Drive, Norris, Tennessee 37828.					
Utah	Carbon County	Price River	At the confluence with Cardinal Wash	*5,462	*5,462
			Approximately 200 feet upstream of 400 East Street.	*5,486	*5,490
			Approximately 500 feet, downstream of the confluence of Gordon Creek.	*5,586	*5,586
			Approximately 2,800 feet upstream of Third West Street and North of Highway 6.	None	*5,517
		Meads Wash	At the upstream side of Highway 6	*5,478	*5,487
			At the Denver and Rio Grande Western Railroad.	*5,496	*5,499
			Approximately 2.3 miles upstream of the Denver and Rio Grande Western Railroad.	None	*5,672
Maps are available for review at the Planning and Zoning Department, 65 South First East, Price, Utah. Send comments to The Honorable Neil Breinholt, Chairman, Carbon County Board of Commissioners, 120 East Main Street, Price, Utah 84501					
Utah	City of Price, Carbon County.	Price River	Approximately 400 feet downstream of Carbon Avenue.	*5,492	*5,498
			Just downstream of 300 West Street	*5,506	*5,506
			Approximately 600 feet upstream of 100 North Street.	*5,524	*5,530
			At the intersection of 300 South Street and Seventh West Street.	*5,517	*5,517
			Approximately 200 feet north of the intersection of 100 North Street and Price River Drive.	None	*5,528
		Meads Wash	Approximately 1,050 feet downstream of 400 South Street.	*5,500	*5,502
			Just upstream of 100 North Street	*5,560	*5,570
			Approximately 1,300 feet upstream of 800 North Street.	*5,657	*5,660

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified
Maps are available for review at the Department of Public Works, 432 West 600 South, Price, Utah. Send comments to The Honorable Lou Colosimo, Mayor, City of Price, 185 East Main Street, Price, Utah 84501.					
Utah	City of St. George, Washington County.	Fort Pierce Wash	Approximately 3,300 feet downstream of Fort Pierce Drive.	*2,552	*2,552
			Approximately 1,400 feet downstream of Fort Pierce Drive.	*2,556	*2,561
			Approximately 100 feet upstream of Fort Pierce Drive.	*2,566	*2,569
			Approximately 2,350 feet upstream of Fort Pierce Drive.	*2,578	*2,578
Maps are available for review at the Office of the City Engineer, 175 East 200 North, St. George, Utah. Send comments to The Honorable Karl F. Brooks, Mayor, City of St. George, 175 East 200 North, St. George, Utah 84770.					
Virginia	Bristol, City, Independent City.	Little Creek	Upstream side of State Street	*1,672	*1,670
			0.85 mile upstream of Church Street	*1,726	*1,727
Maps are available for inspection at the Department of Community Development and Planning, 1201 Oakview Avenue, Bristol, Virginia. Send comments to The Honorable James Richter, Mayor of the City of Bristol, 497 Cumberland Avenue, Bristol, Virginia 24201.					
Virginia	Pulaski, Town, Pulaski County.	Peak Creek	Approximately 0.6 mile downstream of the confluence of Thorn Spring Branch.	None	*1,865
			At upstream side of Commerce Street	*1,933	*1,934
		Tract Fork	At the confluence with Peak Creek	*1,917	*1,918
			At upstream side of Altoona Road	*1,930	*1,929
		Sproules Run	At the confluence with Peak Creek	*1,908	*1,909
			Approximately 0.10 mile downstream of U.S. Route 11 (5th Street).	*1,901	*1,904
Maps are available for inspection at the Town Engineer's Office, 42 1st Street, N.W., Pulaski, Virginia. Send comments to The Honorable Gary Hancock, Mayor of the Town of Pulaski, Pulaski County, P.O. Box 660, Pulaski, Virginia 24301.					

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Issued: March 9, 1993.

Francis W. Reilly,

Deputy Administrator, Federal Insurance Administration.

[FR Doc. 93-6106 Filed 3-16-93; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Chapter I

[MM Docket No. 93-48, FCC 93-123]

Radio Broadcast Services; Children's Television Programming

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; notice of inquiry.

SUMMARY: This Notice of Inquiry seeks comment on issues relating to children's programming by broadcast television licensees. The Notice discusses licensees' difficulty in understanding and implementing the Commission's requirements concerning children's television. The Notice seeks comment on whether and in what manner the Commission's Rules might be revised to more clearly identify the levels and types of programming necessary in the long term to adequately serve the educational and informational needs of children. The Notice responds to the enactment of the Children's Television Act of 1990 by Congress. The Commission issued the Notice on its own motion.

DATES: Comments are due by April 23, 1993, and reply comments are due by May 24, 1993.

ADDRESSES: Federal Communications Commission, 1919 M Street NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Barbara A. Kreisman, Mass Media Bureau, Video Services Division, (202) 632-6993.

SUPPLEMENTARY INFORMATION: This is the Commission's Notice of Inquiry in MM Docket No. 93-48, adopted and released on March 2, 1993.

The complete text of this Notice of Proposed Rulemaking is available for inspection and copying during normal business hours in the FCC Reference Center, room 239, at the Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554, and may also be purchased from the Commission's copy contractor, International Transcription Service, at (202) 857-3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

Notice of Proposed Rulemaking

1. The Commission adopted policies and rules implementing the Children's Television Act of 1990[1] (CTA) in Report and Order in FCC 91-113, released on April 9, 1991, 56 FR 19611 (April 29, 1991), recon. granted in part, MO&O in FCC 91-248, released on August 26, 1991, 56 FR 42707 (August 29, 1991). The CTA and our implementing rules impose both an affirmative children's programming obligation on broadcasters and restrict the amount of commercial time that may be placed in children's programming. We have now reviewed more than 320 television license renewal applications subject to the CTA's requirements. The majority of these applications demonstrated adequate efforts to meet the

[1] Pub. L. No. 101-437, 104 Stat. 996-1000, codified at 47 U.S.C. Sections 303a, 303b, 394.

programming needs of children given that very limited portions of the applicants' license terms were subject to the CTA.[2] At the same time, however, we want to ensure that broadcasters having significantly longer periods remaining in their license terms be aware of Congress' intent to expand and improve the level of educational and informational programming directed at children. Accordingly, we initiate this proceeding to seek comment on whether and in what manner our rules and policies might be revised to more clearly identify the levels and types of programming necessary in the long term to adequately serve the educational and informational needs of children.

2. **Background.** The CTA's objectives were to increase the amount of educational and informational broadcast television programming available to children and to protect children from over-commercialization of programming.[3] A review of the CTA's legislative history reflects Congressional concern as to the amount and type of children's television programming and the limited time periods during which children's programming is broadcast. Congress explained that time periods designated for "children's programming" are often filled with reruns of adult or family comedy, variety, or dramatic programs.[4] Congress noted that, on the average, each of the networks air an after-school special one day a month during the school year and that independent stations tend to offer programs to children during the week that consist of animated cartoons, often with commercial products associated with them.[5]

3. Accordingly, Congress directed the Commission to review at renewal, among other things, whether television broadcasters have served the educational and informational needs of children.[6] The legislative history of the CTA suggests that programming that furthers children's positive development in any way, including serving their cognitive/intellectual or social/emotional needs, could qualify as part of broadcasters' efforts to meet this obligation. Examples of such material were given and included programs like "Fat Albert and the Cosby Kids", which dealt in a meaningful way for children with issues such as drugs, divorce, friendship and child abuse.[7] For additional examples see the Commission's Report and Order, *supra*, at para. 26.

4. Pursuant to our rules implementing the objectives of the CTA,[8] starting on October 1, 1991, television station licensees were required to respond to the educational and informational needs of children 16 years of age and under through their stations' overall programming, including programming specifically designed to serve such needs. In accordance with the CTA's legislative history, however, no minimum amount of such programming has been prescribed. Nor has any programming that does, in fact, serve children's educational and informational needs been excluded from consideration in demonstrating compliance with the CTA. Short segment programming, including vignettes and public service announcements, live action, animated and general audience programs, whether network, syndicated or locally produced, can all be relied upon as contributing to a licensee's programming efforts on behalf of children. Thus, as Congress intended, television licensees enjoy substantial discretion both in determining whether a particular program qualifies as educational and informational and in fixing the level or amount of children's programming that it will air. Plainly, however, that discretion is not unlimited. We have, for example, stated that some standard-length programs specifically designed to serve the educational and informational needs of children must be aired to fulfill a licensee's obligations under the CTA.[9] Moreover, it seems clear that Congress intended, in adopting the CTA, to increase the amount of educational and informational programming aimed expressly at the child audience.[10]

5. **Discussion.** At the outset, we acknowledge the substantial difficulty inherent in adequately particularizing broadcasters' children's programming obligations while also affording licensees the discretion that Congress intended to reserve to them in meeting that obligation. To this point, consistent with Congress' express preference for avoiding quantitative standards and for relying on licensee judgment in meeting children's programming needs, we have consistently favored statements of purpose over specific regulatory requirements. We continue to believe that licensees must, for the most part, themselves define the appropriate scope of their service to children in their communities. At the same time, of course, we are obliged to review the adequacy of that service at renewal. In light of our experience in reviewing renewal applications that are subject to the CTA's programming requirements and in evaluating the efforts licensees have documented to meet those requirements, we believe that refinement of our implementation of the CTA may be warranted.

6. For example, an informal comparison of the children's television programming listed in recently filed renewal application exhibits with Congressional findings set forth in the CTA's legislative history, suggests little change in available programming that addresses the needs of the child audience.[11] The number of hours and time slots devoted to children's programming do not appear to have substantially changed. Further, with few exceptions, the "educational and informational" programming broadcast appears to be those same few programs set forth in the legislative history for illustrative purposes. Moreover, while practically all licensees filing renewal applications in the current renewal cycle have identified some regularly scheduled, standard-length children's programming aired during their license terms, the amount of such programming is, in some cases, very limited.[12] Many of these licensees place substantial reliance on short-segment vignettes and public service announcements to satisfy their CTA obligations.[13] Finally, some

[2] Television license renewal applications filed since February 1992 have been reviewed under the CTA criteria. To date, therefore, renewal applicants have, at most, had one year of their five year license terms subject to CTA requirements.

[3] Children's Television Act of 1989, Senate Committee on Commerce, Science, and Transportation, S. Rep. No. 227, 101st Cong., 1st Sess. 22 (1989) (Senate Report).

[4] *Senate Report* at 8.

[5] *Id.*

[6] For purposes of the programming obligations imposed by the CTA, the Commission has defined children as individuals aged 16 or under.

[7] See Senate Report at 7.

[8] The rules are 47 C.F.R. Sections 73.520 and 73.671.

[9] Children's Television Reconsideration Order, 6 FCC Rcd 5093, 5101 (1991).

[10] See, *e.g.*, Senate Report at 1.

[11] We acknowledge the possibility that program suppliers may not yet have made available significant amounts of standard-length programming expressly directed to the educational and informational needs of children because the obligation to air it and the demand generated by that obligation are relatively recent developments. To the extent that this "supply shortage" explains the slow growth to date in "core" children's programming by broadcasters, we seek specific comment on whether the supply of such "core" programming will resolve itself as long as broadcasters clearly understand and express their children's programming needs.

[12] "Standard-length" programs are generally understood to be at least one half-hour long. To date, some licensees filing renewal applications in the current renewal cycle identified as little as one such standard-length "core" children's program aired on a weekly basis.

[13] Other activities in support of children's programming, including support for other stations' broadcast efforts or non-broadcast activities that assist or supplement broadcast material, may also

licensees are proffering such animated programs as "The Flintstones" and "G.I. Joe" as informational and educational, asserting that such programs include a variety of generalized pro-social themes.

7. We do not believe that this level of performance is, in the long term, consistent with the objectives underlying the CTA. We wish to make clear that we do not attribute the programming performance suggested by our renewal experience to date to any unwillingness to comply or any intentional disregard for their programming responsibilities on the part of broadcasters. Rather, we believe that broadcasters may remain uncertain as to the scope of their programming obligations and that this uncertainty may largely explain the apparent lack of growth in children's programming. Indeed, where the CTA has imposed specific, palpable performance standards—as it has with respect to commercial time limits in children's programming—broadcasters' compliance rate appears to be quite high.[14] We conclude that both the Commission and licensees might benefit from futher efforts to exemplify and define the CTA's programming requirements. Accordingly, we believe it is appropriate to again address some of the more difficult issues raised by the statute and out rules and to inquire how we might better guide broadcasters in discharging their children's programming obligations. We seek comments, therefore, on the broad range of implementation and compliance issues suggested by the foregoing discussion as well as on the following, specific preliminary views.

8. First, we believe that broadcasters should place their primary reliance in establishing compliance with the CTA on standard-length programming that is specifically designed to serve the educational and informational needs of children, and should accord short-segment programming secondary importance in this regard. Standard-length programming is scheduled and therefore available to the child audience at predictable times. This is especially important to parents who may be more directly involved in screening the television viewing of younger children. Second, to avoid definitional problems, we believe it may be appropriate to specify that the primary objective of qualifying "core" children's programming should be educational and informational, with entertainment as a secondary goal. In other words, we believe broadcasters should focus on programming that has as its *explicit* purpose service to the educational and informational needs of children, with the implicit purpose of entertainment, rather than the converse.[15] This may help to avoid potentially misplaced reliance by licensees on entertainment programming that is asserted to be informational or educational based principally on a "wrap-around" pro-social message.[16]

9. We also seek comment on whether, to provide clearer guidance to licensees and to facilitate renewal review by the Commission, we should adopt staff processing guidelines specifying an amount and type of children's programming that would permit staff grant of a license renewal application meeting the guideline, while applications not satisfying the processing criteria would be subject to further review. If so, what should such guidelines be (*e.g.*, one hour per week or one hour during the week and one hour during the weekend of standard-length, informational and educational programming)? How should a standard be affected by the amount, scheduling and quality of the standard-length material that is aired or by the broadcast of other programming that Congress acknowledged could contribute to meeting children's needs, but that does so indirectly (*e.g.*, family programming or children's entertainment programming that carries a secondary educational, ethical or information message)? Would such an approach violate Congress' expressed intention to avoid a minimum quantitative programming test? In this latter regard, it should be noted that failure to meet the guideline would not necessarily result in any sanction or nonrenewal; rather it would determine the intensity of Commission scrutiny. On the other hand, we have acknowledged, in other contexts, that processing guidelines in the renewal area can take on the force of a rule, at least in the perception of licensees.[17]

10. We seek comment on the foregoing matters and on any related issues that may assist us in better implementing the requirements and underlying objectives of the Children's Television Act.

Procedural Matters

11. Pursuant to applicable procedures set forth in sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415 and 1.419, interested parties may file comments on or before April 23, 1993, and reply comments on or before May 24, 1993. All relevant and timely comments will be considered by the Commission before taking further action in this proceeding. To file formally in this proceeding, participants must file an original and four copies of all comments, reply comment and supporting comments. If participants want each Commissioner to receive a personal copy of their comments, an original and nine copies must be filed. Comments and reply comments should be sent to Office of the Secretary, Federal Communications Commission. Washington, DC 20554.

12. For further information concerning this Notice of Inquiry, contact Barbara A. Kreisman (202–632-6993), Mass Media Bureau, Video Services. Division, Federal Communications Commission, Washington, DC 20554.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

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BILLING CODE 6712–01–M

be relied upon in meeting a licensee's children's programming obligations.

[14] Commission review of advertising practices in children's programming have so far found compliance rates exceeding 90%. For example, in January 1992, the Commission conducted field audits of some 141 television stations and 27 cable systems to determine compliance with the commercial time restrictions. All but 10 of the stations or systems sampled clearly complied with the limitations, a better than 94% overall compliance rate. More recently, the Commission conducted a further audit of commercial time use in children's programming by television stations and cable systems, the results of which are not yet final. Preliminary figures, however, again suggest that overall compliance rates will exceed 90%.

[15] This clarification should help licensees and the Commission to avoid the difficult and subjective task of distinguishing the relative educational merits of some programs identified approvingly in the legislative history (*e.g.*, Pee Wee's Playhouse, The Smurfs, Winnie the Pooh, see Senate Report at 7–8) and those listed in some renewal applications as educational (*e.g.*, The Flintstones or The Jetsons).

[16] "Wrap around" refers to the practice of inserting a pro-social message at the beginning and end of an "entertainment" program in an effort to make it qualify as "educational and informational." We do not suggest, of course that entertainment programming with a secondary informational or educational message cannot contribute to a broadcaster's children's programming efforts. Such material cannot, however, satisfy the "core" standard-length programming element of the programming obligation imposed by the CTA.

[17] See, *e.g.*, Notice of Proposed Rulemaking in MM Docket No. 83–313 (Television Deregulation), 94 FCC 2d 678, 696 (1983)

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47 CFR Part 1

[CC Docket No. 92–275, FCC 92–514]

New Service Reporting Requirements Under Price Cap Regulation

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Under its notice, the Commission proposed to reduce the frequency with which price cap carriers must file certain reports regarding their offering of new interstate services. The Commission also proposed to clarify the duration of these reporting requirements. The Commission made these proposals because it tentatively concluded that substitution of annual reports for the current quarterly reports would be equally useful and less of a burden on both these carriers and the Commission. Accordingly, the Commission sought comment of its proposals and invited parties to submit alternative proposals.

DATES: Comments must be filed on or before March 29, 1993, and reply comments must be filed on or before April 13, 1993.

FOR FURTHER INFORMATION CONTACT: Allen A. Barna, Common Carrier Bureau, (202) 632–6917 or Mary Brown, Common Carrier Bureau (202) 632–6387.

SUPPLEMENTARY INFORMATION:

Background

This is a summary of the Commission's notice of proposed rulemaking, 8 FCC Rcd 438 (1993) (notice), adopted November 17, 1992, and released January 19, 1993. The notice proposes certain changes in the obligations of dominant interexchange carriers and certain local exchange carriers to file reports regarding their new services. In a subsequent Public Notice (DA 93–289), released March 11, 1993, the Commission extended the comment and reply comment periods to the dates listed above. For dominant interexchange carriers, the Commission established the current quarterly reporting requirement in its Report and Order and Second Further Notice, 4 FCC Rcd 2873, 3127 (para. 528) (1989); 54 FR 19836, 19846 [May 8, 1989]. For local exchange carriers subject to price cap regulation, the Commission established a similar reporting requirement in its Second Report and Order, 5 FCC Rcd 6786, 6825 (para. 321) (1990); 55 42375 [October 19, 1990].

The collection of information proposed in the notice has been submitted to the Office of Management and Budget for review under section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3504(h)). Copies of this submission may be purchased from the Commission's copy contractor, International Transcription Service, Inc. 2100 M Street, NW., suite 140, Washington, DC 20037. Persons wishing to comment on this collection of information should direct their comments to Jonas Neihardt, (202) 395–4814, Office of Management and Budget, room 3235 NEOB, Washington, DC 20503. A copy of any comments filed with the Office of Management and Budget should also be sent to the following address at the Commission: Federal Communications Commission, Paperwork Reduction Project, Records Management Division, 1919 M Street, NW., room 416, Washington, DC 20554. For further information on these matters, contact Judy Boley, (202) 632–7513.

Title: Price Cap Rules.

OMB Number: 3060–0421.

Action: Proposed Revision.

Respondents: Businesses or others for profit.

Frequency of Proposed Response: Annually.

Estimated Annual Burden: 13 responses; 20 hours per response; 260 hours total

Needs and Uses: The notice solicits public comment on the Commission's proposal to reduce the frequency with which price cap carriers must file certain reports regarding their offering of new interstate services. Such carriers are currently required to file quarterly reports comparing actual revenues and costs for these services with earlier projections. The Commission also proposes to clarify the duration of this reporting requirement.

Additional Information: The full text of the notice is available for inspection and copying during normal business hours in the Commission's Reference Center (room 230), 1919 M Street, NW., Washington, DC. The complete text of the notice may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037. Interested parties may file formal comments in accordance with the above pleading cycle. Informal comments may be filed with the Chief, Common Carrier Bureau, Federal Communications Commission, 1919 M Street, NW., room 500, Washington, DC 20554.

Summary of Notice of Proposed Rulemaking

1. By this notice, the Commission proposed to reduce the frequency with which price cap carriers must file certain reports regarding their offering of new interstate services. Such carriers are currently required to file quarterly reports comparing their actual results with their earlier forecasts. The Commission tentatively concluded that this requirement should be modified to require annual rather than quarterly reports. The Commission also proposed to clarify the duration of this reporting requirement.

2. While the information contained in these quarterly reports is useful for evaluation purposes, the Commission tentatively concluded that annual reports that separately report on each new service would be equally useful and less burdensome on both carriers and the Commission. Also, to assure that the Commission will continue to receive these reports for a reasonable period after such new services are introduced, the Commission tentatively concluded that the obligation of price cap carriers to file these new service reports should terminate after the third such report. The Commission seeks comment on these proposals and invites parties to submit alternate proposals.

Initial Regulatory Flexibility Analysis

3. In its notice, the Commission certified that the Regulatory Flexibility Act of 1980 does not apply to these proposed changes to the rules regarding new service reports by price cap carriers because such changes, if promulgated, would not have a significant economic impact on a substantial number of small business entities as defined by section 601(3) of that Act. Carriers that would be affected by such changes generally are large corporations or affiliates of such corporations.

4. The Secretary shall send a copy of the notice, including the Commission's Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with section 603(a) of the Regulatory Flexibility Act (Pub. L. No. 96–354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.* 1981)).

Ex Parte

5. This is a non-restricted notice and comment rulemaking proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in Commission rules. See generally, 47 CFR 1.1202, 1.1203, and 1.1206(a).

Ordering Clauses

6. Accordingly, *it is ordered*, That, pursuant to sections 1, 4, 201–205, 218, and 403 of the Communications Act as amended, 47 U.S.C. 151,154, 201–205, 218, 220, and 403, a notice of proposed rulemaking is hereby provided as explained herein.

7. *It is further ordered*, That, pursuant to Sections 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415 and 1.419, comments shall be filed with the Secretary, Federal Communications Commission, Washington, DC 20554, on

or before March 29, 1993, and reply comments shall be filed with the Secretary on or before April 13, 1993. In addition, parties should file two copies of any such pleadings with the Tariff Division, Common Carrier Bureau, room 518, 1919 M Street, NW., Washington, DC 20554. Parties should also file one copy of any documents filed in this docket with the International Transcription Service, Inc., the Commission's duplicating contractor, at 2100 M Street, NW., suite 140, Washington, DC 20037.[1]

List of Subjects in 47 CFR Part 1

Communications common carriers, Price cap regulation, Price cap tariff filing and review procedures, Reporting and recordkeeping requirements, Telephone.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 93–6095 Filed 3–16–93; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 64

[CC Docket No. 93–22; FCC 93–87]

Interstate Pay-Per-Call Services

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission adopted this Notice of Proposed Rule Making and Notice of Inquiry (NPRM/NOI) to initiate a proceeding to establish regulations and gather information necessary to develop recommendations to Congress as mandated by the Telephone Disclosure and Dispute Resolution Act, Pub. L. No. 102–556 (1992) (to be codified at 47 U.S.C. 228) (TDDRA). This action was taken to amend the Commission's existing rules pertaining to interstate pay-per-call services to implement the requirements of the TDDRA. The proposals set forth in the NPRM/NOI are intended to maximize telephone subscribers' protection against fraudulent and abusive practices without unduly burdening common carriers and providers of legitimate pay-per-call services.

DATES: Comments must be submitted on or before April 19, 1993. Reply comments must be submitted on or before May 4, 1993.

[1] The notice lists Downtown Copy Center as the Commission's duplicating contractor. However, several days after the release of the notice, International Transcription Service, Inc., became the duplicating contractor.

ADDRESSES: Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Mary Romano, Enforcement Division, Common Carrier Bureau, 202–632–4887.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making and Notice of Inquiry in CC Docket No. 93–22 [FCC 93–87], adopted February 11, 1993 and released March 10, 1993. The full text of the Notice of Proposed Rule Making and Notice of Inquiry is available for inspection and copying during normal business hours in the FCC Reference Center, room 239, 1919 M Street, NW., Washington, DC. The full text of this Notice of Proposed Rule Making and Notice of Inquiry may also be purchased from the Commission's duplicating contractor, International Transcription Services, 2100 M Street, NW., suite 140, Washington, DC 20037, (202) 857–3800.

Summary of Notice of Proposed Rule Making and Notice of Inquiry

1. On February 11, 1993, the Commission adopted a Notice of Proposed Rule Making and Notice of Inquiry in CC Docket No. 93–22 (released March 10, 1993; FCC 93–87) (NPRM/NOI) proposing changes to rules governing the provision of interstate pay-per-call services. Pay-per-call services (also know as "audiotext" or "900" services) provide telephone users a variety of information services for which they are charged rates different from, and usually higher than, the normal transmission rates charged for ordinary telephone calls. In 1991, the Commission adopted rules governing the provision of interstate pay-per-call services in response to numerous consumer complaints regarding fraudulent and deceptive practices. The Telephone Disclosure and Dispute Resolution Act, Pub. L. No. 102–556 (1992) (to be codified at 47 U.S.C. 228) (TDDRA) requires that both the Commission and the Federal Trade Commission (FTC) adopt new pay-per-call regulations by July 25, 1993. The NPRM/NOI proposes changes to the Commission's existing rules necessary to implement the TDDRA.

2. The NPRM/NOI proposes to modify the definition of pay-per-call services to conform with that prescribed by the TDDRA; § 64.1501 of the proposed rules contains the new definition repeated virtually verbatim from the statute.

3. Under the proposed rules any common carrier who assigns pay-per-call numbers must require, by contract or tariff, that information providers who use such numbers to offer pay-per-call programs comply with both the Commission's regulations and those adopted by the FTC under the TDDRA. As mandated by the TDDRA, the proposed rules require carriers to terminate any programs not in compliance with applicable regulations.

4. Since the TDDRA requires the FTC to adopt rules requiring information providers to begin their pay-per-call programs with an introductory message, or preamble, designed to inform callers about the nature and cost of the services they have reached, the NPRM/NOI proposes to delete the Commission's preamble rule. Thus, regulation of pay-per-call preambles would shift from the commission to the FTC. Nonetheless, the proposed broad compliance rule will require common carriers to ensure that all the pay-per-call programs they carry begin with a preamble complying with FTC regulations.

5. The NPRM/NOI proposes a new rule to implement the Commission's obligation under the TDDRA to designate particular "area codes" (service access codes) and/or "prefixes" (office codes) to be used by common carriers who assign pay-per-call telephone numbers. The NPRM/NOI proposes to require common carriers to assign interstate pay-per-call programs exclusively to telephone numbers beginning with the 900 service access code (900–xxx–xxxx). Although the Commission has not proposed the imposition of more specific office code designation requirements, parties are invited to discuss whether such a system would increase consumer protection without unduly burdening common carriers and legitimate information providers.

6. The proposed rules continue the prohibition on disconnection of any telephone subscriber's basic communications services for failure to pay interstate pay-per-call charges. Consistent with the TDDRA, the NPRM/NOI proposes to expand the Commission's rules to include a prohibition against service interruptions since the term "disconnection" may imply only final termination of service whereupon the telephone number of the delinquent subscriber may be reassigned to another customer. In addition, the NPRM/NOI proposes to protect subscribers against service interruptions or disconnection charges for collect audiotext calls that have not been paid. The Commission believes that such a provision is necessary to address increasing numbers of complaints regarding collect audiotext calls which numerous complainants have indicated they received without taking any action to request the call and for which charges

often appear to be excessive. In addition, the proposed rules state that common carriers may transmit collect audiotext calls only when the called party has taken affirmative action clearly indicating that it accepts the charges for the collect services.

7. The proposed rules continue the obligation of local exchange carriers to offer their subscribers the option of blocking access to 900 services where technically feasible. However, the NPRM/NOI proposes to modify current blocking provisions to comply with the requirements of the TDDRA. Under the TDDRA, subscribers are to be afforded a period of 60 days after the Commission's rules take effect or 60 days after new telephone service is initiated to order pay-per-call blocking at no charge. The NPRM/NOI proposes that this system replace the Commission's current rule whereby residential subscribers are entitled to a free block on a one-time basis at any time. The proposed rules also incorporate the TDDRA's requirement that the free blocking option be extended to commercial subscribers. In addition to proposing these specific modifications of blocking provisions, the NPRM/NOI also invites parties to address questions raised by the TDDRA as to whether the blocking of, or presubscription to, specific pay-per-call services is technically and economically feasible. Current provisions, which the NPRM/NOI does not propose to change, require only an across-the-board block of all 900 services.

8. The NPRM/NOI proposes to adopt virtually verbatim the TDDRA's restrictions on the use of 800 numbers for pay-per-call purposes. As required by the TDDRA, the proposed rules prohibit the use of 800 numbers in any manner that would result in a caller to an 800 number being (1) charged for completion of the call; (2) connected to a pay-per-call service; (3) charged for any information conveyed during the call unless the caller either has a preexisting agreement authorizing such charges or authorizes charges to a credit card number disclosed during the call; or (4) called back collect to receive audio information services or simultaneous voice conversation services. On April 30, 1992, the National Association of Attorneys General (NAAG) filed a petition seeking a Commission ruling on issues concerning the interplay between 800 number services and pay-per-call services. The Commission treated the petition as a request for rule making (RM–7990) and collected comments on NAAG's proposals from interested parties. This record compiled by the Commission with respect to the NAAG petition will be incorporated in this larger proceeding in CC Docket No. 93–22.

9. The TDDRA enlarges the information disclosure and dissemination obligations of common carriers who assign telephone numbers for pay-per-call purposes and the NPRM/NOI proposes rule changes to incorporate the new requirements. In addition to providing the name, address, and customer service telephone number for information providers whose programs are transmitted by a carrier, the carrier must also provide, upon request, a list of all its pay-per-call numbers along with a brief description of each service represented by such numbers. Common carriers who not only assign pay-per-call numbers but also provide pay-per-call billing and collection services have additional consumer education obligations. Such carriers must establish local or toll free telephone numbers to answer questions and provide information on subscribers' rights and obligations with respect to use of pay-per-call services. Names and mailing addresses of information providers using the carrier's facilities to offer pay-per-call services are to be available over this number. In addition, billing carriers must provide to each subscriber, within 60 days after issuance of the Commission's final pay-per-call regulations, a disclosure statement explaining the rights and obligations of both the subscriber and carrier, including the subscriber's rights to obtain blocking and not to be billed for any programs not offered in compliance with the TDDRA and the Commission's and FTC's implementing regulations. Bills for pay-per-call services issued by a common carrier must display the toll free pay-per-call information number. Charges for pay-per-calls must be shown on the bill separately from local and long distance charges. Any billing must show the date, time, and duration of the call, along with the type of service being charged for. The NPRM/NOI proposes rules to implement these explicit requirements of the TDDRA. In addition, the NPRM/NOI proposes that carriers who bill subscribers for collect audiotext calls be required to separate such charges included on a telephone bill from local and long distance charges in the same manner specified for pay-per-call charges. Consistent with the TDDRA, the NPRM/NOI proposes that carriers who perform pay-per-call billing and collection services be required to forgive charges or issue refunds when either the Commission or the carrier determines that a pay-per-call program has been conducted in violation of federal law or federal pay-per-call regulations. Carriers who assign pay-per-call numbers but do not provide billing and collection, must ensure, by contract or tariff, that the information providers or their billing and collection agents have in place their own corresponding procedures for the issuance of refunds or forgiveness of charges.

10. The NPRM/NOI proposes to satisfy the TDDRA's requirement to specify means by which common carriers and providers of pay-per-call services may take affirmative steps to protect themselves against nonpayment of legitimate charges by adopting a rule that recognizes the right of a carrier or information provider to block pay-per-call programs from numbers assigned to subscribers who have incurred, but not paid, legitimate pay-per-call charges.

11. While the TDDRA recognizes the rights of common carriers to recover their costs of complying with the statute and the Commission's implementing regulations, they are expressly prohibited from recovering such costs from local or long distance telephone ratepayers. Thus, the NPRM/NOI invites commenters to consider what type of system should be imposed to enable carriers to recover their costs from information providers. The NPRM/NOI asks commenters to address both how compliance costs can be identified, and how those costs, once isolated, can be excluded from local and long distance rates. Among the recovery mechanisms commenters may discuss are designation of a discrete rate element, imposition of a surcharge on 900 access or other charges on interexchange carriers who transmit pay-per-call programs and information providers, referral of separation implications to a Federal-State Joint Board and adoption of new part 69 rules, and addition of a new part 32 account.

12. Under the TDDRA, any carrier assigning a pay-per-call number to an information provider that it knows, or reasonably should know, is engaged in soliciting charitable contributions must obtain proof of the tax exempt status of any person or organization for which contributions are solicited. The NPRM/NOI proposes to satisfy this verification requirement by requiring carriers to obtain IRS recordation of a grant of tax exempt status for each pay-per-call program soliciting charitable contributions.

13. The TDDRA requires the Commission to report to Congress by October 28, 1993 as to the desirability of extending pay-per-call regulations to "persons that provide, for a per-call

charge, data services that are not pay-per-call services." Parties are invited to provide views that will be considered by the Commission in drafting the recommendations to Congress. Since the range of data services at issue here is not apparent, parties are asked to first describe current data services that are not within the statutory definition of pay-per-call, and, second, identify the costs and benefits that an extension of the regulations would entail.

14. Consistent with the requirements of the TDDRA, the proposals set forth in the NPRM/NOI are intended to foster a marketplace environment in which providers of pay-per-call services compete based on the merits of their services rather than by capitalizing on consumer confusion and lack of knowledge.

15. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 603, the Commission has determined that the proposals contained in the NPRM/NOI may have some impact on small entities due to the proposed consumer education and cost recovery requirements mandated by the TDDRA. Public comment is requested on the initial regulatory flexibility analysis set out in the full NPRM/NOI. A copy of the analysis is being sent to the Chief Counsel for Advocacy of the Small Business Administration in accordance with section 603(a) of the Regulatory Flexibility Act, 5 U.S.C. 603(a).

16. This notice and comment rulemaking proceeding is non-restricted. Section 1.1206(a) of the Commission's rules, 47 CFR 1.1206(a), contains provisions governing permissible *ex parte* contacts.

Ordering Clauses

17. Accordingly, It is *Ordered*, pursuant to sections 1, 4(i), 4(j), 201–205, 218 and 228 of the Communications Act, 47 U.S.C. 151, 154(i), 154(j), 201–205, 218 and 228, that a Notice of Proposed Rule Making is Issued, proposing amendment of 47 CFR part 64 as set forth in the proposed rules below.

18. It is further *Ordered*, pursuant to sections 1, 4(i), 4(j), 201–205, 218 and 228 of the Communications Act, 47 U.S.C. 151, 154(i), 154(j), 201–205, 218 and 228, that a Notice of Inquiry is Issued, soliciting comment on the extension of pay-per-call regulations to data services that do not fall within the statutory definition of pay-per-call services.

19. It is further *Ordered*, that the Petition filed by the National Association of Attorneys General is Granted, to the extent set forth herein.

20. It is further *Ordered*, pursuant to §§ 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415, 1.419, that all interested parties may file comments on the matters discussed in this Notice and on the proposed rules contained in the appendix by April 19, 1993. Reply comments are due by May 4, 1993. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. To file formally in this proceeding, participants must file an original and four copies of all comments, reply comments, and supporting comments. If participants wish each Commissioner to have a personal copy of their comments, an original plus nine copies must be filed. Comments and reply comments should be sent to the Office of the Secretary, Federal Communications Commission, Washington, DC 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center (room 239) of the Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

List of Subjects in 47 CFR Part 64

Communications common carriers, Computer technology, Telephone.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

Proposed Rules

It is proposed that part 64 of title 47 of the Code of Federal Regulations be amended as follows:

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

1. The authority citation for part 64 is revised to read as set forth below, and all other authority citations are removed.

Authority: 47 U.S.C. 154. Interpret or apply 47 U.S.C. 201, 218, 226, 228.

Sec. 64.301 also issued under 47 U.S.C. 201, 214, 303, 308.

Sec. 64.501 also issued under 47 U.S.C. 152, 153, 154, 155, 301, 303, 307, 308, 309, 315, 317.

Sec. 64.702 also issued under 47 U.S.C. 154, 201–205, 403, 404, 410.

§§ 64.709 through 64.716 [Removed]

2. Subpart G of part 64 is amended by removing §§ 64.709 through 64.716 inclusive.

3. A new subpart O of part 64 is added to read as follows:

Subpart O—Interstate Pay-Per-Call and 800 Services

Sec.

64.1501 Definition of Pay-Per-Call Services.
64.1502 Limitations on the Provisions of Pay-Per-Call Services.
64.1503 Termination of Pay-Per-Call Programs.
64.1504 Restrictions on the Use of 800 Numbers.
64.1505 Restrictions on Collect Telephone Calls.
64.1506 Number Designation.
64.1507 No Disconnection or Interruption of Service for Failure to Remit Pay-Per-Call or Similar Service Charges.
64.1508 Blocking Access to 900 Service.
64.1509 Disclosure and Dissemination of Pay-Per-Call Information.
64.1510 Billing and Collection of Pay-Per-Call Charges.
64.1511 Forgiveness of Charges and Refunds.
64.1512 Involuntary Blocking of Pay-Per-Call Services.
64.1513 Verification of Charitable Status.
64.1514 Generation of Signalling Tones.
64.1515 Recovery of Costs.

Authority: 47 U.S.C. 228.

Subpart O—Interstate Pay-Per-Call and 800 Services

§ 64.1501 Definition of Pay-Per-Call Services.

(a) The term "pay-per-call services" means any service

(1) In which any person provides or purports to provide

(i) Audio information or audio entertainment produced or packaged by such person;

(ii) Access to stimultaneous voice conversation services; or

(iii) Any service, including the provision of a product, the charge for which are assessed on the basis of the completion of the call;

(2) For which the caller pays a per-call or per-time-interval charge that is greater than, or in addition to, the charge for transmission of the call; and

(3) Which is accessed through use of a 900 telephone number.

(b) Such term does not include directory services provided by a common carrier or its affiliate or by a local exchange carrier or its affiliate, or any service the charge for which is tariffed, or any service for which users are assessed charges only after entering into a presubscription or comparable arrangement with the provider of such service.

§ 64.1502 Limitations on the Provision of Pay-Per-Call Services.

Any common carrier assigning to a provider of pay-per-call service a telephone number shall require, by contract or tariff, that such provider

comply with the provisions in this subpart and of titles II and III of the Telephone Disclosure and Dispute Resolution Act (Pub. L. No. 102–556) (TDDRA) and the regulations prescribed by the Federal Trade Commission pursuant to those titles.

§ 64.1503 Termination of Pay-Per-Call Programs.

Any common carrier assigning to a provider of pay-per-call service a telephone number shall specify by contract or tariff that pay-per-call programs not in compliance with § 64.1502 shall be promptly terminated following notice to the information provider.

§ 64.1504 Restrictions on the Use of 800 Numbers.

Common carriers shall prohibit, by tariff or contract, the use of any telephone number beginning with an 800 service access code, or any other telephone number advertised or widely understood to be toll free, in a manner that would result in

(a) The calling party being assessed, by virtue of completing the call, a charge for the call;

(b) The calling party being connected to a pay-per-call service;

(c) The calling party being charged for information conveyed during the call unless the calling party has a preexisting agreement to be charged for the information or discloses a credit or charge card number and authorizes a charge to that credit or charge card number during the call; or

(d) The calling party being called back collect for the provision of audio information services or simultaneous voice conversation services.

§ 64.1505 Restrictions on Collect Telephone Calls.

No common carrier shall provide transmission services billed to the subscriber on a collect basis for audio information services or simultaneous voice conversation services unless the called party has taken affirmative action clearly indicating that it accepts the charges for the collect service.

§ 64.1506 Number Designation.

Any common carrier assigning telephone numbers shall limit such assignments for interstate pay-per-call programs to telephone numbers beginning with a 900 service access code.

§ 64.1507 No Disconnection or Interruption of Service for Failure to Remit Pay-Per-Call or Similar Service Charges.

No common carrier shall disconnect or interrupt in any manner, or order the disconnection or interruption of, a telephone subscriber's local exchange or long distance telephone service as a result of that subscriber's failure to pay interstate pay-per-call service charges or charges for interstate collect calls providing audio information services or simultaneous voice conversation services.

§ 64.1508 Blocking Access to 900 Service.

(a) Local exchange carriers must offer to their subscribers, where technically feasible, an option to block interstate 900 services. Blocking is to be offered at no charge to—

(1) All telephone subscribers for a period of 60 days after the effective date of these regulations; and

(2) Any subscriber who subscribes to a new telephone number for a period of 60 days after the new number is effective.

(b) For blocking requests not within the one-time option or outside the 60 day time frames, and for unblocking requests, local exchange carriers may charge, pursuant to their interstate end-user tariffs, a reasonable one-time fee. Requests by subscribers to remove 900 service blocking must be in writing.

§ 64.1509 Disclosure and Dissemination of Pay-Per-Call Information.

(a) Any common carrier assigning a telephone number to a provider of pay-per-call services shall make readily available, at no charge, to Federal and State agencies and all other interested persons

(1) A list of the telephone numbers for each of the pay-per-call services it carries;

(2) A short description of each such service;

(3) A statement of the total cost or the cost per minute and any other fees for each such service; and

(4) A statement of the pay-per-call service provider's name, business address, and business telephone number.

(b) Any common carrier assigning a telephone number to a provider of pay-per-call and offering billing and collection services to such provider shall

(1) Establish a local or toll-free telephone number to answer questions and provide information on subscribers' rights and obligations with regard to their use of pay-per-call services and to provide to callers the name and mailing address of any provider of pay-per-call services offered by that carrier; and

(2) Provide to all its telephone subscribers, either directly or through contract with any local exchange carrier providing billing and collection services to that carrier, a disclosure statement setting forth all rights and obligations of the subscriber and the carrier with respect to the use and payment of pay-per-call services, including the right of a subscriber to obtain blocking in accordance with § 64.1507 and, under § 64.1509(a), not to be billed. Such disclosure statements must be forwarded to

(i) All telephone subscribers within 60 days after issuance of these regulations;

(ii) All new subscribers; and

(iii) All subscribers requesting service at a new location.

§ 64.1510 Billing and Collection of Pay-Per-Call Charges.

Any common carrier assigning a telephone number to a provider of pay-per-call services and offering billing and collection services to such provider shall

(a) Ensure that a subscriber is not billed for pay-per-call services that such carrier knows or reasonably should know were provided in violation of the regulations set forth in this subpart or prescribed by the Federal Trade Commission pursuant to titles II or III of the TDDRA or any other federal law.

(b) In any billing to telephone subscribers that includes charges for any pay-per-call service or collect call providing audio information service or simultaneous voice conversation service

(1) Display any charges for pay-per-call services or collect audiotext services in a part of the bill that is identified as not being related to local and long distance telephone charges;

(2) Specify, for each pay-per-call or collect audiotext charge made, the amount of the charge, and the date, time, and duration of the call; and

(3) Identify the local or toll-free number established in accordance with § 64.1508(b)(1).

§ 64.1511 Forgiveness of Charges and Refunds.

(a) Any carrier providing billing and collection services to a provider of pay-per-call services or collect audiotext services shall forgive pay-per-call charges or issue refunds for such charges when the Commission or that carrier, upon written or oral protest or on its own motion, determines that a pay-per-call program or collect audiotext call has been offered in violation of federal law or the regulations that are either set forth in this subpart or prescribed by the Federal Trade Commission pursuant to titles II or III of the TDDRA. Carriers shall observe the record retention requirements set forth in 47 CFR 42.6 of

this chapter except that relevant records shall be retained by carriers beyond the Part 42 of this chapter requirement when a complaint is pending at the time the specified time period expires.

(b) Any carrier assigning a telephone number to a provider of pay-per-call services but not providing billing and collection services to such provider shall, by tariff or contract, require that the provider and/or its billing and collection agents have in place procedures whereby charges are forgiven and refunds issued for charges incurred in connection with pay-per-call programs that have been offered in violation of federal law or the regulations that are either set forth in this subpart or prescribed by the Federal Trade Commission pursuant to titles II or III of the TDDRA.

§64.1512 Involuntary Blocking of Pay-Per-Call Services.

Nothing in this subpart shall preclude a common carrier or information provider from blocking or ordering the blocking of its pay-per-call programs from numbers assigned to subscribers who have incurred, but not paid, legitimate pay-per-call charges.

§64.1513 Verification of Charitable Status.

Any common carrier assigning a telephone number to a provider of pay-per-call services that the carrier knows or reasonably should know is engaged in soliciting charitable contributions shall obtain verification that the entity or individual for whom contributions are solicited has been granted tax exempt status by the Internal Revenue Service.

§64.1514 Generation of Signalling Tones.

No common carrier shall assign a telephone number for any pay-per-call service that employs broadcast advertising which generates the audible tones necessary to complete a call to a pay-per-call service.

§64.1515 Recovery of Costs.

No common carrier shall recover its cost of complying with the provisions of this subpart from local or long distance ratepayers.

[FR Doc. 93–6012 Filed 3–16–93; 8:45 am]
BILLING CODE 6712–01–M

47 CFR Part 68

Petition for Waiver of Hearing-Aid Compatibility Requirements for Goodwill Industries of Seattle, WA

February 22, 1993.

AGENCY: Federal Communications Commission.

ACTION: Notice of petition for waiver.

SUMMARY: This document advises interested persons that Goodwill Industries of Seattle, Washington has filed a petition for waiver of the hearing-aid compatibility requirements and the Federal Communications Commission invites comments.

DATES: Comments regarding the Goodwill petition may be filed on or before March 5, 1993. Reply comments are due by March 25, 1993.

ADDRESSES: Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT:

Robert Kimball (202) 634–1860.

SUPPLEMENTARY INFORMATION: On February 9, 1993, pursuant to 47 CFR 1.3, Goodwill Industries of Seattle petitioned the Commission for a waiver of the hearing-aid compatibility requirement of 47 CFR 68.4 and 68.112 for its location at 1400 South Lane Street, Seattle, Washington 98144. See report and order, released June 4, 1992, 7 FCC Rcd 3472. Copies of the petition, and comments when filed, may be inspected and copied at the Common Carrier Bureau, Domestic Facilities Division Reference Room, room 6220, 2025 M Street NW., Washington, DC, Monday through Thursday from 8:30 a.m. to 3 p.m. Copies are also available from ITS, Inc., 1919 M St., NW. Washington, DC. (202) 632–7513. Comments regarding the Goodwill petition may be filed on or before March 5, 1993. Reply comments are due by March 25, 1993. For general information on how to file comments, parties should contact the FCC Consumer Assistance and Information Division at (202) 632–7000.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 93–5215 Filed 3–16–93; 8:45 am]
BILLING CODE 6712–01–M

Notices

Federal Register
Vol. 58, No. 50
Wednesday, March 17, 1993

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

Agriculture Marketing Service

[CN–93–003]

National Advisory Committee on Cotton Marketing Meeting

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The National Advisory Committee on Cotton Marketing will meet on Wednesday, March 31, 1993, beginning at 8:00 a.m. at the Dallas/Forth Worth Airport, Hyatt Regency Hotel (west building).

The primary purpose of the meeting is to make recommendations for establishing a schedule of price support loan premiums and discounts for a new cotton classification procedure which will identify separately the leaf and color components of grade. This procedure will be effective for grading the 1993 cotton crop. The committee will also review progress in implementing previous recommendations and consider additional steps that may be needed to improve the efficiency of the U.S. cotton marketing system. This meeting is open to the public, and written comments may be submitted in advance or following the meeting to Jesse F. Moore, Director, Cotton Division.

FOR FURTHER INFORMATION CONTACT: Jesse F. Moore, Director, Cotton Division, AMS, USDA, P.O. Box 96456, Washington, DC 20090–6456; (202) 720–3193.

SUPPLEMENTARY INFORMATION: The Advisory Committee on Cotton Marketing was initially established in 1988 by the Secretary of Agriculture to review the cotton marketing system and to recommend ways of improving its efficiency. Notice of this meeting is provided in accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. No. 92–463).

Dated: March 11, 1993.

L.P. Massaro,

Acting Administrator.

[FR Doc. 93–6144 Filed 3–16–93; 8:45 am]

BILLING CODE 3410–02–M

Cooperative State Research Service

Committee on Nine; Meeting

In accordance with the Federal Advisory Committee Act of October 6, 1972, (Public Law 92–463, 86 Stat. 770–776), the Cooperative State Research Service announces the following meeting:

Name: Committee of Nine.

Date: May 11, 1993. May 12–13, 1993.

Time: 1 p.m.–5 p.m. 8:30 a.m.–5 p.m.

Place: Room 10A, Aerospace Building, 901 D Street, SW, Washington, DC.

Type of Meeting: Open to the public. Persons may participate in the meeting as time and space permit.

Comments: The public may file written comments before or after the meeting with the contact person listed below.

Purpose: To evaluate and recommend proposals for cooperative research on problems that concern agriculture in two or more States, and to make recommendations for allocation of regional research funds appropriated by Congress under the Hatch Act for research at the State Agricultural Experiment Stations.

Contact Person for Agenda and More Information: Dr. Walter R. Woods, Executive Secretary, U.S. Department of Agriculture, Cooperative State Research Service, Room 346, Aerospace Building, Washington, DC 20250, Telephone: 202–401–6040.

Done at Washington, DC, this 5th day of March, 1993.

John Patrick Jordan,

Administrator, Cooperative State Research Service.

[FR Doc. 93–6141 Filed 3–16–93; 8:45 am]

BILLING CODE 3410–22–MT

COMMISSION ON CIVIL RIGHTS

New Hampshire State Advisory Committee; Agenda and Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the New Hampshire State Advisory Committee will be convened at 2 p.m. and adjourn at 5 p.m. on Friday, April 9, 1993, in the Sheraton Tara Wayfarer Inn, 121 S. River Road, Bedford, New Hampshire 03110–6736. The purpose of the meeting is (1) to update Committee members and the public on the Commission; and (2) to plan future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Sylvia F. Chaplain (603–964–9241) or John I. Binkley, Director, ERO, (202–376–7533), or TDD (202–376–8116). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the regional office at least (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, March 5, 1993.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 93–6021 Filed 3–16–93; 8:45 am]

BILLING CODE 6335–01–M

South Carolina Advisory Committee; Agenda and Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the South Carolina Advisory Committee to the Commission will convene at 1 p.m. and adjourn at 5 p.m. on Wednesday, April 7, 1993, at the Courtyard by Marriott, Meeting Room A, 347 Zimalcrest in Columbia, South Carolina. The purpose of the meeting is to: (1) To discuss the status of the Commission and SACs; (2) to discuss civil rights progress and/or problems in the State; and (3) to review and discuss the draft report on Racial Tensions in South Carolina.

Persons desiring additional information, or planning a presentation

to the Committee should contact Robert L. Knight, Civil Rights Analyst, Southern Regional Office of the U.S. Commission on Civil Rights at (404/730–2476, TDD 404/730–2481). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Southern Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, March 5, 1993.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 93–6022 Filed 3–16–93; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

United States-Canada Free-Trade Agreement, Article 1904 Binational Panel Reviews; Request for Panel Review

AGENCY: United States-Canada Free-Trade Agreement, Binational Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of First Request for Panel Review of Final injury determination pursuant to paragraph 41(a) of the Special Import Measures Act respecting Gypsum Board Originating in or Exported from the United States of America made by the Deputy Minister of National Revenue, Revenue Canada, Customs and Excise published in the Canada Gazette on January 30, 1993. The Requests for Panel Review were filed with the Canadian Section on February 23, 1993.

SUMMARY: On February 23, 1993 The National Gypsum Company (Gold Bond Building Products Division) filed a Request for Panel Review with the Canadian Section of the Binational Secretariat pursuant to Article 1904 of the United-States Canada Free Trade Agreement. Panel review was requested of the final affirmative injury determination made by the Deputy Minister of National Revenue, Revenue Canada for Customs and Excise respecting Gypsum Board Originating in or Exported from the United States of America. The Binational Secretariat has assigned Case Number CDA–93–1904–02 to this request.

FOR FURTHER INFORMATION CONTACT: James R. Holbein, United States Secretary, Binational Secretariat, suite 2061, 14th and Constitution Avenue, Washington, DC 20230, (202) 482–5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of the United States-Canada Free-Trade Agreement ("Agreement") establishes a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from the other country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1989, the Government of the United States and the Government of Canada established Rules of Procedure for Article 1904 Binational Panel Reviews ("Rules"). These Rules were published in the **Federal Register** on December 30, 1988 (53 FR 53212). The Rules were amended by Amendments to the Rules of Procedure for Article 1904 Binational Panel Reviews, published in the **Federal Register** on December 27, 1989 (54 FR 53165). The Rules were further amended and a consolidated version of the amended Rules was published in the **Federal Register** on June 15, 1992 (57 FR 26698). The panel review in this matter will be conducted in accordance with these Rules, as amended.

Rule 35(2) requires each Secretary of the FTA Binational Secretariat to publish a notice that a first Request for Panel Review has been received. A first Request for Panel Review was filed with the Canadian Section of the Binational Secretariat, pursuant to Article 1904 of the Agreement, on February 23, 1993, requesting panel review of the final injury determination described above.

Rule 35(1)(c) of the Rules provides that:

(a) a Party or interested person may challenge the final determination in whole or in part by filing a Complaint in accordance with Rule 39 within 30 days after the filing of the first Request for Panel Review (the deadline for filing a Complaint is March 25, 1993);

(b) a Party, investigating authority or interested person that does not file a Complaint but that intends to appear in support of any reviewable portion of the final determination may participate in the panel review by filing a Notice of Appearance in accordance with Rule 40 within 45 days after the filing of the first Request for Panel Review (the deadline for filing a Notice of Appearance is April 13, 1993); and

(c) the panel review shall be limited to the allegations of error of fact or law, including the jurisdiction of the investigating authority, that are set out in the Complaints filed in the panel review and the procedural and substantive defenses raised in the panel review.

Dated: March 11, 1993.

James R. Holbein,

United States Secretary, FTA Binational Secretariat.

[FR Doc. 93–6047 Filed 3–16–93; 8:45 am]

BILLING CODE 3510–GT–M

United States-Canada Free-Trade Agreement, Article 1904 Binational Panel Reviews: Notice of Completion of Panel Review

AGENCY: United States-Canada Free-Trade Agreement, Binational Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of Completion of Panel Review of the final affirmative determination made by the U.S. Department of Commerce, International Trade Administration, Import Administration, in an administrative review of the antidumping order respecting Replacement Parts for Self-propelled Bituminous Paving Equipment from Canada, Secretariat File No. USA–90–1904–01.

SUMMARY: Pursuant to the Memorandum Opinion and Order of the Binational Panel dated December 28, 1992, the Panel Review of the final determination described above was completed on January 28, 1993.

FOR FURTHER INFORMATION CONTACT: James R. Holbein, United States Secretary, Binational Secretariat, suite 2061, 14th and Constitution Avenue, Washington, DC 20230, (202) 482–5438.

SUPPLEMENTARY INFORMATION: On May 24, 1991, the Binational Panel issued a decision which affirmed in part and remanded in part Commerce's May 15, 1990 determination. Commerce filed a redetermination on remand on December 20, 1991. On May 15, 1992, the panel issued a second decision which affirmed in part and remanded in part Commerce's redetermination on remand. On July 30, 1992, Commerce issued a second redetermination on remand, which the panel affirmed in part and remanded in part on October 28, 1992. The Department filed its final redetermination on remand on November 30, 1992, which the panel affirmed on December 28, 1992. The Secretariat was instructed to issue a

Notice of Completion of Panel Review on the 31st day following the issuance of the Order, if no Request for an Extraordinary Challenge was filed. No. such request was filed. Therefore, on the basis of the Panel Order and Rule 80 of the Article 1904 Panel Rules, the Panel Review was completed and the panelists discharged from their duties effective January 28, 1993.

Dated: March 10, 1993.

James R. Holbein,

United States Secretary, FTA Binational Secretariat.

[FR Doc. 93–6051 Filed 3–16–93; 8:45 am]

BILLING CODE 3510–GT–M

Minority Business Development Agency

Business Development Center Applications: Richmond, VA

AGENCY: Minority Business Development Agency; Commerce.

ACTION: Notice.

SUMMARY: In accordance with Executive Order 11625, the U.S. Department of Commerce's Minority Business Development Agency (MBDA) is soliciting competitive applications under its Minority Business Development Center (MBDC) program to operate an MBDC for approximately a 3-year period, subject to Agency priorities, recipient performance and the availability of funds. The cost of performance for the first budget period (12 months) is $169,125 in Federal funds and a minimum of $29,846 in non-Federal (cost-sharing) contributions. Cost-sharing contributions may be in the form of cash contributions, client fees, in-kind contributions or combinations thereof. The period of performance will be from August 1, 1993 to July 31, 1994. The MBDC will operate in the Richmond, Virginia geographic service area.

The award number for this MBDC will be 03–10–93001–01.

The funding instrument for the MBDC will be a cooperative agreement. Competition is open to individuals, non-profit and for-profit organizations, State and local governments, American Indian tribes and educational institutions.

The MBDC program is designed to provide business development services to the minority business community for the establishment and operation of viable minority businesses. To this end, MBDA funds organizations that can identify and coordinate public and private sector resources on behalf of minority individuals and firms; offer a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be evaluated initially be regional staff on the following criteria: The experience and capabilities of the firm and its staff in addressing the needs of the business community in general and, specifically, the special needs of minority businesses, individuals and organizations (50 points); the resources available to the firm in providing business development services (10 points); the firm's approach (techniques and methodologies) to performing the work requirements included in the application (20 points); and the firm's estimated cost for providing such assistance (20 points). An application must receive at least 70% of the points assigned to any one evaluation criteria category to be considered programmatically acceptable and responsive. The selection of an application for further processing by MBDA will be made by the Director based on a determination of the application most likely to further the purpose of the MBDC program. The application will then be forwarded to the Department for final processing and approval, if appropriate. The Director will consider past performance of the applicant on previous Federal awards. Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding.

MBDCs shall be required to contribute at least 15% of the total project cost through non-Federal contributions. To assist them in this effort, MBDCs may charge client fees for management and technical assistance (M&TA) rendered. Based on a standard rate of $50 per hour, MBDCs will charge client fees at 20% of the total cost for firms with gross sales of $500,000 or less, and 35% of the total cost for firms with gross sales of over $500,000. False information on the application can be grounds for denying or terminating funding.

MBDCs performing satisfactorily may continue to operate after the initial competitive year for up to 2 additional budget periods. MBDCs with year-to-date "commendable" and "excellent" performance ratings may continue to be funded for up to 3 or 4 additional budget periods, respectively. Under no circumstances shall an MBDC be funded for more than 5 consecutive budget periods without competition. Periodic reviews culminating in year-to-date quantitative and qualitative evaluations will be conducted to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as an MBDC's performance, the availability of funds and Agency priorities. If an application is selected for funding, DOC has no obligation to provide any additional future funding in connection with that award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of DOC.

Awards under this program shall be subject to all Federal and Departmental regulations, policies, and procedures applicable to Federal assistance awards. If applicants incur any costs prior to an award being made, they do so solely at their own risk of not being reimbursed by the Government. Applicants also should be notified that notwithstanding any verbal assurance that they may have received, there is no obligation on the part of DOC to cover pre-award costs.

In accordance with OMB Circular A–129 "Managing Federal Credit Programs," no award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either: The delinquent account is paid in full, a negotiated repayment schedule is established and at least one payment is received, or other arrangements satisfactory to DOC are made.

Applicants are subject to Governmental Debarment and Suspension (Non-procurement) requirements as stated in 15 CFR part 26.

The Departmental Grants Officer may terminate any grant/cooperative agreement in whole or in part at any time before the date of completion whenever it is determined that the MBDC has failed to comply with the conditions of the grant/cooperative agreement. Examples of some of the conditions which can cause termination are failure to meet cost-sharing requirements; unsatisfactory performance of MBDC work requirements; and reporting inaccurate or inflated claims of client assistance or client certification. Such inaccurate or inflated claims may be deemed illegal and punishable by law.

Notification must be provided that all non-profit and for-profit applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the applicant have been convicted of or are presently facing, criminal charges such as fraud, theft, perjury, or other matters which significantly reflect on the applicant's management honesty or financial integrity.

On November 18, 1988, Congress enacted the Drug-Free Workplace Act of

1988 (Pub. L. 100–690, title V, subtitle D). The statute requires contractors and grantees of Federal agencies to certify that they will provide a drug-free workplace. Pursuant to these requirements, the applicable certification form must be completed by each applicant as a pre-condition for receiving Federal grant or cooperative agreement awards.

15 CFR, part 28, is applicable and prohibits recipients of Federal contracts, grants, and cooperative agreements from using appropriated funds for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a specific contract, grant or cooperative agreement. Form CD–511, "Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying" and, when applicable, the SF–LLL, "Disclosure of Lobbying Activities," are required. Recipients shall require applicants/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions Form CD–512, "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying" and disclosure form, SF–LLL, "Disclosure of Lobbying Activities." Form CD–512 is intended for the use of recipients and should not be transmitted to DOC. SF–LLL submitted by any tier recipient of subrecipient should be submitted to DOC in accordance with the instructions contained in the award document.

CLOSING DATE: The closing date for submitting an application is April 26, 1993. Applications must be postmarked on or before April 26, 1993. Proposals will be reviewed by the Washington Regional Office. The mailing address for submission of RFA responses is:

Washington Regional Office, Minority Business Development Agency, 1255 22nd Street, NW., suite 701, Washington, DC 20037.

A pre-application conference to assist all interested applicants will be held on April 5, 1993, 1 p.m. at the following address: The Federal Building, 400 North 8th Street, Conference Room Number 7230, Richmond, Virginia 23240.

SUPPLEMENTARY INFORMATION: Anticipated processing time of this award is 120 days. Executive Order 12372, "Intergovernmental Review of Federal Programs," is not applicable to this program. To order a Request for Application (RFA) and to receive additional information, contact: Gina A. Sanchez, Regional Director of the Washington Regional Office on (202) 377–1356 or U.S. Department of Commerce, Minority Business Development Agency, 1255 22nd Street, NW., suite 701, Washington, DC 20037.

11.800 Minority Business Development (Catalog of Federal Domestic Assistance)

Dated: March 9, 1993.

Dennis Drayson,

Acting Regional Director, Washington Regional Office.

[FR Doc. 93–6024 Filed 3–16–93; 8:45 am]

BILLING CODE 3510–21–M

National Institute of Standards of Technology

[Docket No. 930102–3002]

Continuation of Fire Research Grants Program

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Announcing NIST continuation of fire research grants program.

CATALOG OF FEDERAL DOMESTIC ASSISTANCE NAME AND NUMBER: Measurement and Engineering Research Standards (MERS); 11.609.

SUMMARY: The purpose of this notice is to inform potential applicants that the Fire Research Program, National Institute of Standards and Technology, is continuing its Fire Research Grants Program. Previous notices of this research grant program were published in the **Federal Register** on February 20, 1991 (46 FR 13250), November 19, 1984 (49 FR 45636), May 6, 1986 (51 FR 16730), June 5 ,1987 (52 FR 21342) June 6, 1988 (53 FR 20675), May 31, 1989 (54 FR 23243), July 23, 1990 (FR 90–17041), May 7, 1991 (FR 91–10717), and April 22, 1992 (FR 57–14695). (Catalog of Federal Domestic Assistance No. 11.609 "Measurement and Engineering Research and Standards.").

CLOSING DATE FOR APPLICATIONS: None.

ADDRESSES: Applicants must submit one signed original plus two (2) copies of the proposal along with the Grant Application, Standard Form 424 (Rev. 4–88) as reference under the provisions of OMB circular A–110 to: Building and Fire Research Laboratory, Attention: Sonya Cherry, Building 226, room B206, National Institute of Standards and Technology, Gaithersburg, Maryland 20899–0001.

FOR FURTHER INFORMATION CONTACT: Sonya Cherry, (303) 975–6854.

ELIGIBILITY: Academic institutions, non-Federal agencies, and independent and industrial laboratories.

SUPPLEMENTARY INFORMATION: As authorized by section 16 of the Act of March 3, 1901, as amended (15 U.S.C. 278f), the NIST Building and Fire Research Laboratory conducts directly and through grants and cooperative agreements, a basic and applied fire research program. This program has been in existence for several years at approximately $1.5 million per fiscal year. No increase in funds has taken place. The Fire Research Program is limited to innovative ideas which are generated by the proposal writer on what research to carry out and how to carry it out. Proposals will be considered for research projects from one to three years. When a proposal for a multi-year grant is approved, funding will be provided for only the first year of the program. If an application is selected for funding, DoC has no obligation to provide any additional future funding in connection with that award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of DoC. All grant proposals submitted must be in accordance with the programs and objectives listed below

Program Objections

a. Fire Protection Applications

Researches, develops and demonstrates the application to building fire problems of fire protection analytical (computerized) tools and methods of assessing the ignition and burning rate of contents of buildings. This includes: Developing a performance based fire code and methods of assessing fire risk; developing methods of evaluating and predicting the performance of and interactions between building fire safety design features; developing an understanding of the burning rate of furniture and other building contents; developing a date base that provides the necessary input to users of the analytical tools; and operating the Fire Research information Services which supports the entire laboratory staff and the fire community and has an on-line bibliographic data base.

b. Fire Modeling

Performs research on and develops analytical models for the quantitative prediction of the consequences of fires and the means to assess the accuracy of those models. This includes: Creating advanced, usable models for the calculation of the effluent from building fires; modeling the spread of fire over

furniture and building elements such as walls; developing field and zone modeling techniques to predict the movement of fire effluent in buildings and the effectiveness of fire sensors; and developing a protocol for determining the accuracy of both the algorithms used in the fire models as well as the comprehensive models themselves.

c. Large Fire Research

Performs research on and develops techniques to measure, predict the behavior of, and mitigate large fire events. This includes: Understanding the mechanisms of large fires that control the gas phase combustion, burning rate, thermal and chemical emissions, transport processes; developing techniques for computer simulation; developing field measurement techniques to assess the near and far field impact of large fires and their plumes; performing research on the use of combustion for environmental cleanup; predicting the performance and environmental impact of fire protection measures and fire fighting systems and techniques; developing and operating the Fire Research Program large scale experiment facility.

d. Smoke Dynamics Research

Produces scientifically sound principles, metrology, data, and predictive methods for the formation/evolution of smoke components in flames for use in understanding and predicting general fire phenomena. This includes: Research on the effects of within-flame and post-flame fluid mechanics on the formation and emission of smoke, including particulates, aerosols, and combustion gases; understanding the mechanistic pathway for soot from chemical inception to post-flame agglomerates; developing calculation methods for the prediction of the yields of CO (and eventually other toxicant) as a function of fuel type, availability of air, and fire scale.

e. Materials Fire Research

Performs research to understand fundamentally the mechanisms that control the ignition, flame spread, and burning rate of materials and the chemical and physical characteristics that affect these aspects of flammability; develops methods of measuring and predicting the response of a material to a fire. This includes: Characterizing the burning rates of charring and non-charring polymers and composites; delineating and modeling the enthalpy and mass transfer mechanisms of materials combustion; and developing computational molecular dynamics and other mechanistic approaches to understand the relationships between polymer structure and flammability.

f. Fire Sensing and Extinguishment

Develops understanding, metrology, and predictive methods to enable high-performance fire sensing and extinguishment systems; devises new approaches to minimizing the impact of unwanted fires and the suppression process. This includes: Research for the identification and *insitu* measurements of the symptoms of pending and nascent fires or explosions, and the consequences of suppression; devising or adapting monitors for these variables and creating the intelligence for timely interpretation of the data; determining mechanisms for deflagration and detonation suppression by advanced agents and principles for their optimal use; modeling the extinguishment process; and developing performance measures for the effectiveness of suppression system design.

Proposal Review Process

All proposals are assigned to the appropriate group leader of the eight programs listed above for review, including external peer review, and recommendations on funding. Both technical value of the proposal and the relationship of the work proposed to the needs of the specific program are taken into consideration in the group leader's recommendation to the Deputy Director. Applicants should allow up to 60 days processing time. Proposals are evaluated for technical merit by at least three professionals from NIST, the Building and Fire Research Laboratory, or technical experts from other interested government agencies and in the case of new proposals, experts from the fire research community at large.

Evaluation Criteria

a. Rationality—0–20

b. Qualification of Technical Personnel—0–20

c. Resources Availability—0–20

d. Technical Merit of Contribution—0–40

The results of these evaluations are transmitted to the group leader of the appropriate research unit in the Building and Fire Research Laboratory who prepares an analysis of comments and makes a recommendation. The Building and Fire Research Laboratory will also consider compatibility with programmatic goals and financial feasibility.

Paperwork Reduction Act

The SF–424 mentioned in this notice is subject to the requirements of the Paperwork Reduction Act and has been approved by OMB under Control No. 0348–0006.

Applicants are reminded that a false statement may be grounds for denial or termination of funds and grounds for possible punishment by fine or imprisonment.

No award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either:

1. The delinquent account is paid in full,

2. A negotiated repayment schedule is established and at least one payment is received, or

3. Other arrangements satisfactory to DoC are made;

Recipients and subrecipents are subject to all applicable Federal laws and Federal and DoC policies, regulations, and procedures applicable to Federal financial assistance awards. Applicants are reminded of the following:

1. *Past Performance.* Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding.

2. *Preaward Activities.* Any costs applicants incur prior to an award being made do so solely at the risk of not being reimbursed by the Government. Regardless of any verbal assurance that may have been received, by the applicant, there is no obligation on the part of DoC to cover pre-award costs.

3. *Name Check Review.* All non-profit and for-profit applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the applicant have been convicted of or are presently facing, criminal charges such as fraud, theft, perjury, or other matters which significantly reflect on the applicant's management honesty or financial integrity.

4. *Primary Applicant Certifications.* All primary applicants must submit a completed Form CD–511, "Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying," and.

(1). *Nonprocurement Debarment and Suspension.* Prospective participants (as defined at 15 CFR part 26, "Nonprocurement Debarment and Suspension" and the related section of the certification form prescribed above applies;

(2) *Drug Free Workplace.* Grantees (as defined at 15 CFR part 26, subpart F,

"Governmentwide Requirement for Drug-Free Workplace (Grants)"and the related section of the certification form;

(3) *Anti-Lobbying.* Persons (as defined at 15 CFR part 28, section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions," and the lobbying section of the certification form which applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000, and loans and loan guarantees for more than $150,000, or the single family maximum mortgage limit for affected programs, whichever is greater; and

(4) *Anti-Lobbying Disclosures.* Any applicant that has paid or will pay for lobbying using any funds must submit an SF–LLL, "Disclosure of Lobbying Activities," as required under 15 CFR part 28, appendix B.

5. *Lower Tier Certifications.* Recipients shall require applicants/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, "Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying" and disclosure form, SF–LLL, "Disclosure of Lobbying Activities." Form CD–512 is intended for the use of recipients and should not be transmitted to the Department. SF–LLL submitted by any tier recipient or subrecipient should be submitted to the Department in accordance with the instructions contained in the award document.

Applicants are also reminded of the applicability of Executive Order 12372, "Intergovernmental Review of Federal Programs."

Dated: March 12, 1993.

Raymond G. Kammer,

Acting Director.

[FR Doc. 93–6157 Filed 3–16–93; 8:45 am]

BILLING CODE 3510–13–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in the Federative Republic of Brazil

March 12, 1993.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits for the new agreement year.

EFFECTIVE DATE: April 1, 1993.

FOR FURTHER INFORMATION CONTACT: Nicole Bivens Collinson, 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).

The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement, effected by exchange of notes dated September 15 and 19, 1988, as amended and extended, between the Governments of the United States and the Federative Republic of Brazil establishes limits for the period beginning on April 1, 1993 and extending through March 31, 1994. The limits for Categories 225 and 300/301 have been reduced for carryforward used during the previous agreement period.

A copy of the current bilateral agreement is available from the Textiles Division, Bureau of Economic and Business Affairs, U.S. Department of State (202) 647–3889.

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 57 FR 54976, published on November 23, 1992).

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 bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

March 12, 1993.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on December 9, 1992; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement, effected by exchange of notes dated September 15 and 19, 1988, as amended and extended, between the Governments of the United States and the Federative Republic of Brazil; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on April 1, 1993, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in the following categories, produced or manufactured in Brazil and exported during the twelve-month period beginning on April 1, 1993 and extending through March 31, 1994, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
Aggregate Limit 200–239, 300–369, 400–469 and 600–670, as a group.	363,575,935 square meters equivalent.
Sublevels in the aggregate	
218	4,475,708 square meters.
219	14,546,051 square meters.
225	7,329,140 square meters.
300/301	5,726,499 kilograms.
313	41,176,514 square meters.
314	6,154,099 square meters.
315	18,462,297 square meters.
317/326	16,783,905 square meters.
334/335	120,439 dozen.
336	66,911 dozen.
338/339/638/639	1,204,403 dozen.
342/642	354,629 dozen.
347/348	869,847 dozen.
350	134,949 dozen.
361	909,993 numbers.
363	19,421,455 numbers.
369–D [1]	433,774 kilograms.
410/624	8,951,417 square meters of which not more than 2,548,456 square meters shall be in Category 410.
433	17,690 dozen.
443	83,679 numbers.
445/446	69,302 dozen.
604	424,906 kilograms of which not more than 324,750 kilograms shall be in Category 604–A [2].
607	3,945,559 kilograms.
647/648	401,468 dozen.
669–P [3]	1,445,915 kilograms.

[1] Category 369–D: only HTS numbers 6302.60.0010, 6302.91.0005 and 6302.91.0045.
[2] Category 604–A: only HTS number 5509.32.0000.
[3] Category 669–P: only HTS numbers 6305.31.0010, 6305.31.0020 and 6305.39.0000.

Imports charged to these category limits for the periods April 1, 1992 through March 31, 1993 and July 29, 1992 through March 31, 1993 (Category 443) shall be charged against those levels of restraint to the extent of any unfilled balances. In the event the limits established for those periods have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

The limits set forth above are subject to adjustment in the future pursuant to the provisions of the current bilateral agreement between the Governments of the United States and the Federative Republic of Brazil.

The conversion factor for Categories 338/339/638/639 is 10 square meters per dozen.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 93-6045 Filed 3-16-93; 8:45 am]

BILLING CODE 3510-DR-F

New Visa Stamp and Commercial Invoice for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Thailand

March 12, 1993.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs authorizing the use of a new visa stamp and commercial invoice.

EFFECTIVE DATE: April 15, 1993.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4212.

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).

Effective on April 15, 1993, the Government of Thailand will begin issuing a new visa stamp, with a hologram on it, on a new commercial invoice to accompany shipments of textile products, produced or manufactured in Thailand and exported from Thailand on and after April 15, 1993. Goods exported from Thailand during the period April 15, 1993 through May 14, 1993 shall be permitted entry if accompanied by either the old visa stamp, or the new visa stamp with hologram on the new commercial invoice. Goods exported after May 14, 1993 must be accompanied by the new visa stamp with hologram on the new commercial invoice. The new invoice will be on a special paper that has non-photocopyable markings, and will be issued by the Government of Thailand.

See 57 FR 2713, published on January 23, 1992.

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

March 12, 1993.

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 January 16, 1992, by the Chairman, Committee for the Implementation of Textile Agreements. That directive directs you to prohibit entry of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Thailand for which the Government of Thailand has not issued an appropriate visa.

Effective on April 15, 1993, you are directed to amend the January 16, 1992 directive to provide for the use of a new visa stamp with a hologram on it and a new commercial invoice to accompany shipments of textile products, produced or manufactured in Thailand and exported from Thailand on and after April 15, 1993. Facsimiles of the new visa stamp with hologram and the new commercial invoice are enclosed with this letter.

Goods produced or manufactured in Thailand and exported from Thailand during the period April 15, 1993 through May 14, 1993 shall be permitted entry if accompanied by either the old visa stamp, or the new visa stamp with hologram on the new invoice. Merchandise exported from Thailand after May 14, 1993 which is not accompanied by the new visa stamp with hologram on the new commercial invoice shall be denied entry.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

BILLING CODE 3510-DR-F

1. EXPORTER NAME & ADDRESS	COMMERCIAL INVOICE	
XXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXX	2. REGISTERED EXPORTER NO. / REFERENCE NO. XXXXXXXXXXX	3. INVOICE NO. XXXXXXXXXXX DATE XXXXXXXXXXXXX
4. IMPORTER/CONSIGNEE NAME & ADDRESS XXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXX	5. COUNTRY OF ORIGIN THAILAND.	6. QUOTA YEAR XXXX
	7. CATEGORY / SUB CATEGORY XXXX	8. CATEGORY UNIT XXXXXXXXXX
9. VESSEL/FLIGHT NO. AND DATE OF SHIPMENT XXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXX	10. FINAL DESTINATION UNITED STATES OF AMERICA	11. PORT OF ENTRY XXXXXXXXX
	12. TERM OF PAYMENT XXXXXXXXXXXXXXXXXXXXXXXX	

13. MARKS & NUMBERS	NUMBER OF PACKAGES	DESCRIPTION OF GOODS & RELATED INFORMATION	14. QUANTITY	15. UNIT PRICE (FOB U S $)	16. TOTAL VALUE (FOB U S $)
XXXXXXXXXXX XXXXXXXXXXX	XXXXXX	XXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXX	XXXXXX XXXXXX	XXXXXXXX	XXXXXXXXXX

ORIGINAL
SPECIMEN

18. COMPETENT AUTHORITY STAMP & SIGNATURE	17 DECLARATION BY MANUFACTURER / EXPORTER : I / WE HEREBY DECLARE THAT THE ABOVE PARTICULARS ARE TRUE AND CORRECT
001461 THAILAND TEXTILE VISA NO. 3TH 105897 CATEGORY 341 QUANTITY =150= doz SIGNATURE DATE 23 FEB 1993	AUTHORIZED SIGNATURE NAME XXXXXXXXXXXXXXXXXXX DESIGNATION XXXXXXXXXXXXXXX COMPANY 'S STAMP DATE XXXXXXXXXXXXXXXXXXXXX

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[FR Doc. 93-6090 Filed 3-16-93; 8:45 am]
BILLING CODE 3510-DR-C

DEPARTMENT OF DEFENSE

Department of the Navy

CNO Executive Panel; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app. 2), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Domestic Issues Task Force will meet March 22, 1993, from 8 a.m to 1 p.m., at Stanford University, Stanford, California, and March 23, 1993, from 8 a.m. to 11 a.m., at Pan Heuristics, Los Angeles, California.

The purpose of this meeting is to continue efforts to forcast emerging economic and futuristic trends with subject matter experts, and the effect of those trends on the Navy of the future.

For further information concerning this meeting, contact: J. Kevin Mattonen, Executive Secretary to the CNO Executive Panel, 4401 Ford Avenue, room 601, Alexandria, Virginia 22303-0268, Phone (703) 756-1205.

Dated: March 8, 1993.

Michael P. Rummel,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 93–6019 Filed 3–16–93; 8:45 am]

BILLING CODE 3810–AE–F

CNO Executive Panel; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app. 2), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Domestic Issues Task Force will meet April 7-8, 1993, from 9 a.m. to 5 p.m., in Alexandria, Virginia.

The purpose of this meeting is to continue efforts to forecast emerging demographic and sociological trends and their effect on the Navy of the future. The agenda of the meeting will consist of discussions of key issues related to domestic changes in response to demographic, sociological, cultural, and political phenomena.

For further information concerning this meeting, contact: J. Kevin Mattonen, Executive Secretary to the CNO Executive Panel, 4401 Ford Avenue, room 601, Alexandria, Virginia 22302-0268, Phone (703) 756-1205.

Dated: March 8, 1993.

Michael P. Rummel,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 93–6020 Filed 3–17–93; 8:45 am]

BILLING CODE 3810–AE–F

CNO Executive Panel; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app. 2), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel National Defense Forces Task Force will meet April 13-14, 1993, from 9 a.m. to 5 p.m., at 4401 Ford Avenue, Alexandria, Virginia.

The purpose of this meeting is to provide framework for the place of naval forces in U.S. national defense. The entire agenda for the meeting will consist of discussion of key issues regarding the future threat assessment.

For further information concerning this meeting, contact: J. Kevin Mattonen, Executive Secretary to the Executive Panel, 4401 Ford Avenue, suite 601, Alexandria, Virginia 22302-0268, Phone (703) 756-1205.

Dated: March 9, 1993.

Michael P. Rummel,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 93–6042 Filed 3–16–93; 8:45 am]

BILLING CODE 3810–AE–F

DELAWARE RIVER BASIN COMMISSION

Commission Meeting and Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, March 24, 1993. The hearing will be part of the Commission's business meeting which is open to the public and scheduled to begin at 1 p.m. in the Goddard Conference Room of the Commission's offices at 25 State Police Drive, West Trenton, New Jersey.

An informal conference session among the Commissioners and staff will be open for public observation at 10 a.m. at the same location and will include discussions on DRBC-States' contracts; proposed nonpoint source regulations for Special Protection Waters; the upper Delaware ice jam project and status of compliance of Blair and Sons, Inc.

The subjects of the hearing will be as follows:

Applications for Approval of the Following Projects Pursuant to Article 10.3, Article 11 and/or Section 3.8 of the Compact

1. *Holdover Project: Wilmington Suburban Water Corporation D–91–72 CP.* A surface water supply project that entails an increase of withdrawal at the applicant's existing White Clay Creek intake adjacent to its Stanton water treatment plant. The applicant provides water to portions of northern New Castle County and requests an increase in its water withdrawal from 16 million gallons per day (mgd) to 30 mgd. The project is located just off First State Boulevard in Stanton, New Castle County, Delaware. This hearing continues that of February 17, 1993.

2. *Weatherly Municipal Authority D–80–80 CP RENEWAL–2.* An application for the renewal of a ground water withdrawal project to supply up to 12 million gallons (mg)/30 days of water to the applicant's distribution system from Well Nos. 1, 2 and 3. Commission approval on February 24, 1988 was limited to five years. The applicant requests that the total withdrawal from all wells remain limited to 12 mg/30 days. The project is located in Weatherly Borough, Carbon County, Pennsylvania.

3. *W.R. Grace and Company D–82–31 RENEWAL–2.* An application for the renewal of a ground water withdrawal and return project to: supply up to 2.4 mg/30 days of water to the applicant's manufacturing facility from Well No. 1 and return non-contact cooling water to the ground via injection Well No. 2. Commission approval on February 24, 1988 was limited to five years. The applicant requests that the total withdrawal from all wells remain limited to 2.4 mg/30 days. The project is located in Quakertown Borough, Bucks County and is in the Southeastern Pennsylvania Ground Water Protected Area.

4. *Town of Clayton D–84–34 CP RENEWAL–2.* An application for the renewal of a ground water withdrawal project to supply up to 8.5 mg/30 days of water to the applicant's distribution system from Well Nos. 1, 2R and 3. Commission approval on September 22, 1987 was limited to five years. The applicant requests that the total withdrawal from all wells be increased from 7.5 mg/30 days to 8.5 mg/30 days. The project is located in the town of Clayton, Kent County, Delaware.

5. *City of Coatesville Authority D–86–82 CP (Revision-1).* An application to revise Decision "h" of Docket D–86–82 CP to extend the time period to complete improvements to the Octoraro (McCrea) Water Treatment Plant. The project, an expansion of service area and interbasin transfer, was approved by the Commission September 26, 1990 and required completion of the McCrea Water Treatment Plant modification by June 1, 1993. The applicant has requested an extension until September 1, 1994. The project involves importation and exportation of Susquehanna and Delaware River Basin

waters and the entire service area is located within Pennsylvania.

6. *South Whitehall Township Authority D–91–82 CP.* An application for approval of a ground water withdrawal project to supply up to 18.36 mg/30 days of water to the applicant's distribution system from new Well No. 14, and to retain the existing withdrawal limit from all wells of 60 mg/30 days. The project is located in South Whitehall Township, Lehigh County, Pennsylvania.

7. *Matrix Realty, Inc. (Commonwealth National Country Club) D–92–32.* A combined surface and ground water withdrawal project to supply a maximum of 5.0 mg/30 days of water for irrigation of the applicant's golf course. New Well No. CW–1 will supplement a pond located on an unnamed tributary to Park Creek approximately 400 feet northeast of the intersection of Babylon and Rt. 463. Water will be withdrawn from the pond and used to irrigate approximately 77.5 acres. The project is located in Horsham Township, Montgomery County and is in the Southeastern Pennsylvania Ground Water Protected Area.

8. *Waltz Golf Farm D–92–49.* A golf course irrigation project that entails withdrawal of surface water via an intake proposed at an existing man-made pond on Landis Creek. The applicant proposes to withdraw approximately 9.0 mg/30 days (0.3 mgd) to irrigate approximately 165 acres of the proposed golf course. The project intake pond and golf course are located off state Route 422 (Ridge Pike) and Limerick Road in Limerick Township, Montgomery County, Pennsylvania.

9. *Childers Products Company, Inc. D–92–61.* A ground water remediation project that entails withdrawal of 86,000 gallons per day of contaminated ground water and treatment for removal of volatile organic compounds via an air stripper at the applicant's construction products manufacturing plant site. Five recovery wells will be used to control the contaminate migration and four wells will be used for injection of the decontaminated ground water back to the aquifer. The project is located in Bristol Township, Bucks County, Pennsylvania and is situated just west of Beaver Dam Road and east of 3–M Airport near the community of Edgely.

10. *U.S. Department of the Army D–93–1 CP.* A project to replace the existing Fort Dix and McGuire Air Force Base (AFB) sewage treatment plants (STPs) with a single new tertiary level STP capable of treating 4.6 mgd, on an average monthly basis. Only the existing Fort Dix STP settling tanks will be reused, after modification, for emergency off-line storage. The new STP will serve only Fort Dix and McGuire AFB and will be located on the site of the existing Fort Dix STP situated just to the east of Texas Avenue on Sunrise Road, Fort Dix, Pemberton Township, Burlington County, New Jersey. The new STP will discharge to ground water via 12 infiltration lagoons to be located just to the west of Juliustown-Browns Mills Road, in Pemberton Township, Burlington County, New Jersey.

11. *Star Enterprise D–93–4.* An application to replace the withdrawal of water from Well No. P–16 in the applicant's water supply system which has become an unreliable source of supply. The applicant requests that the total withdrawal from all wells remain limited to 180 mg/30 days. The project is located in New Castle County, Delaware.

12. *New Castle County Department of Public Works D–93–6 CP.* A proposed regional wastewater treatment facility and spray irrigation project to serve the Middletown-Odessa-Townsend (MOT) area of southern New Castle County, Delaware. The treatment plant will be situated just south of Old Corbit Road and just east of an unamed tidal tributary of the Appoquinimink River, a tributary of the Delaware River in Water Quality Zone 5. The proposed plant will provide 1.7 mgd secondary biological treatment capacity via a facultative lagoon system and discharge 1.2 mgd, after disinfection, for spray irrigation on an adjacent application area of approximately 152 acres. Also, 0.5 mgd will be discharged to the Appoquinimink River after tertiary filtration. The existing MOT plant, located just north of the proposed plant, will continue to operate and discharge 0.65 mgd to the Appoquinimink River until the proposed plant is operational, after which it will be decommissioned.

Documents relating to these items may be examined at the Commission's offices. Preliminary dockets are available in single copies upon request. Please contact George C. Elias concerning docket-related questions. Persons wishing to testify at this hearing are requested to register with the Secretary prior to the hearing.

Dated: March 9, 1993.

Susan M. Weisman,

Secretary.

[FR Doc. 93–6041 Filed 3–16–93; 8:45 am]

BILLING CODE 6360–01–P

DEPARTMENT OF ENERGY

Morgantown Energy Technology Center; Financial Assistance Award; (Award of Grant)

AGENCY: U.S. Department of Energy (DOE), Morgantown Energy Technology Center.

ACTION: Notice of noncompetitive financial assistance award.

SUMMARY: Based upon a determination made pursuant to 10 CFR 600.7(b)(2)(i) Criteria (H), the DOE, Morgantown Energy Technology Center (METC) gives notice of its plans to award a grant to The Sarkeys Energy Center at the University of Oklahoma, Norman, Oklahoma 73019, in the amount of approximately $600,000, of which $250,000 will be funded by the DOE. The total project period will be for an estimated six (6) months.

FOR FURTHER INFORMATION CONTACT: D. Denise Riggi, I–07, U.S. Department of Energy, Morgantown Energy Technology Center, P.O. Box 880, Morgantown, West Virginia 26507–0880, Telephone: (304) 291–4241. Procurement Request No. 21–93MC30084.000.

SUPPLEMENTARY INFORMATION: The purpose of the grant is to provide financial assistance to the Sarkeys Energy Center for conducting a feasibility study which will develop a validated conceptual model of the proposed standard gas production reporting systems applicable to individual states. Federally sponsored efforts are critical to expanding natural gas markets which address environmental concerns and reduce our nation's dependency on oil. By providing financial support, DOE expects to ultimately stimulate utilization of natural gas reserves by addressing serious information deficiencies that must be overcome to permit the smooth operation and expansion of domestic natural gas markets.

Issued in Washington, DC, March 9, 1993.

Louie L. Calaway,

Director, Acquisition and Assistance Division, Morgantown Energy Technology Center.

[FR Doc. 93–6159 Filed 3–16–93; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket Nos. ER93–419–000, et al.]

Gulf Power Company, et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

March 10, 1993.

Take notice that the following filings have been made with the Commission:

1. Gulf Power Company

[Docket No. ER93–419–000]

Take notice that on March 1, 1993, Gulf Power Company (Gulf Power) tendered for filing Notices of Cancellation of supplemental agreements for Escambia River Cooperative, Inc., Gulf Coast Electric Cooperative, Inc., and West Florida Electric Cooperative Association.

Comment date: March 24, 1993, in accordance with Standard Paragraph E at the end of this notice.

2. Union Electric Company

[Docket No. ER93–420–000]

Take notice that on March 1, 1993, Union Electric Company (Union) tendered for filing a request that the agreements accepted for filing in Docket No. ER91–331–000, designated as AP&L Rate Schedules 128, 129 and 130 be given Union designations.

Comment date: March 24, 1993, in accordance with Standard Paragraph E at the end of this notice.

3. San Diego Gas & Electric Company

[Docket No. ER93–424–000]

Take notice that on March 4, 1993, San Diego Gas & Electric Company (SDG&E) tendered for filing and acceptance, pursuant to 18 CFR § 35.12, the Coordination of Services Agreement (Agreement) between SDG&E and Louis Dreyfus Electric Power, Inc.

The Agreement provides for the purchase, sale, or exchange of surplus capacity and/or energy, and the purchase and sale of transmission service.

SDG&E requests that the Commission allow the Agreement to become effective May 1, 1993 or at the earliest possible date.

Copies of this filing were served upon this Public Utilities Commission of the State of California and LDEP.

Comment date: March 24, 1993, in accordance with Standard Paragraph E at the end of this notice.

4. PacifiCorp

[Docket No. ER93–4264–000]

Take notice that PacifiCorp., on March 4, 1993, tendered for filing, in accordance with 18 CFR 35.13 of the Commission's Rules and Regulations, Exhibit A (Revision No. 16, effective September 30, 1992) to the February 25, 1976 Transmission Agreement (PacifiCorp Rate Schedule FPC No. 123), between PacifiCorp and Tri-State Generation and Transmission Association, Inc. (TriState).

Exhibit A to the Transmission Agreement is revised annually in accordance with article 6(b) of the Transmission Agreement, and specifies the projected maximum integrated demand in kilowatts which Tri-State desires to have transmitted to defined Points of Delivery for a four-year rolling period.

PacifiCorp respectfully requests that a waiver of the prior notice requirements 18 CFR 35.3 be granted pursuant to 18 CFR 35.11 of the Commission's Rules and Regulations and that an effective date of September 30, 1992 be assigned, this date being consistent with the provisions of article 6(b) of the Transmission Agreement.

Copies of this filing were supplied to Tri-State and the Wyoming Public Service Commission.

Comment date: March 24, 1993, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 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. 93–6082 Filed 3–16–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. CP93–226–000, et al.]

Columbia LNG Corporation, et al.; Natural Gas Certificate Filings

March 10, 1993.

Take notice that the following filings have been made with the Commission:

1. Columbia LNG Corporation

[Docket No. CP93–226–000]

Take notice that on February 26, 1993, Columbia LNG Corporation ("Columbia LNG"), 20 Montchanin Road, Wilmington, Delaware 19807, filed in Docket No. CP93–226–000, an application pursuant to section 7(b) of the Natural Gas Act (NGA) for authorization and approval to abandon service to Columbia Gas Transmission Corporation ("Columbia Transmission") under Columbia LNG's Rate Schedule LNG and to abandon transportation service to Washington Gas Light Company ("WGL") under Columbia LNG's Rate Schedule X–2. Additionally, pursuant to section 7(c) of the NGA, 15 U.S.C. 717f(c), subpart A of part 157 of the Commission's Regulations, 18 CFR 157.5, *et seq.* (1992), subpart F of part 157 of the Commission's Regulations, 18 CFR 157.201 *et seq.* (1992), and subpart G of part 284 of the Commission's Regulations, 18 CFR 284.221 *et seq.* (1992), Columbia LNG requests the following:

(1) Authorization to construct a liquefaction unit at the Cove Point Terminal to liquefy natural gas for storage;

(2) Authorization to recommission its terminal located at Cove Point, Calvert County, Maryland ("Cove Point Terminal");

(3) Issuance of a blanket certificate with pre-granted abandonment to provide a peaking service, firm, and interruptible LNG terminalling services, and firm and interruptible transportation services; and

(4) Issuance of a blanket construction certificate, all as more fully set forth in the application that is on file with the Commission and open to the public inspection.

Columbia LNG is proposing to provide an assortment of services that involve the use of its Cove Point terminal and pipeline. In order to provide the peaking service, Columbia LNG will construct a liquefaction unit at Cove Point capable of liquefying up to 20,000 Mcf of gas per day. Additionally, Columbia LNG will recommission the onshore terminal facilities at Cove Point in order to store and vaporize LNG.

The peaking customers will provide natural gas for liquefaction and storage during an injection season (April 1 through December 14) pursuant to a delivery schedule to be established prior to the beginning of each injection season. During the withdrawal season (December 15 through March 15) and at any other time on a reasonable efforts basis, Columbia LNG will withdraw the LNG from storage, vaporize it, and

deliver the vaporized natural gas to the peaking customers. Each customer will be permitted to withdraw up to its Maximum Daily Peaking Quantity ("MDPQ") during any consecutive 10-day period. All receipts from and deliveries to the peaking customers will be at points along the Cove Point pipeline. Columbia LNG will charge market-based rates for the peaking services.

Additionally, Columbia LNG proposes to provide a firm LNG terminalling service pursuant to which Columbia LNG will unload tankers and provide equivalent quantities of natural gas, less retainage, to terminalling customers at delivery points long the Cove Point pipeline. Columbia LNG will also provide terminalling services on an interruptible basis. As in the case of the peaking service, terminalling services will be offered on the basis of market-based rates.

When LNG is being received at the Cove Point terminal for the account of terminalling customers, the LNG stored for the account of the peaking customers will be provided either by displacement or by peaking customer purchases of LNG from the LNG terminalling customer. The proposed tariffs specifically permit such purchases in lieu of liquefaction. The terminalling service would therefore give the peaking customer the opportunity to expand the number of days that the service would be available during the winter through purchases of LNG to replace previously withdrawn LNG storage quantities.

To efficiently utilize the terminal's existing LNG storage capacity, the terminalling and peaking customers will jointly use the terminal's storage capacity with safeguards being provided to ensure the integrity of the peaking service.

Finally, Columbia LNG will offer firm and interruptible transportation service on the Cove Point Pipeline. The rates to be charged for the transportation services will be cost based.

Columbia LNG states that all services will be provided on an open-access, non-discriminatory basis and that it has structured its services to be in compliance with Order No. 636 to the greatest extent practicable. Columbia LNG is requesting blanket certificate authorization under subpart G of part 284 of the Commission's Regulations to provide the services. Capacity for each firm service will be bid in an open season commencing 10 business days after the Commission's publication of notice of this application in the **Federal Register** and continuing until 4 p.m., Eastern time on the 10th business day following the commencement of open season. The terms of the open season are set forth in more detail in the Application and on the term sheets that Columbia LNG will make available to any interested part by contacting: L. Michael Bridges, President, Columbia LNG Corporation, (302) 429–5303.

Columbia LNG states that the offering of the peaking service is conditioned upon it receiving sufficient customer subscription at an adeauate price to permit it to economically undertake the necessary recommissioning and new construction. The offering of the terminalling services is conditioned upon Columbia LNG (i) implementing the peaking service and (ii) receiving a subscription for firm terminalling service at a price and quantity adequate to permit Columbia LNG to economically undertake the necessary recommissioning for this service.

The proposed services are discussed more fully in the Application and in the *pro forma* tariff sheets included with the filing.

In conjunction with the offering of the new services, Columbia LNG proposes to abandon sales of vaporized LNG to Columbia Transmission provided under Rate Schedule LNG of its FERC Gas Tariff, Original Volume 1 and to abandon interruptible transportation to WGL provided under Rate Schedule X–2 of its FERC Gas Tariff, Original Volume 2. Columbia LNG states that it has not provided service to Columbia Transmission under Rate Schedule LNG since deliveries of LNG were interrupted in 1980 and that Columbia Transmission has entered into an agreement to terminate service. Columbia LNG states that Rate Schedule X–2 specifically provides that service thereunder terminates with the commencement of LNG deliveries to the Cove Point terminal and that transportation will continue to be available to WGL under Columbia LNG's open access firm and interruptible transportation rate schedules as proposed in its Application.

The estimated cost for the proposed facilities is $54.4 million for the Peaking & Terminalling and $40.0 million for Peaking only.

Financing for Capital Costs, including the liquefaction facility and for recommissioning of existing onshore and offshore facilities, will be supported by a pledge of revenues from both peak shaving and firm terminalling customer contracts. In addition, Columbia LNG's existing assets will be available to be pledged to provide additional support for the new debt issued. To further support the new debt to be issued by Columbia LNG, it is expected that all, or a portion, of Columbia LNG's currently outstanding debt owed to the Columbia Gas system, Inc., of $41.7 million, would be surordinated to all new debt issued.

Comment date: March 31, 1993, in accordance with Standard Paragraph F at the end of this notice.

2. Williams Natural Gas Company

[Docket No. CP93–224–000]

Take notice that on February 25, 1993, Williams Natural Gas Company (Williams), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP93–224–000 a request pursuant to sections 157.205 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.216) for authorization to abandon sales service to City of Plevna, Kansas, under its blanket certificate issued in Docket No. CP82–479–000, pursuant to section 7(b) of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Williams states that in 1991 Peoples Natural Gas Company (Peoples) acquired the Plevna system and that Peoples is now requesting that effective on December 31, 1992, Williams abandon the sale of gas for resale to Plevna. It is indicated that the facilities would remain in place to allow Peoples to continue to provide service to Plevna.

Comment date: April 26, 1993, in accordance with Standard Paragraph G at the end of this notice.

3. CNG Transmission Corporation

[Docket No. CP93–229–000]

Take notice that on March 4, 1993, CNG Transmission Corporation (CNG) 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP93–229–000, a request pursuant to sections 157.205 and 157.211 of the Commission's Regulations for authorization under its blanket certificate issued in Docket No. CP82–537–000, to construct a new sales/transportation tap and appurtenant facilities to serve a new delivery point to Niagara Mohawk Power Corporation (Niagara Mohawk), a local distribution company in Rensselaer, New York, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

As a link in the chain of transportation and deliveries, CNG states that it must construct a tap and regulation station with about 1600 feet of 8 inch connection pipeline by tapping into its TL–470 pipeline and constructing 1600 feet of connecting pipeline to interconnect with Niagara

Mohawk's facilities near Rensselaer, and install a regulation equipment along with various auxiliary installations at the point of interconnection. Niagara Mohawk, as stated by CNG, has obtained state authorization to construct approximately 1.8 miles of 8 inch pipeline to reach the Cogen Plant currently under construction and would ultimately deliver the gas to the plant.

Total estimated cost of CNG's facilities to be constructed is $700,000.

Comment date: April 26, 1993, in accordance with Standard Paragraph G at the end of this notice.

4. Florida Gas Transmission Company

[Docket No. CP93–230–000]

Take notice that on March 5, 1993, Florida Gas Transmission Company (FGT), 1400 Smith Street, Houston, Texas 77002, filed in Docket No. CP93–230–000, a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to abandon certain metering facilities and approximately 0.4 mile of 12-inch lateral under the authorization issued in Docket No. CP82–553–000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

FGT states that Florida Power & Light (FPL) has requested FGT to remove the original metering facilities which served as the Lauderdale delivery point and was replaced with dual metering facilities serving as the Lauderdale "A" and "B" delivery points. It is stated that all facilities are located in Broward County, Florida.

FGT proposes to abandon and remove the original Lauderdale metering facilities. In addition, FGT proposes to abandon approximately 0.4 mile of the 12-inch Ft. Lauderdale Lateral. FGT states that it will cut and remove approximately 10-feet at each end of the lateral. According to FGT, the remaining pipe will be water filled, capped and abandoned in place. FGT states that it does not propose to reassign or realign any entitlements, nor rearrange any existing facilities. In addition, it is stated that the proposed abandonment will not result in the abandonment of any existing service to FGT's customers, nor will it disadvantage FGT's existing customers.

Comment date: April 26, 1993, in accordance with Standard Paragraph G at the end of this notice.

Panhandle Eastern Pipe Line Company

[Docket No. CP93–231–000]

Take notice that on March 5, 1993, Panhandle Eastern Pipe Line (Panhandle), P.O. Box 1642, Houston, Texas 77251–1642, filed an application with the Commission in Docket No. CP93–231–000 pursuant to section 7(b) of the Natural Gas Act (NGA) for an order permitting and approving the abandonment of certain certificated exchange agreements with Northern Natural Gas Company (Northern), all as more fully set forth in the application which is open to the public for inspection.

Panhandle requests permission and approval to abandon services under its FERC Rate Schedules E–6 and E–13 with Northern. Panhandle indicates that abandonment of these exchange services would have no detrimental impact upon Northern. Panhandle also states that Northern filed a separate application with the Commission in Docket No. CP93–223–000 to abandon its corresponding services for Panhandle.

No facilities would be abandoned in this proposal.

Comment date: March 31, 1993 in accordance with Standard Paragraph F at the end of the notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the 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 therefore, 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. 93–6084 Filed 3–16–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. JD93–05288T North Dakota–2]

State of North Dakota; NGPA Notice of Determination by Jurisdictional Agency Designating Tight Formation

March 10, 1993.

Take notice that on March 8, 1993, the Oil and Gas Division of the North Dakota Industrial Commission (North Dakota), submitted the above-referenced notice of determination pursuant to section 271.703(c)(3) of the Commission's regulations, that the Red River Formation, underlying certain lands in McKenzie County, North Dakota, qualifies as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978. The area of application is described as all of Section 20, Township 152 North, Range 95 West.

The notice of determination also contains North Dakota's findings that the referenced portion of the Red River Formation meets the requirements of the Commission's regulations set forth in 18 CFR part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. Persons objecting to the determination may file a protest, in

accordance with 18 CFR 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 93–6081 Filed 3–16–93; 8:45 am]

BILLING CODE 6717–01–M

Office of Fossil Energy

[FE Docket No. PP–86]

Record of Decision and Notice of Issuance of Presidential Permit PP–86 to Washington Water Power Company

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Publication of Record of Decision and Notice of Issuance of Presidential Permit PP–86 to Washington Water Power Company to construct an international electrical interconnection.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice that it has issued Presidential Permit PP–86 to the Washington Water Power Company (WWP). The Presidential permit grants WWP the authorization to construct, connect, operate, and maintain a double-circuit 230-kilovolt (kV) electric transmission line across the international border between the United States and Canada where it will interconnect with similar facilities to be constructed by British Columbia Hydro and Power Authority (B.C. Hydro). The Record of Decision appears below.

Record of Decision. In conjunction with the above mentioned Presidential permit, FE is hereby issuing a Record of Decision (ROD) pursuant to the regulations of the Council on Environmental Quality implementing the procedural provisions of the National Environmental Policy Act of 1969 (NEPA)[1] and DOE's (NEPA) compliance regulations.[2]

Environmental Document. This ROD is based on a review of the final Environmental Impact Statement (EIS) titled, "Washington Water Power/B.C. Hydro Transmission Interconnection Project," DOE/EIS 0141 issued on November 20, 1992. In this document, DOE considered the environmental impacts associated with granting or denying the Presidential permit as well as granting the Presidential permit but requiring construction along alternative transmission line corridors. Under the alternative of not granting the Presidential permit, various alternative power supply options which the applicant might take were considered. None of these alternatives or the alternative transmission line corridors considered proved to be preferable to granting the Presidential permit for construction along the proposed route.

As a condition for granting the requested Presidential permit, WWP will be required to adopt all mitigation measures identified in Table 2–5 and section 4.9 of the final EIS.

A copy of Presidential Permit PP–86 is available for public inspection and copying at the Department of Energy, room 3F–090, forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, between the hours of 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION ON THE PERMITTING PROCESS CONTACT: William H. Freeman, Office of Fuels Programs (FE–52), Fossil Energy, U.S. Department of Energy, Forrestal Building, Room 3F–087, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–5883.

FOR FURTHER INFORMATION ON THE DOE NEPA PROCESS CONTACT: Ms. Carol M. Borgstrom, Director, Office of NEPA Oversight (EH–25), U.S. Department of Energy, Forrestal Building, Room 3E–080, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–4600 or 1–800–472–2756.

SUPPLEMENTARY INFORMATION: On October 15, 1987, the Washington Water Power Company filed an application with the DOE for a Presidential permit pursuant to Executive Order 10485, as amended by Executive Order 12038, to construct, connect, operate, and maintain a double-circuit 230-kV overhead transmission line which would cross the U.S. international border near the city of Trail, British Columbia, and the town of Northport, Washington, and extend to the planned Marshall substation located in the vicinity of Spokane, Washington. In the application, WWP described the proposed line as approximately 118 miles in length (from the international boundary to Marshall substation) and would require all new rights-of-way. The two circuits would be capable of transmitting 800 to 1,200 megawatts, (MW) of firm capacity from British Columbia to the Pacific Northwest.

In reviewing this application, the DOE determined that granting the Presidential permit for the proposed interconnection would constitute "a major federal action significantly affecting the quality of the human environment" within the meaning of NEPA. Consequently, the DOE has prepared an EIS to assess the environmental impacts associated with granting or denying the permit.

In May 1988, DOE conducted scoping meetings in Spokane, Colville, and Newport, Washington, to identify major issues and concerns that should be addressed in the EIS. In January 1990, the DOE published and distributed approximately 650 copies of a draft EIS to interested individuals and agencies. Following this distribution, public hearings to obtain comments on the draft EIS were held in Spokane, Colville and Newport, Washington, in February 1990. A total of 56 speakers presented comments at the public hearings, and DOE received 71 written comments during the 72-day public comment period. Substantive comments and responses associated with the draft EIS are presented in the final EIS.

On March 2, 1991, WWP formally notified DOE that it was amending its Presidential permit application. In this amendment, WWP revised the proposed route of the project to the extent that the new proposed route would now terminate at WWP's existing Beacon substation, located northeast of Spokane, instead of WWP's originally proposed termination point at the planned Marshall substation, located southwest of Spokane. The amendment shortened the overall route by 25.7 miles but added approximately 5.6 miles of previously constructed route to the project.

As a result of this change in the project, DOE prepared a supplement to the draft EIS that addressed the environmental impacts associated with a new 5.6 mile section of the route. The supplemental draft EIS also compared the new proposed route (international boundary to Beacon Substation) to the other alternatives previously analyzed in the draft EIS, including the originally proposed route which extends from the international boundary to the proposed Marshall Substation. DOE published and distributed approximately 500 copies of the supplemental draft EIS to individuals and agencies in February 1992. A 68-day comment period allowed interested parties to submit comments on the contents of the document and the overall project. DOE received a total of 20 written comments during and following the comment period. Substantive comments and responses to concerns raised about the supplemental draft EIS are presented in the final EIS. DOE published and distributed 500 copies of the final EIS on November 13, 1992.

Pursuant to the Council on Environmental Quality (CEQ)

[1] 42 U.S.C. 4321 *et seq.*

[2] 57 FR 15122 (April 24, 1992), to be codified at 10 CFR part 1021.

regulations implementing the procedural provisions of NEPA and DOE's regulations for compliance with NEPA, FE is issuing this ROD on the application for a Presidential permit filed by WWP.

Description of Alternatives

On November 20, 1992 (54 FR 54789), DOE issued a final EIS titled, "Washington Water Power/B.C. Hydro Transmission Interconnection Project", DOE/EIS–0141. Section 2 of this document contains an analysis of the alternatives considered by DOE in reaching its decision to grant Presidential Permit PP–86:

1. Grant the Presidential permit as requested.

2. Grant the Presidential permit but require the use of alternative transmission corridors and/or designs. (Five alternative transmission corridors and five variations of those routes were considered.)

3. Take no action—deny the Presidential permit request. Under this alternative it is assumed that the applicant would choose to implement a number of alternative actions:

(a) Do not construct the transmission line and do not implement alternative supply or demand measures. (Maintain status quo)

(b) Utilize energy supply alternatives. (Cogeneration and small power production, utility purchases/exchanges, combustion turbines, conventional coal plants, hydro system improvement, fluidized bed, energy storage, fuel cells, geothermal hydro, nuclear, solar, wind, and fuel substitution)

(c) Modify domestic transmission system alternatives. (WWP 115–kV Sunset-Kettle Falls, BPA Bell-Boundary 230–kV circuits, 500–kV transmission, underground transmission, and superconducting transmission)

Basis for Decision

Executive Order 10485, as amended by Executive Order 12038, authorizes the DOE to grant a Presidential permit to construct, connect, operate, and maintain an electric transmission line which crosses the U.S. international border if it is determined that the issuance of the permit is in the public interest.

The DOE has concluded that the proposed project by WWP satisfies the criteria presently used to determine consistency with the public interest, namely: (1) The project must not impair the reliability of the electric power supply system in the U.S.; (2) DOE's decision making process must include due consideration of the environmental impacts of the Federal action in order to satisfy the requirements of the National Environmental Policy Act of 1969; and (3) the project must receive the favorable recommendation of the Secretary of State and the Secretary of Defense.

The Acting Assistant Secretary for Fossil Energy has determined that the construction, connection, operation, and maintenance of the proposed transmission line by WWP would not impair the reliability of the U.S. electric power supply system. A staff analysis dated November 27, 1992, in support of this finding has been made a part of the docket in this proceeding. Also, the Secretary of State by letter dated January 11, 1993, and the Secretary of Defense by letter dated January 14, 1993, have concurred in the granting of Presidential Permit PP–86.

In compliance with the provisions of NEPA, DOE prepared an EIS to address the environmental impacts associated with the proposed action and its alternatives. The information presented in the EIS suggests that the issuance of the Presidential permit would result in small incremental impacts in Washington State since much of the new transmission line is within established transmission line corridors and adjacent to existing transmission lines.

The final EIS discusses in detail, construction activities, including clearing and control of vegetation, loss or alteration of wildlife habitat, displacement and/or disturbance of wildlife, disturbance of aquatic resources, release of gaseous pollutants and dust, and disruption of agricultural activities. Based on those discussions and the conclusions reached, DOE finds that any environmental impacts created due to construction activities would be minimal and of short duration. The document also discusses in detail the potential environmental impacts from operation and maintenance of the transmission facilities, including collision of birds with structures, visual intrusion of additional lines within the transmission corridor, and possible health and safety effects associated with the electromagnetic environment in close proximity to the proposed line. Based on these discussions and the conclusions reached, the DOE finds that any environmental impacts caused by operation and maintenance of the facilities would be minor and incremental in nature.

DOE evaluated five alternative transmission line routes (Proposed Route, Eastern Alternative, Western Alternative, Northern Crossover Alternative, and the Southern Crossover Alternative); five route variations (Boundary Dam Variation, Orchard Prairie Variation, Chattaroy Variation, Marshall Variation, and Onion Creek Variation); and two route options (Eastern Route Option and Western Route Option). None of these routes or variations was found to be environmentally preferable to the proposed route.

The proposed route would consist of a new double-circuit 230–kV transmission line constructed between WWP's existing Beacon Substation and the United States-Canada international boundary. The proposed route is 102.2 miles in length and crosses Stevens, Pend Oreille, and Spokane Counties. The Boundary Dam and Orchard Praire Variations and the Eastern and Western Route Options are associated with this route. To minimize impacts to the extent practicable, WWP has developed a variety of environmental protection procedures which are presented in the final EIS. In addition, the DOE has identified specific mitigation measures which are also presented in the final EIS. Should the proposed interconnection be permitted, WWP has committed to both the protection procedures and the mitigation measures.

The final EIS discusses the significant impacts that would remain, following the implementation of the aforementioned mitigation measures (i.e., unavoidable adverse impacts). For the proposed route, unavoidable adverse impacts would include the removal of 8.5 acres of forested wetlands and the removal of 7 residences. No unavoidable adverse impacts are associated with either the Boundary Dam or Orchard Prairie Variations or the segments of the proposed route replaced by these variations.

The Eastern Alternative is the same route as that described for the proposed route, traveling from the United States-Canada boundary south to Mead. The Eastern Alternative then proceeds west, turning south at Four Mound Prairie, and terminates at the planned substation site near Marshall. The Eastern Alternative is 127.9 miles in length and crosses Stevens, Pend Oreille, and Spokane Counties. The Boundary Dam, Chattaroy, and Marshall Variations and the Eastern and Western Route Options are associated with this route.

For the Eastern Alternative, unavoidable adverse impacts would include the removal of 9.4 acres of forested wetlands, a total of 12 residences, and 2 major inhabited buildings. Neither the Boundary Dam Variation nor the segment of the Eastern Alternative that it would replace would

result in unavoidable adverse impacts. The Chattaroy Variation would cross the Little Spokane River Natural Area, resulting in unavoidable adverse impacts from the removal of 0.6 acre of forested wetland, the increase in the potential for bald eagle collisions, the reduction in 0.6 mile of the recreation area naturalness, the violation of 0.6 mile of land use policies prohibiting transmission line ROWs, and long-term visual impacts for 0.4 mile of the variation. Unavoidable adverse impacts associated with the segment of the Eastern Alternative replaced by this variation would include the removal of 1 residence and 1 major inhabited building. Both the Marshall Variation and the segment of the Eastern Alternative replaced would affect two residences, resulting in unavoidable adverse impacts from each of these route segments. Unavoidable adverse impacts affiliated with the Eastern Route Option and the Western Route Option in comparison to the segments of the Eastern Alternative replaced would be the same as those discussed for the proposed route.

The Western Alternative originates at the international boundary and travels south, paralleling the Columbia River, within the Columbia and Colville River Valleys and terminates at the planned Marshall Substation. The Western Alternative is 121.1 miles in length and crosses Stevens, Lincoln, and Spokane Counties. The Onion Creek and Marshall Variations are associated with the Western Alternative.

Unavoidable adverse impacts for the Western Alternative would include the removal of 21.2 acres of forested wetlands; removal of 7 residences; removal of 1 major inhabited building; and significant, long-term visual impacts for 14.5 miles of this alternative route. No unavoidable adverse impacts would be associated with the Onion Creek Variation. However, the segment of the Western Alternative replaced would result in unavoidable adverse impacts from exceeding 5.9 miles of the visual quality objectives. The unavoidable adverse impacts affiliated with the Marshall Variation and the segment of the Western Alternative replaced would be the same as those described for the Eastern Alternative.

The Northern Crossover and Southern Crossover Alternatives are crossover routes from the proposed route to the Western Alternative. Both of these alternatives cross Stevens, Pend Oreille, Lincoln, and Spokane Counties; terminate at the planned Marshall Substation; and are affiliated with the Boundary Dam and Marshall Variations. The lengths of the Northern and Southern Crossover Alternatives total 126.9 miles and 142.7 miles, respectively.

Use of the Northern Crossover Alternative would include the removal of 15.2 acres of forested wetland, the clearance of 9.1 acres of old growth forest, the removal of 8 residences, the removal of 1 major inhabited building, and the exceeding of applicable visual quality objectives for 1.8 miles of the route alternative, resulting in unavoidable adverse impacts to these resources. Unavoidable adverse impacts associated with the Boundary Dam and Marshall Variations and the segments of the Northern Crossover Alternative replaced would be the same as the impacts discussed when comparing these variations to the proposed route and Eastern Alternative.

Unavoidable adverse impacts for the Southern Crossover Alternative would include the removal of 9.1 acres of forested wetlands, the loss of 7.6 acres of old growth forest, the removal of 10 residences, and the removal of 1 major inhabited building. Unavoidable adverse impacts associated with the Boundary Dam and Marhsall Variations and the segments of the Southern Crossover Alternative replaced would be the same as the impacts discussed when comparing these variations to the proposed route and Eastern Alternative.

Under the No Action Alternative, DOE would not issue a Presidential permit for the proposed interconnection, and the transmission line would not be constructed. WWP would have to develop other sources of energy to meet increases in demand for electricity. The "maintain status quo" alternative would not provide the needed generating capacity and would result in greater air quality degradation due to the continued use of fossil fuels for electric generation.

If the DOE were to deny the Presidential permit, WWP could take other actions (supply alternatives and demand side options) to meet future demand for electricity. However, among the alternatives available to WWP (as stated in the Description of Alternatives) none were deemed to be viable alternatives to the proposed action.

In evaluating the suitability of conservation, WWP estimates annual savings of approximately 48 MW under average demand by the year 2000. Since the proposed action and the incorporation of conservation measures are not mutually exclusive, the proposed project does not preclude further pursuance of these programs.

The increased use of cogeneration and small power production (CSPP) was not considered to be a viable alternative to the proposed action because of questionable reliability in some of the resource additions. CSPPs are, for the most part, non-dispatchable. This means that WWP does not have the contractual option to shut down those resources when it is economical to do so. Furthermore, WWP does not have complete control over when, where or if these alternative supply sources are developed. Potential limitations also exist in WWP's system. In some cases, significant transmission system upgrades would be required to handle the interconnection of CSPPs.

In order for purchases/exchanges from other U.S. utilities to be a viable alternative to the proposed action, a reliable transmission system is required. Having access to, and/or ownership of, an interconnection facilitates the transfer of power between utilities. This alternative would have similar environmental impacts as the proposed action since additional domestic transmission lines would need to be constructed in order to deliver the energy to the region.

In evaluating the use of combustion turbines, the units typically have been used only to meet peaking loads. The main concern in using combustion turbines as an energy resource is the uncertain future supply and cost of fuel. WWP operates the 68-MW Northeast Combustion facility in north Spokane. The site has space for an additional unit, plus space for an add-on boiler to convert the simple cycle units to combined cycle. However, combustion turbines are not economically competitive with the proposed interconnection for providing up to 800 MW of firm power. The use of combustion turbines was not considered to be a viable alternative to the proposed action.

Building central-station powerplants would be costlier than the proposed action, could not be implemented in the required time period, and possibly could result in greater environmental impacts than the proposed action due to the increased thermal emissions from both fossil-fired and nuclear units, and the increased combustion emissions from fossil-fired units.

Load management programs are a part of the average energy and peak energy resource strategies of WWP and are helpful tools in shifting energy load from heavy on-peak to off-peak hours. However, load management cannot replace the capacity of the proposed interconnection and is not predictable enough to supply future energy needs. Load management, therefore, is not a viable alternative to the proposed action. As the need for peak energy

increases in the future, WWP is committed to evaluating load management further.

Making improvements to the existing hydro system is not a viable alternative to the proposed action. WWP has a large capital investment in existing plant facilities and is striving for maximum efficiency and potential from the existing generating units. The preliminary estimate of WWP's hydro system improvement potential is between 18 and 36 MW. Once ongoing studies are finalized, any hydro system improvements will be completed if they are shown to be cost effective. Any benefits derived from this alternative also would be incremental and not dependent upon the completion or cancellation of the proposed action.

Fluidized bed combustion is in a period of refinement in the electrical generation industry. The DOE, the manufacturing industry, and various trade groups have been the major contributors to fluidized bed research and development. Fluidized bed generation plants are currently constructed through 100–MW size. The small plants can be built in a shorter period of time rather than being locked into one site for many years, as with a large generating facility. Because of its claimed versatility, excellent emissions control, and fuel utilization characteristics, fluidized bed generation could be a promising energy resource of the future. But, it is currently too small in plant size and too experimental in nature to be considered an alternative to the proposed interconnection.

The use of nonconventional generating facilities (energy storage, fuel cells, geothermal, solar, wind, fuel substitution) was not considered to be a viable alternative to the proposed action because they do not meet the stated purpose of the proposed interconnection to provide a transmission path for peaking capacity and energy transfers between the B.C. Hydro system and the WWP system.

Alternative electrical designs and the potential for upgrading existing transmission line interconnections also were taken into consideration. The upgrades, additions, and alternative transmission designs examined and discussed below were not considered to be viable alternatives to the proposed action for the reasons outlined below:

(a) WWP operates a single circuit 115–kV line between Sunset Substation in Spokane County and the Kettle Falls Generating Station near Colville in Stevens County. Potential use of the 115–kV facility includes conversion to 230–kV and/or expansion of the existing right-of-way. The alternative was rejected because of the prohibitive cost and the degrading of system reliability.

(b) Bonneville Power Administration (BPA) operates four circuits (three 230–kV and one 115–kV) between Boundary Dam in northern Pend Oreille County and Bell Substation in northeast Spokane. Bell-Boundary #1 and #2 are separate 230–kV circuits located within the same transmission corridor in Spokane and Pend Oreille Counties. Bell-Boundary #3 and #4 circuits are located in Pend Oreille, Stevens, and Spokane Counties; circuit #3 is operated at 230–kV, while circuit #4 is operated at 115–kV for service to local distribution loads. The existing circuits at Bell-Boundary #1 and #2 are not capable of carrying the additional 600 to 1,000 MW transfers proposed by WWP for the B.C. Hydro Interconnection; therefore additional circuits would be required. The cost and time required to completely tear down the existing circuits and erect new structures does not make the Bell-Boundary 230–kV circuits a viable alternative to the proposed project.

(c) A new 500-kV single-circuit facility termination at the Bell Substation was considered as an option to the double-circuit 230-kV proposal. An uncompensated single-circuit 500-kV line transfers only 190 MW of a scheduled 1,000 MW between B.C. Hydro and WWP during heavy winter loading conditions. The remaining 810 MW flows on the existing B.C. Hydro-BPA 500-kV interconnection as inadvertent (loop) flow. This alternative is unacceptable from the standpoint of impacts to both the BPA and B.C. Hydro systems.

(d) Undergrounding as an alternative for the proposed interconnection would present concerns and serious drawbacks in the areas of cost, reliability, energy losses, and environmental consequnences.

(e) The recent development of materials which show superconducting characteristics at increasingly feasible temperatures may lead to many industrial and utility applications of superconductors in the future. It is not anticipated, however, that such technology will be developed in a time frame necessary to be utilized on the proposed interconnection.

Decision

The Acting Assistant Secretary for Fossil Energy has determined that the issuance of Presidential Permit PP–86 is in the public interest and has reached this decision after determining that the issuance of the subject Presidential permit was the most environmentally preferred action among those alternatives considered in the final EIS. However, since the environmental impacts associated with the granting of the Presidential permit were predicated on the implementation of numerous mitigative measures identified in the final EIS, issuance of the subject Presidential permit will be conditioned on WWP implementing all mitigative measures identified in the final EIS.

Copies of this Record of Decision and the Presidential Permit PP–86 will be made available, upon request, for public inspection and copying at the Department of Energy, room 3F–090, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Issued in Washington, DC, on March 8, 1993.

Jack S. Siegel,

Acting Assistant Secretary for Fossil Energy.

[FR Doc. 93–6161 Filed 3–16–93; 8:45 am]

BILLING CODE 6450–01–M

Office of Hearings and Appeals

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of Proposed Implementation of Special Refund Procedures; Republication.

The Office of Hearings and Appeals of the Department of Energy announces proposed procedures for the disbursement of $302,541.89 (plus accrued interest) that Whitaker Oil Company remitted to the DOE pursuant to a consent order. The funds will be distributed in accordance with the DOE's special refund procedures, 10 CFR part 205, Subpart V. This notice replaces the notice previously published in the February 17, 1993 **Federal Register** (58 FR 8758) in which the attached Proposed Decision and Order was inadvertently omitted.

DATES AND ADDRESSES: Comments must be filed in duplicate by April 16, 1993 in the **Federal Register** and should be addressed to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. All comments should be conspicuously display a reference to Case Number LEF–0052.

FOR FURTHER INFORMATION CONTACT: Richard W. Dugan, Associate Director, Stacy M. Crowell, Staff Analyst, Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–2860 (Dugan), (202) 586–4921 (Crowell).

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(b) of the procedural regulations of the Department of Energy (DOE), 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision and Order sets forth the procedures that the DOE has tentatively formulated to distribute monies that have been remitted by Whitaker Oil Company to the DOE to settle possible pricing violations with respect to its sale of diesel fuel, kerosene, toluene, and xylene. The DOE is currently holding $302,541.89 in an interest-bearing escrow account pending distribution.

Applications for Refund should not be filed at this time. Appropriate public notice will be given when the submission of claims is authorized. Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to submit two copies of their comments. Comments should be submitted within 30 days of the publication of this notice in the **Federal Register**, and should be sent to the address set forth at the beginning of this notice. All comments received will be available for public inspection between the hours of 1 p.m. and 5 p.m., Monday through Friday, except Federal holidays, in the Public Reference room of the Office of Hearings and Appeals, located in room 1E–234, 1000 Independence Avenue, SW., Washington, DC 20585.

Dated: March 9, 1993.

George B. Breznay,

Director, Office of Hearings and Appeals.

Special Refund Procedures

Name of Firm: Whitaker Oil Company.
Date of Filing: October 1, 1992.
Case Number: LEF–0052.

In accordance with the procedural regulations of the Department of Energy (DOE), 10 CFR part 205, subpart V, the Economic Regulatory Administration (ERA) of the DOE filed a Petition for the Implementation of Special Refund Procedures with the Office of Hearings and Appeals (OHA) on October 1, 1992. The petition requests that OHA formulate and implement procedures for the distribution of funds received pursuant to an Agreed Judgment entered into by DOE and Whitaker Oil Company of Atlanta, Georgia (Whitaker).

I. Background

Whitaker was a "reseller-retailer" as defined in 6 CFR 150.352 and 10 CFR 212.31. Accordingly, during the period from August 1973 to January 28, 1981, Whitaker was subject to the Mandatory Petroleum Price Regulations, 10 CFR part 212, subpart F, and antecedent regulations at 6 CFR part 150, subpart L. As a result of an ERA audit, the ERA alleged that Whitaker violated the price regulations in sales of motor gasoline, diesel fuel, kerosene, toluene, and xylene during a five month period from November 1973 through March 1974 (the audit period). The auditors determined that, during this period, the firm made sales at prices in excess of the maximum lawful selling price (MLSP) permitted by the regulations. Consequently, the ERA issued a Proposed Remedial Order (PRO) to Whitaker on February 24, 1982, alleging pricing violations in the sales of motor gasoline, diesel fuel, kerosene, toluene, and xylene. After considering the firm's objections to the PRO, the DOE issued a final Remedial Order on April 10, 1985. *Whitaker Oil Co.*, 13 DOE ¶ 83,004, *aff'd*, 31 FERC ¶ 61,292 (1985). In the Remedial Order, the DOE modified the PRO to take account of retroactive exception relief which Whitaker received with regard to its motor gasoline sales. See *Whitaker Oil Co.*, 12 DOE ¶ 81,024 (1985). The Remedial Order further reduced the alleged overcharges in accordance with the ERA's position that the equal application rule should not be applied to audits occurring before September 1, 1974, and also found that Whitaker could not be liable for alleged overcharges attributable to the sale of xylene during the months of February and March 1974.

On February 25, 1990, an Agreed Judgment was entered in the U.S. District Court for the Northern District of Georgia with respect to the Remedial Order issued to Whitaker by the DOE. This Judgment settled all claims and liabilities concerning Whitaker's compliance with the Federal petroleum price and allocation regulations governing the marketing of petroleum products during the period August 18, 1973 through January 28, 1981. Specifically, Whitaker agreed to remit $280,000, plus interest, to the DOE for deposit in an interest bearing escrow account. Whitaker has remitted $302,541.89 to the DOE in full satisfaction of that agreement. In addition, as of November 30, 1992, $19,431.54 in interest had accrued on the amount paid by Whitaker.

II. Jurisdiction

The procedural regulations of the DOE set forth general guidelines by which the Office of Hearings and Appeals may formulate and implement a plan of distribution for funds received as a result of an enforcement proceeding. 10 CFR part 205, subpart V. It is the DOE policy to use the subpart V process to distribute such funds. For a more detailed discussion of subpart V and the authority of the Office of Hearings and Appeals to fashion procedures to distribute refunds obtained as part of settlement agreements, see *Office of Enforcement*, 9 DOE ¶ 82,553 (1982); *Office of Enforcement*, 9 DOE ¶ 82,508 (1981); *Office of Enforcement*, 8 DOE ¶ 82,597 (1981) (*Vickers*). After reviewing the record in the present case, we have concluded that a subpart V proceeding is an appropriate mechanism for distributing the Whitaker settlement fund. We therefore propose to grant the ERA's petition and assume jurisdiction over distribution of the fund.

III. Proposed Refund Procedures

A. Refund Claimants

Insofar as possible, the settlement fund should be distributed to those customers of Whitaker who were injured by the alleged overcharges. Those Whitaker customers who purchased products covered by the Remedial Order during the ERA audit period are the purchasers we have identified as those most likely to have been injured. In this case, the ERA audit files specifically identify Whitaker's customers by name and record the amounts of products purchased by each customer. They do not, however, contain sufficient data which would indicate the dollar amount of the alleged overcharges paid by individual customers of each of the products. We are thus able to use the information contained in the audit files for guidance as to the identity of Whitaker's customers and the volumes of product they purchased, but are unable to apportion the settlement fund based on the specific overcharges incurred by each customer as we have done in some prior refund proceedings. See, e.g., *Howard Oil Co.*, 15 DOE ¶ 85,072 (1986). Consequently, we propose to use the volumetric approach described below as the mechanism for determining refund amounts. A list of the customers named in the audit files will be published as an appendix to the final Decision and Order implementing the Whitaker refund procedures. We propose to accept refund applications from customers who can document their monthly purchases of diesel fuel, kerosene, and/or toluene from Whitaker during the period from November 1973 through March 1974. Purchasers of xylene may apply for refunds based on their records of monthly purchases from Whitaker during the period from November 1973 through January 1974. If an applicant does not have records to establish a specific gallonage claim, it may elect to rely on information in the ERA audit files regarding its level of purchases, if such information exists for the firm.[1]

1. Showing of Injury. As in prior refund proceedings, we propose to require claimants who were resellers (including retailers and refiners) of refined petroleum products purchased from Whitaker to demonstrate that during the audit period they would have maintained their prices for the petroleum products at the same level had the alleged overcharges not occurred. While there are a variety of ways to make this showing, a reseller should generally demonstrate that, at the time it purchased the product from Whitaker, market conditions would not permit it to increase its prices to pass through to its customers the additional costs associated with the alleged overcharges. See *Atlantic Richfield Co./Odessa L.P.G. Transport* 21 DOE ¶ 85,384 (1991); *Gulf Oil Corp./Anderson & Watkins, Inc.* 21 DOE ¶ 85,380 (1991). In addition, the reseller will be required to show that it had a "bank" of unrecovered costs in order to demonstrate that it did not recover the increased costs associated with the alleged overcharges by increasing its own prices. The maintenance of a bank does not, however, automatically

[1] We recognize that other parties not identified by the DOE audit may be entitled to a portion of the settlement fund. Such claimants will be required to submit documentation which establishes that they purchased diesel fuel, kerosene, toluene and/or xylene from Whitaker during the period covered by the ERA audit and the volume of those purchases.

establish injury. See *Tenneco Oil Co./ Chevron U.S.A., Inc.*, 10 DOE ¶ 85,014 (1982).

2. Small claims presumption. We further propose to adopt a small claims presumption of injury which has been used in many previous special refund cases. We recognize that making a detailed showing of injury may be too complicated and burdensome for resellers who purchased relatively small amounts of Whitaker petroleum products. For example, such firms may have limited accounting and data-retrieval capabilities and therefore may be unable to produce the records necessary to prove the existence of banks of unrecovered costs, or that they did not pass on the alleged overcharges to their own customers. We also are concerned that the cost to the applicant and to the government of compiling and analyzing information sufficient to make a detailed showing of injury not exceed the amount of the refund to be gained. In the past we have adopted a small claims presumption to assure that the costs of filing and processing a refund application do not exceed the benefits. See, e.g., *Marion Corp.*, 12 DOE ¶ 85,014 (1984) (*Marion*). We propose that any reseller claiming a refund of $10,000 or less need only document its purchase volumes rather than make a detailed showing of injury in order to be eligible to receive a refund. See *Texaco Inc.*, 20 DOE ¶ 85,147 (1990).

3. Medium-range refiner, reseller and retailer claimants. We also propose that in lieu of making a detailed showing of injury, a reseller claimant whose allocable share exceeds $10,000 may elect to receive as its refund either $10,000 or 40 percent of its allocable share up to $50,000, whichever is larger.[2] The use of this medium-range presumption of injury reflects our conviction that these larger claimants were likely to have experienced some injury as a result of the alleged overcharges. In some prior special refund proceedings, we have performed detailed economic analysis in order to determine product-specific level of injury. See, e.g., *Getty Oil Co.*, 15 DOE ¶ 85,064 (1986). However, in *Gulf Oil Corp.*, 16 DOE ¶ 85,381 (1987), we determined that based upon the available data, it was accurate and more efficient to adopt a single presumptive level of injury of 40 percent for all medium-range claimants, regardless of the refined product that they purchased, based upon the results of our analyses in prior proceedings. We believe that approach generally to be sound, and we therefore propose to adopt a 40-percent presumptive level of injury for all medium-range claimants in this proceeding. Consequently, an applicant in this group will only be required to provide documentation of its purchase volumes of the specified Whitaker petroleum products during the refund period in order to be eligible to receive a refund of $10,000 or 40 percent of its total allocable share, up to $50,000, whichever is greater.[3]

4. End-users. As in many other refund proceedings, we are making a finding that end-users or ultimate consumers whose businesses are unrelated to the petroleum industry were injured by the alleged overcharges covered by the Agreed Judgment. Unlike regulated firms in the petroleum industry, members of this group were generally not subject to price controls during the audit period, and were not required to keep records which justified selling price increases by reference to cost increases. See, e.g., *Marion; Thornton Oil Corp.*, 12 DOE ¶ 85,112 (1984). For these reasons, an analysis of the impact of the increased cost of petroleum products on the final prices of non-petroleum goods and services would be beyond the scope of this special refund proceeding. See *Office of Enforcement*, 10 DOE ¶ 85,072 (1983); see also *Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 at 88,209 (1984). We therefore propose that end-users of Whitaker petroleum products need only document their purchase volumes to make a sufficient showing that they were injured by the alleged overcharges.[4]

5. Regulated firms and cooperatives. We further propose that, in order to receive a full volumetric refund, a claimant whose prices for goods and services are regulated by a governmental agency, e.g., a public utility, or by terms of a cooperative agreement, needs only to submit documentation of purchases used by itself or, in the case of a cooperative, sold to its members. However, a regulated firm or a cooperative whose allocable share is greater than $10,000 will also be required to certify that it will pass any refund received through to its customers or member-customers, provide us with a full explanation of how it plans to accomplish the restitution, and certify that it will notify the appropriate regulatory body or membership group of the receipt of the refund. See Dorchester Gas Corp., 14 DOE ¶ 85,240 at 88,451 (1986). This requirement is based upon the presumption that, with respect to a regulated firm, any overcharges would have been routinely passed through to its customers. Similarly, any refunds received should be passed through to its customers. With respect to a cooperative, in general, the cooperative agreements which control prices would ensure that the alleged overcharges, and similarly refunds, would be passed through to its member-customers. Accordingly, these firms will not be required to make a detailed demonstration of injury.

6. Spot purchasers. We also propose to adopt a rebuttable presumption that resellers which made only spot purchases of Whitaker petroleum products suffered no injury. Spot purchasers tend to have considerable discretion in where and when to make purchases and therefore would not have made spot purchases of Whitaker's product at increased prices unless they were able to pass through the full amount of the alleged overcharges to their own customers. See Vickers, 8 DOE at 85,396–97. Accordingly, any reseller claimant who was a spot purchaser must submit evidence to rebut the spot purchaser presumption and establish the extent to which it was injured by the spot purchase(s). See Saber Energy, Inc./Mobil Oil Corp., 14 DOE ¶ 85,170 (1986).

7. $15 Minimum. We also propose to establish a minimum amount of $15 for refund claims. We have found through our experience in prior refund cases that the cost of processing claims in which refunds are sought for amounts less than $15 outweighs the benefits of restitution in those situations. See Uban Oil Co., 9 DOE ¶ 82,541 (1982); see also 10 CFR. § 205.286(b).

B. Calculation of Refund Amounts

As stated above, the ERA audit files document Whitaker's customers' names and gallons of product purchased. The data are not specific enough to permit us to apportion the settlement fund based on the overcharges experienced by each customer. Therefore, we propose to use a volumetric refund methodology to distribute the settlement funds in this proceeding. The volumetric refund presumption assumes that the alleged overcharges by a firm were spread equally over all gallons of product marketed by that firm. In the absence of better information, this assumption is sound because the DOE price regulations generally required a regulated firm to account for increased costs on a firm-wide basis in determining its prices. This presumption is rebuttable, however. A claimant which believes that it suffered a disproportionate share of the alleged overcharges may submit evidence proving this claim in order to receive a larger refund. See Sid Richardson Carbon and Gasoline Co. and Richardson Products Co./ Siouxland Propane Co., 12 DOE ¶ 85,054 at 88,164 (1984).

Under the volumetric methodology we plan to adopt, a claimant will be eligible to receive a refund equal to the number of gallons of diesel fuel, kerosene, toluene and/ or xylene purchased from Whitaker during the months specified for each of those products in Part III A of this Proposed Decision, multiplied by the volumetric factor. The volumetric factor in this case equals $0.0618 per gallon.[5] In addition, successful

[2] Based on the volumetric refund level proposed in Part III B, claimants who purchased more than 161,812 gallons of Whitaker refined petroleum products during the audit period (medium-range claimants) may elect to utilize this presumption.

[3] A claimant who attempts to make a detailed showing of injury in order to obtain 100 percent of its allocable share but, instead, provides evidence that leads us to conclude that it passed through all of the alleged overcharges or is eligible for a refund of less than the applicable presumption-level refund, will receive a refund which reflects the level of injury established in its Application. No refund will be approved if its submission indicates that it was not injured as a result of its purchases from Whitaker. See *Exxon Corp.*, 17 DOE ¶ 85,590 at 89,150 n. 10 (1988).

[4] It is apparent from the audit files that some of Whitaker's customers were firms which were regulated under the Mandatory Petroleum Price Regulations but may have used the products as end-users in affiliated operations, such as petrochemical plants. The OHA has determined that a firm owned by an oil company can be considered an end-user if its business activities are unrelated to the petroleum industry. See *Gulf Oil Corp./Ashland Oil, Inc.*, 20 DOE ¶ 85,214 (1990); see also *Gulf Oil Corp./Kerr-McGee Corp.*, 13 DOE ¶ 85,204 (1984).

[5] The volumetric factor in the present case is computed by dividing the settlement amount ($302,541.89) by the 4,895,449 gallons of diesel fuel, kerosene, toluene, and/or xylene which the ERA audit files indicate Whitaker sold during the months of the refund period.

claimants will receive a proportionate share of the accrued interest.

IV. Conclusion

Refund applications in this proceeding should not be filed until the issuance of a final Decision and Order. Detailed procedures for filing applications will be provided in the final Decision and Order. Before disposing of any of the funds received, we intend to publicize the distribution process and to provide an opportunity for any affected party to file a claim. In addition to publishing copies of the proposed and final Decisions in the **Federal Register**, copies of the final Decision will be provided to the Whitaker customers for whom we have addresses.

Any funds that remain after all first stage claims have been decided will be distributed in accordance with the provisions of the Petroleum Overcharge Distribution and Restitution Act of 1986 (PODRA), 15 U.S.C. 4501–07. PODRA requires that the Secretary of Energy determine annually the amount of oil overcharge funds that will not be required to refund monies to injured parties in subpart V proceedings and make those funds available to state governments for use in four energy conservation programs. The Secretary has delegated these responsibilities to the OHA. Any funds in the Whitaker escrow account that the OHA determines will not be needed to effect direct restitution to injured Whitaker customers will be distributed in accordance with the provisions of PODRA.

It is therefore ordered that:

The refund amount remitted to the Department of Energy by Whitaker Oil Company pursuant to the Agreed Judgment executed on February 25, 1990 will be distributed in accordance with the foregoing Decision.

[FR Doc. 93–6048 Filed 3–16–93; 8:45 am]

BILLING CODE 6450–01–P

Western Area Power Administration

Floodplain Statement of Findings for the Sterling Substation Transformer and Fuse Replacement Project

AGENCY: Department of Energy (DOE), Western Area Power Administration (Western).

ACTION: Floodplain statement of findings.

SUMMARY: This is a Floodplain Statement of Findings for the Sterling Substation Transformer and Fuse Replacement Project prepared in accordance with 10 CFR Part 1022. Western proposes to modify structures and equipment, in addition to installing oil spill containment equipment, at the Sterling Substation in a floodplain located in Logan County, Colorado. Western prepared a floodplain and wetlands assessment describing the effects, alternatives, and measures designed to avoid or minimize potential harm to or within the affected floodplain. Western will endeavor to allow 15 days of public review after publication of the statement of findings before implementing the proposed action.

FOR FURTHER INFORMATION CONTACT: Mr. Robert H. Jones, Western Area Power Administration, Loveland Area Office, P.O. Box 3900, Loveland, CO 80539–3003, (303) 490–7200.

FOR FURTHER INFORMATION ON GENERAL DOE FLOODPLAIN/WETLANDS ENVIRONMENTAL REVIEW REQUIREMENTS, CONTACT: Carol M. Borgstrom, Director, Office of NEPA Oversight, EH–25, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 586–4600 or (800) 472–2756.

SUPPLEMENTARY INFORMATION: This is a floodplain statement of findings for the Sterling Substation Transformer and Fuse Replacement Project prepared in accordance with 10 CFR part 1022. A notice of floodplain and wetlands involvement was published in the **Federal Register** (FR) on July 22, 1992, 57 FR 32527. DOE is proposing to modify structures and equipment and provide oil spill containment at the existing Sterling Substation (see figure 1). The action is proposed to be located in the floodplain due to the current location of the substation in the floodplain, and because a relocation of the substation outside the floodplain would require relocation of several transmission and distribution lines. Such an extensive relocation of facilities would not be practicable. Alternatives to the proposed action are relocating the substation, which would be very expensive and would will require transmission line or construction crossings in the floodplain, and no action, which would result in unacceptable system reliability and oil spill containment conditions at the site. The proposed action does conform to applicable State or local floodplain protection standards.

All construction would be confirmed to the area within the fenced substation boundaries so no floodplain or wetland vegetation would be removed or otherwise affected by the project. Construction is not expected to affect current drainage patterns, flood storage volume, or water quality of the South Platte River. Oil spill containment equipment installed at the facility would help protect South Platte River water quality.

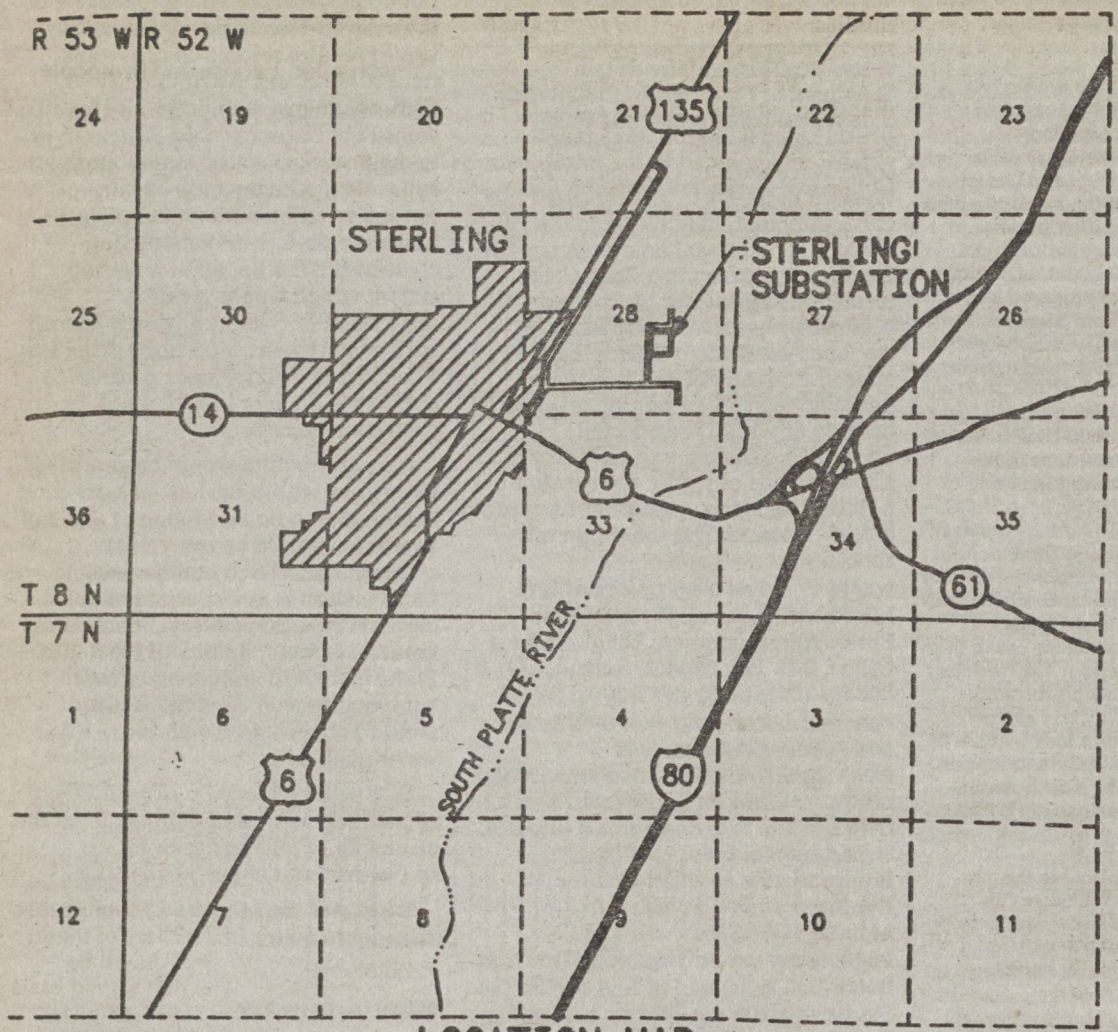
DOE will endeavor to allow 15 days of public review after publication of the statement of findings prior to implementing the proposed action.

Issued at Golden, Colorado, March 5, 1993.

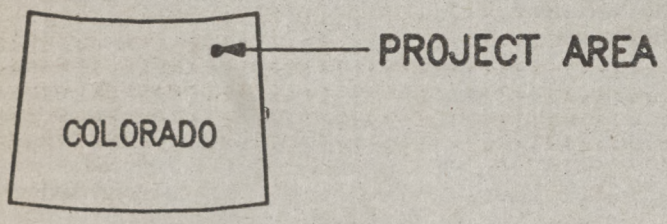
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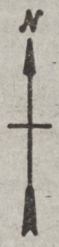
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LOCATION MAP
STERLING SUBSTATION TRANSFORMER REPLACEMENT
AND OIL SPILL CONTAINMENT





[FR Doc. 93–6160 Filed 3–16–93; 8:45 am]
BILLING CODE 6450–01–C

FIGURE 1
LOCATION MAP

ENVIRONMENTAL PROTECTION AGENCY

[FRL–4604–4]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this notice announces the Office of Management and Budget's (OMB) responses to Agency PRA clearance requests.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer (202) 260–2740.

SUPPLEMENTARY INFORMATION:

OMB Responses to Agency PRA Clearance Requests

OMB Approvals

EPA ICR No. 0940.08; Ambient Air Quality Networks-Monitoring and Quality Precision Data; was approved 01/15/93; OMB No. 2060–0084; expires 01/31/96.

EPA ICR No. 0795.07; Notification of Chemical Exports—TSCA Section 12(B); was approved 01/14/93; OMB No. 2070–0030; expires 04/30/93.

EPA ICR 1237.06; Standards for the Use or Disposal of Sewage Sludge at 40 CFR 503; was approved 01/07/93; OMB No. 2040–0157; expires 01/31/96.

EPA ICR No. 1569.02; State Coastal Nonpoint Program Development and Approval Guidance and Guidance Specifying Management Measures to Control Coastal Nonpoint Pollution (Coastal Zone); was approved 01/08/93; OMB No. 2040–0153; expires 01/31/96.

EPA ICR No. 1154.03; NESHAP for Benzene Emissions from Bulk Transfer Operations—Part 61, Subpart BB; was approved 01/22/93; OMB No. 2060–0182; expires 01/31/96.

EPA ICR No. 0163.04; TSCA Inspection-Related Forms; was approved 01/27/93; OMB No. 2070–007; expires 05/31/93.

EPA ICR No. 1446.03; Polychlorinated Bihpenyls, Notification and Manifesting of PCB Waste Activities and Records of PCB Storage and Disposal; was approved 02/05/93; OMB No. 2070–0112; expires 02/28/96.

EPA ICR No. 0275.05; Preaward Compliance Review Report for all Applicants Requesting Federal Financial Assistance; was approved 01/26/93; OMB No. 2090–0014; expires 01/31/96.

EPA ICR No. 0575.05; Health and Safety Data Reporting, Submission of Lists and Copies of Health and Safety Studies; was approved 02/17/93; OMB No. 2070–0004; expires 02/28/96.

The ICRs listed below received four months clearance; and the approval period supersedes the three months extension contained in the Information Collection Worksheets granted for these ICRs on December 30, 1992: EPA ICR No.0261.08; Notification of Hazardous Waste Activities; OMB No. 2050–0028, EPA ICR No. 0262.04; RCRA Hazardous Waste Permit Application and Modification, Part A; OMB No. 2050–0034, EPA ICR 1571.02; General Hazardous Waste Facility Standards; OMB No. 2050–0120 and, EPA ICR No. 1573.02; Part B Permit Application, Permit Modifications and Special Permits; OMB No. 2050–0009. The expiration date is 6/30/93.

OMB Extensions of Expiration Dates

EPA ICR No. 0597; Tolerance Petitions and New Inert Ingredient Clearance; OMB No 2070–0024; expiration date extended to 05/31/93.

EPA ICR No. 1506; Standards of Performance for New Stationary Sources Municipal Waste Combustors; OMB No. 2060–0210; expiration date extended to 04/30/93.

EPA ICR No. 0662; NSPS for Equipment Leaks of VOC in the Synthetic Organic Chemical Manufacturing Industry; OMB No. 2060–0012; expiration date extended to 04/30/93.

EPA ICR No. 1335; TSCA Section 8(A) Comprehensive Assessment Information Rule (CAIR); OMB No. 2010–0019; expiration date extended to 04/30/93.

EPA ICR No. 1547; The Pesticides Enforcement and Applicator Certification Cooperative Agreements Output; OMB No. 2070–0113; expiration date extended to 05/31/93.

EPA ICR No 1504; Phases 4 and 5 of the Pesticide Registration Process; OMB No. 2070–0107; expiration date extended to 03/31/93.

EPA ICR No. 1080; National Emission Standards for Hazardous Air Pollutants, Amendment to Benzene Rule for Coke By-Product Recovery Plants; OMB No. 2060–0185; expiration date extended to 03/31/93.

EPA ICR No. 1188; Significant New Use Rules for Existing Chemicals; OMB No. 2070–0038; expiration date extended to 05/31/93.

Dated: March 11, 1993.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 93–6151 Filed 3–16–93; 8:45 am]

BILLING CODE 6560–50–F

[FRL–4606–5]

Conservation Verification Protocols

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability of the Conservation Verification Protocols: A guidance document for electric utilities affected by the Acid Rain Program of the Clean Air Act Amendments of 1990.

SUMMARY: On January 11, 1993 EPA published the Acid Rain Core Rules in the **Federal Register** (58 FR 3590). Included in these rules is the Allowance System Rule's provision for the Conservation and Renewable Energy Reserve (40 CFR part 73, subpart F), and the Permits Rule's provision for Reduced Utilization of Phase I affected units (40 CFR 72.43 and 72.91).

The Conservation and Renewable Energy Reserve is a special pool of 300,000 total SO_2 emission allowances deducted from the Phase II (year 2000–2009) allocations and made available to utilities that meet electric demands with either qualified demand-side conservation measures or renewable energy resources. Congress established this Reserve to provide an early "jump start" to energy efficiency and renewable energy strategies for reducing SO_2 emissions. The Rule includes the criteria that an electric utility must meet in order to qualify for a share of these Reserve allowances, which will be issued on a first-come, first served basis beginning July 1, 1993 (§ 73.82(g)(1)). Energy savings obtained by a utility from qualified conservation measures must be verified either by a State Public Utilities Commission based on deferral criteria provided in the Rule, or by use of EPA's Conservation Verification Protocols, or another method.

The Reduced Utilization provision allows for the use of demand-side and supply-side energy conservation to lower SO_2 emissions at Phase I affected units in 1995–1999. The energy savings from Reduced Utilization must also be verified in each year that energy conservation measures contribute to the Reduced Utilization. A utility that uses energy conservation for Reduced Utilization may verify its energy savings with the EPA's Conservation Verification Protocols or with a procedure prescribed by its State Public Utility Commission, if applicable, or with another method.

In the Preamble to the final Acid Rain Core Rules, EPA stated its intention to publish the Conservation Verification Protocols (58 FR 3590, 3618 (1993)). Today's Notice indicates the Agency's fulfillment of that commitment. The

Conservation Verification Protocols are a set of procedures by which a utility may verify electricity saved from its energy conservation programs. The preferred approach is to infer energy savings through the measurement and evaluation of energy use at 75 percent confidence, although a simpler stipulated savings approach and the use of engineering estimates are available in some cases.

AVAILABILITY OF PROTOCOLS: Copies of the Conservation Verification Protocols are available to the public. Any member of the public wishing to obtain a copy of these Protocols is requested to call EPA's Acid Rain Division, 202–233–9187. This document is also available for public review in EPA Air Docket Number A–90–39 in room 1500 of EPA Headquarters, 401 M Street, SW., Washington, DC. Hours of inspection are 9:30 a.m. to 12 noon and 1:30 to 3:30 p.m., Monday through Friday.

ADDITIONAL QUESTIONS: Questions concerning the Conservation Verification Protocols may be directed to Barry Solomon, Acid Rain Division, Office of Air and Radiation (6204–J), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; Telephone: (202) 233–9166; Telefax: (202) 233–9585.

Paul M. Stolpman,

Acting Director, Office of Atmospheric Programs, Office of Air and Radiation.

[FR Doc. 93–6152 Filed 3–16–93; 8:45 am]

BILLING CODE 6560–50–P

[FRL 4606–8]

National Advisory Council for Environmental Policy and Technology of the Policy Integration Project; Open Meetings on March 31, May 5, and May 19, 1993; Lead Subcommittee

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463) the Environmental Protection Agency gives notice of three meetings of the Lead Subcommittee of the Policy Integration Project of the National Advisory Council for Environmental Policy and Technology (NACEPT), an external policy advisory committee to the Administrator of EPA. The meetings will take place March 31 from 9 a.m. to 5 p.m., May 5 from 8:30 a.m. to 5 p.m., and May 19 from 9 a.m. to 5 p.m. The March 31 meeting will take place at the Radisson Park Terrace hotel located at 1515 Rhode Island Avenue, NW., Washington, DC. For further information on the locations of the other meetings, contact either Ms. Fletcher or Mr. Otis at the phone numbers and addresses listed at the end of this notice.

EPA has long realized that the policy and budget decisions of many Federal agencies have the potential to affect the quality of the environment. Therefore, the achievement of many of the nation's environmental goals requires coordinated activity across Federal agencies. While the National Environmental Policy Act (NEPA) requires analysis of the environmental consequences of specific federal projects, these considerations are not required in more general policy making and in budgeting. The Science Advisory Board realized this when it recommended in "Reducing Risk: Setting Priorities and Strategies for Environmental Protection" (SAB–EC–90–021) that "EPA should increase its efforts to integrate environmental considerations into broader aspects of public policy in as fundamental a manner as are economic concerns."

To help incorporate environmental considerations into policy making functions across the Federal Government and to help coordinate the activities of Federal agencies that affect the environment, EPA is launching the Policy Integration Project under the aegis of the National Advisory Council for Environmental Policy and Technology (NACEPT). NACEPT, a 50 member advisory committee composed of representatives from business and industry, state and local governments, labor, academia, environmental advocacy organizations, and others, provides EPA with independent assessments of environmental policies and programs. Since the subject of the Policy Integration Project is the policy making functions of the Federal Government as a whole, EPA believes experts that are not tied to the particular perspective of a given Federal agency will approach this problem with the broad view necessary to make recommendations for government-wide action. NACEPT has been chosen to lead this project since it can draw on the experience of a variety of experts outside the Federal Government. NACEPT also will provide a vehicle for bringing together inter-related parties and receiving input from the general public.

The Policy Integration Project will convene subcommittees to address four broad issues: Lead exposure; nutrient and sediment loadings to water bodies; wetlands; and global climate change. These issues were selected for discussion because they involve significant risk to public health or to the environment, and they are affected by the policies of a variety of Federal agencies. The four subcommittees will examine the policy levers available across the Federal government to achieve environmental goals in each of these areas. A larger steering committee will be formed to examine more generally the issue of integrating environmental policy considerations into the policy making functions of the Federal government.

The Lead Subcommittee intends to develop recommendations to the Administrator on improving and coordinating government efforts to reduce public exposures to lead. The subcommittee will examine different policies of the Federal government for reducing lead exposure and it will examine the efficiency, equity, and feasibility of options for implementing them. The subcommittee also will recommend areas of future research that could increase understanding of lead health effects, exposure, and exposure reduction. The subcommittee will consider the following topics: occupational lead poisoning prevention; source reduction in the industrial lead environment; lead use reduction and product substitution; management of lead wastes, Superfund sites, and lead contaminated soils; abatement of lead based paint hazards; reducing lead in drinking water; and screening and treatment services for underserved, high-risk populations.

All meetings will be open to the public, with limited seating available on a first-served basis. At the March 31 meeting the subcommittee will discuss its workplan, review Federal activities that effect lead exposure, and discuss issues that could be addressed in an initial report to the Administrator on near-term opportunities for reducing lead exposures. Members of the public will not have an opportunity to speak at this meeting. At the May 5 meeting members of the public will have the opportunity to make 5-minute oral presentations. The subcommittee is particularly interested in hearing oral presentations on the following topics: moving from case identification to primary lead exposure prevention; abatement of lead based paint hazards; populations at high risk of lead poisoning; abating occupational lead hazards; and research needed to prevent lead poisoning. At the May 19 meeting the subcommittee will review and discuss the public comments and submitted materials and discuss the near term issues report.

Written Comments: Members of the public are invited to provide written comments for consideration by the subcommittee by no later than May 5. Submit 20 copies of written statements to: Andrew Otis, EPA Office of Policy, Planning, and Evaluation (PM–219),

U.S. EPA, 401 M St. SW., Washington, DC 20460 (phone 202/260–4332). Copies of material provided to or developed by the subcommittee may be obtained from Mr. Otis at the above address.

Oral Statements: Members of the public are invited to make 5 minute oral statements at the May 5 meeting. To reserve a space on the agenda, persons wishing to make a brief oral presentation must contact Donna A. Fletcher, Designated Federal Official, Office of Cooperative Environmental Management (A101–F6), U.S. EPA, Washington, DC 20460 (phone 202/260–6883, fax 202/260–6882) no later than April 23. Speakers should provide 20 copies of a written statement to Ms. Fletcher at the time of the meeting for distribution to the members of the subcommittee. Oral statements should supplement the written statements.

For Further Information: Any member of the public wishing further information concerning the meeting should contact either Mr. Otis or Ms. Fletcher at their respective phone numbers and addresses shown above.

Dated: March 12, 1993.

Abby J. Pirnie,

NACEPT Designated Federal Official.

[FR Doc. 93–6156 Filed 3–16–93; 8:45 am]

BILLING CODE 6560–50–M

[FRL 4606–7]

National Technical Workshop: "PCBs in Fish"

AGENCY: U.S. Environmental Protection Agency.

ACTION: Workshop.

SUMMARY: Notice is hereby given that the Environmental Protection Agency is sponsoring a national technical workshop titled: "PCBs in Fish Tissues." It will be held on May 10–11, 1993 at the Grand Hyatt Washington at Washington Center. Polychlorinated biphenyls (PCBs) are a family of man-made chemicals that are widely distributed throughout the environment. The analysis of PCBs in fish tissues involves a complex set of considerations regarding PCB toxicity information, laboratory analytical techniques, exposure data, etc. This national technical workshop will examine how human health assessments of this ubiquitous chemical may be affected by current PCB analytical issues for fish tissues.

The workshop's purpose is to provide a forum for an exchange of the latest information between the users of PCB fish data and the generators of that data. Workshop segments will include: Introduction and Overview of PCBs in Fish Tissues; Human Health Effect of PCBs; Laboratory Analytical Methods currently in use; and Case Studies of Human Health Assessments for PCBs in Fish.

FOR FURTHER INFORMATION CONTACT: Conference arrangements for EPA's PCB Workshop are being coordinated by OGDEN Environmental. For registration forms, general program information, and travel assistance call OGDEN's Conference service line at (703) 246–0596, Monday–Friday from 9 a.m. to 5 p.m. e.s.t. Please register early, space is limited.

For more detailed program information, contact Mr. Rick Hoffman of EPA at (202) 260–0642.

Dated: March 9, 1993.

Arnold M. Kuzmack,

Acting Director, Office of Science and Technology, Office of Water, U.S. Environmental Protection Agency.

[FR Doc. 93–6154 Filed 3–16–93; 8:45 am]

BILLING CODE 6560–50–M

[PP 1G2454/T636; FRL 4575–2]

Acetochlor; Extension of Temporary Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has extended temporary tolerances for the total combined residues of the herbicide acetochlor, and from the sum of its EMA-(2-ethyl-6-methyl aniline) yeilding metabolites and its HEMA-(2-(1-hydroxymethyl)-6-methyl aniline] metabolites (when calculated as acetochlor) in or on certain raw agricultural commodities.

DATES: These temporary tolerances expire May 1, 1995.

FOR FURTHER INFORMATION CONTACT: By mail: Robert Taylor, Product Manager (PM) 25, Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 245, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, 703–305-6800.

SUPPLEMENTARY INFORMATION: EPA issued a notice, which was published in the **Federal Register** of August 7, 1991 (56 FR 37547), announcing the renewal of temporary tolerances for the total combined residues of the herbicide acetochlor [*N*-(ethoxymethyl)-2-methyl-6-ethyl-2-chloro-acetanilide] and from the sum of its EMA-(2-ethyl-6-methyl aniline) yeilding metabolites and its HEMA-(2-(1-hydroxymethyl)-6-methyl aniline] metabolites (when calculated as acetochlor) in or on the raw agricultural commodities field corn, grain at 0.04 part per million (ppm) and field corn, fodder, and forage at 0.50 ppm. These tolerances were issued in response to pesticide petition (PP) 1G2454, submitted by Monsanto Company, 700 14th St., NW., suite 1100, Washington, DC 20005.

These temporary tolerances have been extended to permit the continued marketing of the raw agricultural commodities named above when treated in accordance with the provisions of experimental use permit 524-EUP-56, which is being extended under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (Pub. L. 95–396, 92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that the extension of these temporary tolerances will protect the public health. Therefore, the temporary tolerances have been extended on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active herbicide to be used must not exceed the quantity authorized by the experimental use permit.

2. Monsanto Company must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These tolerances expire May 1, 1995. Residues not in excess of this amount remaining in or on the raw agricultural commodities after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerances. These tolerances may be revoked if the experimental use permit is revoked or if any experience with or scientific data on this pesticide indicate that such revocation is necessary to protect the public health.

The Office of Management and Budget has exempted this notice from the requirements of section 3 of Executive Order 12291.

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

or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

Authority: 21 U.S.C. 346a(j).

Dated: March 5, 1993.

Lawrence E. Culleen,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 93–5985 Filed 3–16–93; 8:45 am]

BILLING CODE 6560–50–F

[OPP–50756; FRL–4573–6]

Receipt of Notification to Conduct Small-Scale Testing of a Genetically Engineered Microbial Pesticide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received an application (NMP No. 959630–NMP–E) from The Boyce Thompson Institute for Plant Research (BTI) of intent to conduct small-scale field testing of a genetically engineered microbial pesticide. The Agency has determined that the application may be of regional and national significance. Therefore, in accordance with 40 CFR 172.11(a), the Agency is soliciting public comments on this application.

DATES: Written comments must be received on or before April 16, 1993.

ADDRESSES: Comments in triplicate, must bear the docket control number OPP–50756 and be submitted to: Public Response and Program Resources Branch, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person bring comments to: Rm. 246, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted in any comment(s) concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked, will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment(s) 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 to the submitter. Information on the proposed test and all written comments will be available for public inspection in rm. 246 at the Virginia address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Phil Hutton, Product Manager (PM) 18, Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 213, CM #2, 1921 Jefferson Davis Highway, Arlington, VA (703–305–7690).

SUPPLEMENTARY INFORMATION: An application for an NMP has been received from The Boyce Thompson Institute for Plant Research of Tower Road, Ithaca, New York 14853–1801. This NMP application EPA file symbol is 959630–NMP–E. The proposed small-scale field trials involve the introduction of a genetically engineered isolate of the baculovirus pesticide *Lymantria dispar* nuclear polyhedrosis virus (LdMNPV). The test will be conducted to evaluate the co-occlusion baculovirus strategy in a forest ecosystem and will be designed to evaluate the survival capacity and assess the spread of this genetically altered baculovirus pesticide. This strategy involves an engineered virus constructed to lack a polyhedrin gene (poly-minus) and therefore produces only nonoccluded virus particles which are environmentally unstable. By co-infection of individual host cells with the poly-minus engineered virus and a wildtype virus (contains a polyhedrin gene), polyhedrin protein is produced by the wildtype virus which occludes (and protects) both types of virus particles.

The primary difference between the proposed test and the 1989 release is the insertion and expression of the bacterial lacZ gene in the recombinant LdMNPV. The proposed released site which is to be located at the Otis Air National Guard Base on Cape Cod, MA (at least one mile away from any fresh water sources) will consist of 20 closely grouped oak trees. A total of 200 spun bound polyester bags will be attached to the tree limbs. Each bag will contain approximately 500 viral treated gypsy moth eggs and 500 untreated eggs. Following hatch, check bags will be closely monitored to ensure that at least 90 percent of the larvae become infected. Intensive monitoring is planned for 2 years after the release. By the end of the second year, it is anticipated that recovery if the recombinant virus will be at a low level.

Dated: March 5, 1993.

Lawrence E. Culleen,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 93–5865 Filed 3–16–93; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

Policy Statement To Address the Problem of the Use of Large-Value Funds Transfers for Money Laundering

AGENCY: Federal Financial Institutions Examination Council.

ACTION: Statement of policy .

SUMMARY: The Federal Financial Institutions Examination Council (Council) is issuing this policy statement to address the problem of the use of large-value funds transfers for money laundering. The law enforcement community both within the United States and abroad has a growing interest in money laundering through funds transfer systems. The Council supports law enforcement's efforts to identify and prosecute money laundering activities involving large-value funds transfer systems. The Council encourages financial institutions to support law enforcement efforts in this area by including, to the extent practical, complete originator and beneficiary information when sending payment orders, including payment orders sent through Fedwire, CHIPS, and SWIFT.

The FFIEC recommended to its five member agencies that they adopt this Statement of Policy. The FRB, FDIC, NCUA, OCC and OTS have done so.

EFFECTIVE DATE: The FFIEC adopted the policy statement on December 8, 1992.

SUPPLEMENTARY INFORMATION:

Background

The President of the United States has joined with the leaders of other nations to sponsor a Financial Action Task Force (FATF).[1] The FATF is primarily developing international guidelines to facilitate the identification and prosecution of money laundering activities. Historically, law enforcement efforts to curtail money laundering activities have focused on the identification and documentation of currency-based transactions; however, recent investigations have focused on

[1] The FATF was formed as a direct initiative by the Heads of State of Governments of seven major industrialized countries and the President of the European Communities during an economic summit in July 1989. The total membership of FATF now stands at 28 countries, with the primary representation being law enforcement.

the use of funds transfer systems. The FATF has developed recommendations to provide more complete information about the parties to a funds transfer. This information is useful for law enforcement investigations.

FATF Recommendations

The FATF recommends that the text of every payment order include: the name, address, and account number of the person who initiated the first payment order in the funds transfer (the originator); the beneficiary's name and address, and when possible, account number should also be provided in the message text. The FATF also recommends that the identity of the first bank that accepts a payment order from a nonbank should be noted and retained through all subsequent processing of the funds transfer. (The FATF recognizes that the originator and beneficiary information specified in its recommendations may not be provided in transfers originated in some countries because of provisions contained in local laws.)

In this context, SWIFT and CHIPS have recently issued statements encouraging their participants to include the information specified by the FATF recommendations in funds transfers processed through those systems. The Bank of England has also encouraged financial institutions in the United Kingdom to provide complete originator and beneficiary information when using national, international, and proprietary message transfer systems.

To that extent practicable, the Council encourages all domestic banking offices to implement the FATF recommendations when sending a payment order over any funds transfer system, including Fedwire, CHIPS, SWIFT, and any proprietary networks.

With respect to Fedwire, the Council recognizes that the Fedwire format limits the amount of information that can be included in a Fedwire funds transfer. While the Federal Reserve System is exploring changes to the Fedwire format, those changes would require time to implement. In the interim, the Council encourages originating banks to ensure that the nonbank originator, beneficiary, and any instructing bank information is included in each Fedwire funds transfer to the extent possible given the limited size of the Fedwire format and the need to give priority to information necessary for payment processing.

Information concerning the originator and beneficiary may be recorded in the payment order text. For example, if an originator requests depository institution A to transfer funds over Fedwire to a beneficiary of depository institution B, and either the originator or beneficiary information is lengthy and exceeds the space fields specified for originator or beneficiary information, to the extent practicable, the remaining information may be included in the message text in optional fields that may otherwise not be used for that particular payment order.

When a payment order is received by a bank through one funds transfer system and then executed through another funds transfer system; to the extent practical, information on the originator of the payment order received by the intermediary bank should be included in the payment order sent by the intermediary bank. For example, when a SWIFT message is received by an intermediary bank and subsequently sent to the beneficiary's bank via Fedwire, the originator information on the SWIFT message should be carried forward as space permits to the Fedwire message. If the originator information is lengthy and exceeds the space available in the specified fields, to the extent practical, the remaining information may be included in the message text in optional fields that otherwise will not be used for that particular payment order.

Dated: March 11, 1993.

Joe M. Cleaver,

Executive Secretary, Federal Financial Institutions Examination Council.

[FR Doc. 93–6044 Filed 3–16–93; 8:45 am]

BILLING CODE 6210–01–M

FEDERAL MARITIME COMMISSION

Trans-Pacific Freight Conference of Japan; Notice of Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington. DC Office of the Federal Maritime Commission, 800 North Capitol Street, NW., 9th Floor. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 206–008600–010.

Title: Agreement No. 8600—Policy Level Agreement.

Parties: Trans-Pacific Freight Conference of Japan, Japan-Atlantic and Gulf Freight Conference.

Synopsis: The proposed amendment changes the name of the Agreement from Agreement No. 8600—Policy Level Agreement to Agreement No. 8600—Japan-U.S. Policy Level Agreement, in order to reflect its application in the trade from Japan to the United States. The amendment also specifically names the conferences as the parties to the Agreement, replacing the ambiguous reference to member lines. Further, it also makes technical and procedural changes to other articles within the Agreement.

Dated: March 11, 1993.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 93–6046 Filed 3–16–93; 8:45 am]

BILLING CODE 6730–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Committee for Energy-Related Epidemiologic Research: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting.

Name: Advisory Committee for Energy-Related Epidemiologic Research.

Times and Dates: 8 a.m.–5 p.m., April 1, 1993; 8 a.m.–3:15 p.m., April 2, 1993.

Place: Sheraton Suites Hotel, 801 North St. Asaph Street, Alexandria, Virginia 22314.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 50 people.

Purpose: This committee is charged with providing advice and recommendations to the Secretary of Health and Human Services (HHS), the Assistant Secretary for Health, the Director, CDC, and the Administrator, Agency for Toxic Substances and Disease Registry (ATSDR), on the establishment of a research agenda and the conduct of a research program pertaining to energy-related analytic epidemiologic studies. The committee will take into consideration information and proposals provided by the

Department of Energy (DOE), the Advisory Committee for Environment Safety and Health which was established by DOE under the guidelines of a Memorandum of Understanding between HHS and DOE, and other agencies and organizations, regarding the direction HHS should take in establishing the research agenda and in the development of a research plan.

Matters To Be Discussed

The Advisory Committee for Energy-Related Epidemiologic Research will meet to discuss data access, document declassification, and criteria for evaluations/decisions. The National Center for environmental Health (HCEH) will make presentations on:

(1) Proposed radiation epidemiology research;

(2) Proposed environmental dose reconstruction research;

(3) Prioritization of site specific research;

(4) Public involvement;

(5) Molecular epidemiology; and

(6) Air pollution.

Presentations will be made by ATSDR and an update of projects will be provided by the National Institute for Occupational Safety and Health.

Agenda items are subject to change as priorities dictate.

CONTACT PERSON FOR MORE INFORMATION: Nadine Dickerson, Program Analyst, Radiation Studies Branch, Division of Environmental Hazards and Health Effects, NCEH, CDC, 4700 Buford Highway, NE. (F–35), Atlanta, Georgia 30341–3724, telephone 404/488–7040, FAX 404/488–7044.

Dated: March 11, 1993.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control and Prevention (CDC).

[FR Doc. 93–6078 Filed 3–16–93; 8:45 am]

BILLING CODE 4160–18–M

Availability of Draft USPHS Guidelines for Prevention of Transmission of HIV Through Transplantation of Human Tissue and Organs.

AGENCY: Centers for Disease Control and Prevention (CDC), Public Health Service (PHS), Department of Health and Human Services.

ACTION: Notice of availability and request for comments.

SUMMARY: This notice announces the availability for review and comment of a draft document entitled "USPHS Guidelines for Prevention of Transmission of HIV Through Transplantation of Human Tissue and Organs," prepared by CDC and other USPHS agencies including the Food and Drug Administration (FDA), the Health Resources and Services Administration (HRSA), and the National Institutes of Health (NIH).

DATES: To ensure consideration, written comments on this draft document must be received on or before May 17, 1993.

ADDRESSES: Requests for copies of the draft guidelines for prevention of HIV transmission through transplantation must be submitted to the CDC National AIDS Clearinghouse, P.O. Box 6003, Rockville, Maryland 20849–6003, telephone (800) 458–5231. Written comments on this draft document should be sent to the Technical Information Activity, Division of HIV/AIDS, National Center for Infectious Diseases, Centers for Disease Control and Prevention (CDC), Mailstop E–49, 1600 Clifton Road, NE., Atlanta, Georgia 30333, for receipt by May 17, 1993.

FOR FURTHER INFORMATION CONTACT: Technical Information Activity, Division of HIV/AIDS, National Center for Infectious Diseases, Centers for Disease Control and Prevention (CDC), Mailstop E–49, 1600 Clifton Road, NE., Atlanta, Georgia 30333.

SUPPLEMENTARY INFORMATION: Existing guidelines for prevention of HIV transmission through organ or tissue transplantation have reduced markedly the transmission of HIV via these routes. However, an instance of transmission of HIV from a screened, HIV-antibody-negative organ and tissue donor to several recipients has raised questions about the need for additional Federal oversight of organ and tissue transplantation. A USPHS workgroup, convened to address this problem, concluded that existing guidelines should be reviewed and revised, and asked that CDC be the lead agency for this process. Adequate Federal regulations, recommendations, and guidelines, which are not addressed in this document, are already in place for blood and plasma. This document addresses issues for other tissues and organs including donor screening and testing; quarantine of tissue; inactivation or elimination of infectious organisms in organs and tissues prior to transplantation; timely detection, reporting, and tracking of potentially infected tissues, organs, and recipients; and recall of stored tissue from donors found after donation to have been infected.

Dated: March 10, 1993.

Walter R. Dowdle,

Deputy Director, Centers for Disease Control and Prevention (CDC).

[FR Doc. 93–6079 Filed 3–16–93; 8:45 am]

BILLING CODE 4160–18–P

Food and Drug Administration

[Docket No. 93F–0028]

Ciba-Geigy Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Ciba-Geigy Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of 3,6-bis(4-chlorophenyl)-2,5-dihydro- pyrrolo[3,4-c]pyrrole-1,4-dione (C.I. Pigment Red 254) as a colorant in polymers intended for use in contact with food.

FOR FURTHER INFORMATION CONTACT: Richard H. White, Center for Food Safety and Applied Nutrition (HFS–216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–254–9511.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 3B4349) has been filed by Ciba-Geigy Corp., 315 Water St., Newport, DE 19804–2434. The petition proposes to amend the food additive regulations in § 178.3297 *Colorants for polymers* (21 CFR 178.3297) to provide for the safe use of 3,6-bis(4-chlorophenyl)-2,5-dihydro- pyrrolo[3,4-c]pyrrole-1,4-dione (C.I. Pigment Red 254) as a colorant in polymers intended for use in contact with food.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: March 8, 1993.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 93–6033 Filed 3–16–93; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 92F-0449]

Hanover Foods Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a petition has been filed on behalf of Hanover Foods Corp. proposing that the food additive regulations be amended to provide for the safe use of calcium disodium EDTA (ethylenediaminetetraacetate) to promote color retention in additional varieties of beans.

FOR FURTHER INFORMATION CONTACT: Nega Beru, Center for Food Safety and Applied Nutrition (HFS-206), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-254-9519.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 3A4347) has been filed on behalf of Hanover Foods Corp., P.O. Box 334, Hanover, PA 17331. The petition proposes to amend the food additive regulations in § 172.120 *Calcium disodium EDTA* (21 CFR 172.120) to provide for the safe use of calcium disodium EDTA to promote color retention in additional varieties of beans. The additive is currently approved for use in dried lima beans (cooked, canned) and processed dry pinto beans to promote color retention.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: March 8, 1993.

Fred R. Shank,

Center for Food Safety and Applied Nutrition.

[FR Doc. 93-6034 Filed 3-16-93; 8:45 am]

BILLING CODE 4160-01-F

[Docket No. 92E-0470]

Determination of Regulatory Review Period for Purposes of Patent Extension; Actinex® Cream

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Actinex® Cream and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Written comments and petitions should be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Karin L. Bolte, Office of Health Affairs (HFY-20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1382.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98-417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100-670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product Actinex® Cream. Actinex® Cream (masoprocol) is indicated for the topical treatment of actinic (solar) keratoses. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Actinex® Cream (U.S. Patent No. 4,695,590) from Block/Chemex, G.P., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. FDA, in a letter dated December 29, 1992, advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of Actinex® Cream represented the first commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Actinex® Cream is 3,607 days. Of this time, 2,363 days occurred during the testing phase of the regulatory review period, while 1,244 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act became effective*: October 22, 1982. FDA has verified the applicant's claim that October 22, 1982, was the date the investigational new drug application became effective.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the Federal Food, Drug, and Cosmetic Act*: April 10, 1989. The applicant claims April 7, 1989, as the date the new drug application (NDA) for Actinex® Cream (NDA 19-940) was initially submitted. However, FDA records indicate that NDA 19-940 was initially submitted on April 10, 1989.

3. *The date the application was approved*: September 4, 1992. FDA has verified the applicant's claim that NDA 19-940 was approved on September 4, 1992.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 712 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before May 17, 1993, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before September 13, 1993, for a

determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: March 10, 1993.

Stuart L. Nightingale,

Associate Commissioner for Health Affairs.

[FR Doc. 93–6036 Filed 3–16–93; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 92E–0507]

Determination of Regulatory Review Period for Purposes of Patent Extension; Desogen®

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Desogen® and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Written comments and petitions should be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Karin L. Bolte, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1382.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product Desogen®. Desogen® (desogestrel and ethinyl estradiol) is indicated for the prevention of pregnancy in women who elect to use oral contraceptives as a method of contraception. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Desogen® (U.S. Patent No. 3,927,046) from Akzona, Inc., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. FDA, in a letter dated December 31, 1992, advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of Desogen® represented the first commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Desogen® is 1,427 days. Of this time, 716 days occurred during the testing phase of the regulatory review period, while 711 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act became effective:* January 15, 1989. FDA has verified the applicant's claim that January 15, 1989, was the date the investigational new drug application (IND) became effective.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the Federal Food, Drug, and Cosmetic Act:* December 31, 1990. FDA has verified the aplicant's claim that December 31, 1990, was the date the new drug application (NDA) for Desogen® (NDA 20–071) was initially submitted.

3. *The date the application was approved:* December 10, 1992. FDA has verified the applicant's claim that NDA 20–071 was approved on December 10, 1992.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,504 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before May 17, 1993, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before September 13, 1993, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: March 10, 1993.

Stuart L. Nightingale,

Associate Commissioner for Health Affairs.

[FR Doc. 93–6035 Filed 3–16–93; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 92N–0442]

Evaluation of Evidence for Carcinogenicity of Butylated Hydroxyanisole (BHA); Announcement of Study; Request for Scientific Data and Information; Announcement of Open Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the Life Sciences Research Office (LSRO) of the Federation of American Societies for Experimental Biology (FASEB) is about to undertake a reexamination of scientific data on possible carcinogenic effects of butylated hydroxyanisole (BHA) in animals. BHA is widely used as an antioxidant in foods. It is currently listed as a generally recognized as safe (GRAS) ingredient for use in food, a direct and indirect food additive for other uses, and a prior-sanctioned ingredient for use in food-packaging material. The agency has requested that LSRO/FASEB review scientific information and data that suggest an association between BHA ingestion and cancer in animals and provide an up-to-date, publicly available report on its findings.

To assist in the preparation of its scientific report, LSRO/FASEB is inviting the submission of scientific data and information bearing on this topic. LSRO/FASEB will provide an opportunity for oral presentations at an open meeting.

DATES: LSRO is holding a public meeting on this topic on April 15, 1993. The meeting will begin at 9 a.m. Requests to make oral presentations at the open meeting must be submitted in writing and received by March 29, 1993. Written presentations of scientific data, information, and views should be submitted on or before April 15, 1993.

ADDRESSES: Submit written requests to make oral presentations of scientific data, information, and views at the open meeting to the Life Sciences Research Office, Federation of American Societies for Experimental Biology, 9650 Rockville Pike, Bethesda, MD 20814–3998, and to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857. Two copies of the scientific data, information, and views should be submitted to each office. The meeting will be held in the Chen Auditorium, Lee Bldg., FASEB (address above).

FOR FURTHER INFORMATION CONTACT: Sue Ann Anderson or Elwood O. Titus, Life Sciences Research Office, Federation of American Societies for Experimental Biology, 9650 Rockville Pike, Bethesda, MD 20814, 301–530–7030, or Ronald J. Lorentzen, Office of Policy, Planning and Strategic Initiatives, Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–8753.

SUPPLEMENTARY INFORMATION: FDA has a contract (223–92–2185) with FASEB concerning the analysis of scientific issues that bear on the safety of foods and cosmetics. The objective of this contract is to provide information to FDA on general and specific issues of scientific fact associated with the analysis of human nutrition.

BHA is listed as a GRAS ingredient in 21 CFR 182.3169. BHA is regulated as a direct and indirect food additive in a number of food additive regulations (e.g., 21 CFR 172.110, 173.340, and 175.105). BHA is also codified as a prior-sanctioned ingredient for use in food-packaging material in 21 CFR 181.24.

The Select Committee on GRAS Substances of LSRO/FASEB, as part of FDA's update of GRAS safety assessments, independently reviewed health aspects of BHA in 1978. Since that evaluation, increased incidence of forestomach tumors in laboratory rodents has been reported to be associated with very high levels of BHA in the diet. Further, an increase in liver tumors associated with exposure to high levels of BHA has been observed in tests with a small hermaphroditic fish (*Rivulus* sp.). The scientific validity of these tests and the toxicological relevance of the model systems remain to be established firmly. Comprehensive reviews of the data and discussion of model test systems were presented in 1983, in the Report of the Working Group on the Toxicology and Metabolism of Antioxidants, prepared collaboratively by scientists from the United States, the United Kingdom, Canada, and Japan under the aegis of the U. S./U. K./Canada Tripartite Agreement. A subsequent review of data by D. B. Clayson et al. appeared more recently (see Ref. 1). Additional information may be found in FDA Docket Nos. 90F–0285 and 90P–0289.

Members of the public have also raised concerns about the use of BHA. In the **Federal Register** of November 29, 1990 (55 FR 49576), FDA published a notice of filing of a food additive petition and a citizen petition, submitted by Glenn Scott, requesting that the food additive regulations, the GRAS regulation, and the prior sanction regulation be amended to prohibit the use of BHA in foods. An extension of the comment period to April 29, 1991, was issued on January 30, 1991 (56 FR 3480).

FDA is announcing that it has asked FASEB, as a task under contract 223–92–2185, to provide FDA's Center for Food Safety and Applied Nutrition with an up-to-date review of the extent, strength and reliability of available scientific evidence that relates ingestion of BHA to subsequent occurrence of cancer in animals. In response to this request, FASEB has directed its LSRO to obtain state-of-the-art scientific information bearing on the relationship of BHA ingestion to cancer in animals and the methodologies by which such relationships are established. The LSRO/FASEB will undertake a study and prepare a documented scientific report that summarizes the available information.

The objectives of this evaluative report include: (1) Characterization of the experimental protocols used with various laboratory animals and fish with regard to the validity, quality, and appropriateness of dosage regimens, types of carcinogenic responses, time to tumor, number of studies, number of animals, number of species studied, etc.; (2) identification and evaluation of the extent of scientific understanding of the mechanism(s) that are associated with animal carcinogenicity which may result from BHA ingestion; (3) characterization of the above scientific evidence in terms of its support of the hypothesis that increased tumor incidence in animals is secondary to other reproducible responses to BHA ingredients; (4) determination of the existence of a dose-response relationship and/or a threshold of tumor induction that is related to quantity and length of time of ingestion. If such a relationship can be hypothesized from extant data, the strength and reliability, and consistency of scientific data, will be assessed critically; (5) examination and evaluation of the available scientific data in regard to possible genotoxic effects resulting from BHA ingestion. Interpretation, if possible, of these data in terms of their relationship to the possibility of a threshold for the observed effects and in terms of the biological implications of metabolic and physiological effects ascribable to BHA ingestion; and (6) preparation of a comprehensive final report which documents and summarizes the results of the evaluation.

The FDA and FASEB are announcing that the LSRO/FASEB will hold a public meeting on this topic on April 15, 1993. The meeting will begin at 9 a.m. It is

anticipated that the public meeting will last 1 day, depending on the number of requests to make oral presentations. Requests to make oral presentations at the open meeting must be submitted in writing and received by March 29, 1993. Written requests to make oral presentations of scientific data, information, and views at the open meeting should be submitted to the Life Sciences Research Office, Federation of American Societies for Experimental Biology (address above) and to the Dockets Management Branch (address above). Two copies of the material to be presented shall be submitted to each office before the date of the open meeting.

FDA and FASEB are also inviting submission of written presentations of scientific data, information, and views. These materials should be submitted on or before April 15, 1993. Two copies of the written materials shall be submitted to each office.

Pursuant to its contract with FDA, FASEB will provide the agency with a scientific report on these issues on or before March 29, 1994.

Reference

The following reference has been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Clayson, D. B. et al., *1990 Annual Review of Pharmacology and Toxicology*, 30:441–463.

Dated: March 11, 1993.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 93–6088 Filed 3–16–93; 8:45 am]

BILLING CODE 4160–01–F

Health Resources and Services Administration

Emergency Medical Services for Children; Demonstration Grants

AGENCY: Health Resources and Services Administration (HRSA).

ACTION: Notice of availability of funds.

SUMMARY: The HRSA in collaboration with the National Highway Traffic Safety Administration (NHTSA) announces fiscal year (FY) 1993 funds are available for grants authorized under section 1910 of the PHS Act. These discretionary grants will be made to States or accredited schools of medicine to support projects for the expansion and improvement of emergency medical services for children (EMSC). Funds appropriated by Public Law 102–394 will be used for this purpose. Under the EMSC program authority, awards are made for project periods of up to 2 years.

The NHTSA participated with the HRSA in developing the program priorities announced under the EMSC program for FY 1993. The NHTSA will share the Federal monitoring responsibilities for EMSC awards made during FY 1993 as well as continue to provide ongoing technical assistance and consultation in regard to the required collaboration/linkages between applicants and their Highway Safety Offices and Emergency Medical Services Agencies for the State(s). Grantees funded under this program are expected to work collaboratively with the State trauma systems planning and development projects funded by the Bureau of Health Resources Development, HRSA.

The PHS is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS led national activity for setting priority areas. The EMSC grant program will directly address the Healthy People 2000 objectives related to emergency medical services and trauma systems linking prehospital, hospital, and rehabilitation services in order to prevent trauma deaths and long-term disability. Potential applicants may obtain a copy of Healthy People 2000 (Full Report: Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report: Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325 (telephone 202 783–3238).

ADDRESSES: Grant applications for Emergency Medical Services for Children Demonstration Grants (PHS form #5161–1, approved under OMB #0937–0189) must be obtained from and submitted to: Grants Management Branch, Office of Program Support, Maternal and Child Health Bureau, Health Resources and Services Administration, room 18–12, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–1440.

DATES: The application deadline date is April 16, 1993. Competing applications will be considered to be on time if they are either:

(1) Received on or before the deadline date, or

(2) Postmarked on or before the deadline date and received in time for orderly processing. (Applicants should request a legibly dated receipt from a commercial carrier or U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.

Late competing applications not accepted for processing or those sent to an address other than specified in the **ADDRESSES** section will be returned to the applicant.

FOR FURTHER INFORMATION CONTACT: Requests for technical or programmatic information should be directed to Jean Athey, Ph.D., Division of Maternal, Infant, Child and Adolescent Health, Maternal and Child Health Bureau, Health Resources and Services Administration, room 18A–39, Parklawn Building, 5600 Fishers Lane Rockville, Maryland 20857, telephone 301 443–4026. Requests for technical or programmatic information from NHTSA should be directed to Garry Criddle, R.N., C.D.R. USCG/USPHS, Department of Transportation, NHTSA EMS Division, NTS–42, 400 7th Street SW., Washington, DC 20590, telephone 202 366–5440. Requests for information concerning business management issues should be directed to: John Gallicchio, Grants Management Officer (GMO), Maternal and Child Health Bureau, at the address listed in the **ADDRESSES** section. In addition, national resource centers are available to provide technical assistance and support to applicants, particularly in the areas of:

(1) Understanding EMSC terminology;

(2) Developing a manageable approach to EMSC implementation;

(3) Obtaining local support for the grant application process;

(4) Facilitating development of community linkages for a collaborative effort; and

(5) Identifying products of previously-funded EMSC projects of interest to potential applicants. Applicants may contact: James Seidel, M.D., Ph.D. or Deborah Henderson, R.N., M.A., National EMSC Resource Alliance, Research and Education Institutue, Harbor/UCLA Medical Center, 1001 West Carson Street, suite S, Torrance, CA 90502, telephone 310 328–0720; or Jane Ball, R.N., Dr. P.H., EMSC National Resource Center, Children's National Medical Center, Emergency Trauma Services, 111 Michigan Avenue, NW., Washington, DC 20010, telephone 202 745–5188.

SUPPLEMENTARY INFORMATION:

Program Background and Objectives

The Emergency Medical Services for Children statute (Section 1910 of the PHS Act, as amended) establishes a program of two-year grants to States and accredited medical schools for demonstration projects for the

expansion and improvement of emergency medical services for children who need treatment for trauma or critical care. For purposes of this grant program, the term "State" includes the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Northern Mariana Islands, Guam, American Samoa, the Republic of Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia. The term "school of medicine" for purposes of this program is defined as having the same meaning as set forth in section 701(4) of the PHS Act (42 U.S.C. 292a(4)). "Accredited" in this context has the same meaning as set forth in section 701(5) of the PHS Act (42 U.S.C. 292a(5)).

It is the intent of this grant program to stimulate further development or expansion of ongoing efforts in the States to reduce the problems of life-threatening pediatric trauma and critical illness. The Department does not intend to award grants which would duplicate grants previously funded under the Emergency Medical Services Systems Act of 1972 or which would be used simply to increase the availability of emergency medical services funds allotted to the State under the Preventive Health Services Block Grant.

Funding Categories

There will be two categories of funding competition this year. The first category is that of implementation grants for the purpose of initiating or improving the capacity of a State's Emergency Medical Services program to address the particular needs of children. Implementation grants are to be demonstrations of the use of existing research-based knowledge, state-of-the-art systems development approaches, and the experience and products of previous EMSC grantees in meeting program goals. Budget requests for these grants should not exceed $250,000 per award for a one year budget period. Project periods are up to two years. Up to five grants will be awarded. For this competition, applications from States (and medical schools within those States) which have not as yet received support under this program will receive preference for funding. This means that approved applications from States (and medical schools within those States) with no previous EMSC program support will be funded before approved applications from outside this group.

The second category is that of targeted issues grants on topics of importance to EMSC. These grants are intended to address specific, focused issues related to the development of EMSC capacity. Topics for this category may include, but are not limited to, strategies for reducing the emotional toll of childhood emergencies on the child, family, and provider; information systems development; evaluation; injury prevention; training of medical control and dispatch; and public education. Budget requests for this activity should not exceed $150,000 per award per year for a one year budget period. Project periods are up to two years. Up to four grants will be funded.

These categories are not being proposed for public comment. The first category—implementation grants—continuously funded since FY 1986, is being extended for funding again in FY 1993 because of continuing and documented demand from or within States that have not benefited from this assistance to improve the capacity of State EMSC services. The suggested topics for the second category were selected based on consultation with national experts, EMSC grantees, and other Federal program staff.

Availability of Funds

Approximately $4,700,000 is available for grants under the EMSC program, of which approximately $1,700,000 will be used for new grants. We estimate funding up to five new grants in the first category, not to exceed $250,000 per grant, for a one year budget period. Up to four new grants, not to exceeed $150,000 per grant, for a one year budget period will be funded in the second category. Project periods for both categories are up to two years. The remaining funds will be used for continuation support of the 15 existing EMSC projects.

Special Concerns

The MCHB places special emphasis on improving service delivery to children from culturally identifiable populations who have been disproportionately affected by barriers to accessible care. This means that EMSC projects are expected to serve and appropriately involve in project activities members of ethnoculturally distinct groups, unless there are compelling programmatic or other justifications for not doing so. The MCHBs intent is to insure that project outcomes are of benefit to culturally distinct populations and to insure that the broadest possible representation of culturally distinct and historically under-represented groups is supported through programs and projects sponsored by the MCHB.

This same special emphasis applies to improving service delivery to children with special health care needs.

Consistent with the statutory purpose of the program and with particular attention to children from culturally distinct populations and children with special health care needs, the Department will review applications in the preceding funding categories as competing applications and will fund those which, in the Department's view, best meet the purposes of the EMSC program and address achievement of applicable Healthy People 2000 objectives related to emergency medical services and trauma systems.

Eligible Applicants

Applications for funding under section 1910 will be accepted from States and accredited schools of medicine. Applications which involve more than a single State will also be accepted. Applicants are encouraged to seek the participation and support of interested entities within the State, such as local government and health and medical organizations in the private sector, including local or regional trauma centers, in developing the proposed project.

Review Criteria

The review of applications will take into consideration the following criteria:

—The adequacy of the applicant's description of the problem of pediatric trauma and critical illness in the grant locale. The adequacy of sections of the application devoted to the special problems of (a) handicapped children and families; and (b) minority children and families (including Native Americans).

—The appropriateness of project objectives and outcomes in relation to the specific nature of the problems identified by the applicant.

—The soundness (in relation to the state of the art), appropriateness, comprehensiveness, cost effectiveness and responsiveness of the proposed methodology for achieving project goals and outcome objectives.

—The soundness of the plan for evaluating progress in achieving project objectives and outcomes.

—The evidence provided by the applicant of:

(1) Collaboration and coordination with other participants in the EMSC continuum including, but not limited to the State Emergency Medical Services agency, the State Maternal and Child Health agency, the State Highway Safety Office, state and local professional organizations, private sector voluntary organizations, business organizations, parent advocacy groups, consumer or community representatives, hospital

organizations and [especially] any other ongoing federally funded projects in EMS, trauma systems development, injury prevention, and rural health; and

(2) Integration of EMSC systems into the primary care delivery system.

—The soundness of the applicant's plans for fiscal management, effective use of personnel, and ability to complete the proposal within the proposed grant period.

—The extent to which the applicant proposes to employ products and expertise of EMSC programs from other States, especially of current and former grantees of the Federal EMSC program.

—The extent to which the project gives special emphasis to the issues identified in the **Special Concerns** section of this notice.

Allowable Costs

The MCHB may support reasonable and necessary costs of EMSC Demonstration Grant projects within the scope of approved projects. Allowable costs may include salaries, equipment and supplies, travel, contracts, consultants, and others, as well as indirect costs. The MCHB adheres to administrative standards reflected in the Code of Federal Regulations, 45 CFR parts 92 and 74.

Public Health System Reporting Requirements

The second category of this program, targeted issue grants, is subject to the Public Health System Reporting Requirements. Reporting requirements have been approved by the Office of Management and Budget—0937–0195. Under these requirements, the community-based nongovernmental applicant must prepare and submit a Public Health System Impact Statement (PHSIS). The PHSIS is intended to provide information to State and local health officials to keep them apprised of proposed health services grant applications submitted by community-based nongovernmental organizations within their jurisdictions.

Community-based non-governmental applicants are required to submit the following information to the head of the appropriate State and local health agencies in the area(s) to be impacted no later than the Federal application receipt due date:

a. A copy of the face page of the application (SF 424)

b. A summary of the project PHSIS, not to exceed one page, which provides:

(1) A description of the population to be served.

(2) A summary of the services to be provided.

(3) A description of the coordination planned with the appropriate State or local health agencies.

Executive Order 12372

This program has been determined to be a program which is subject to the provisions of Executive Order 12372 concerning intergovernmental review of Federal programs by appropriate health planning agencies, as implemented by 45 CFR part 100. Executive Order 12372 allows States the option of setting up a system for reviewing applications from within their States for assistance under certain Federal programs. The application packages to be made available under this notice will contain a listing of States which have chosen to set up such a review system and will provide a single point of contact (SPOC) in the States for review. Applicants (other than federally-recognized Indian tribal governments) should contact their State SPOCs as early as possible to alert them to the prospective applications and receive any necessary instructions on the State process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC of each affected State. The due date for State process recommendations is 60 days after the application deadline for new and competing awards. The granting agency does not guarantee to "accommodate or explain" for State process recommendations it receives after that date. (See part 148, Intergovernmental Review of PHS Programs under Executive Order 12372 and 45 CFR part 100 for a description of the review process and requirements).

OMB Catalog of Federal Domestic Assistance

The OMB Catalog of Federal Domestic Assistance number is 93.127.

Dated: March 11, 1993.

Robert G. Harmon,

Administrator.

[FR Doc. 93–6076 Filed 3–16–93; 8:45 am]

BILLING CODE 4160–15–P

Special Project Grants; Maternal and Child Health (MCH) Services; MCH Community Integrated Service Systems (CISS) Set-Aside Program

AGENCY: Health Resources and Services Administration (HRSA), HHS.

ACTION: Notice of availability of funds.

SUMMARY: The Maternal and Child Health Bureau (MCHB), HRSA, announces that fiscal year (FY) 1993 funds are available for Maternal and Child Health (MCH) Community Integrated Service Systems (CISS) Set-Aside Program grants. To support development and expansion of successful community integrated service systems, Congress has emphasized six categories of approach in subparagraphs (A) through (F) of section 501(a)(3) of the Social Security Act: maternal and infant home visiting activities in which, among other services, case management services are provided in the home; activities designed to increase the participation of obstetricians and pediatricians under both the MCH Services Block Grant and Medicaid programs; integrated maternal and child health service delivery (i.e., one-stop shopping) systems; MCH activities conducted under the direction of a not-for-profit hospital; MCH activities targeted to serve rural populations; and outpatient and community based services activities (including day care services) for children with special health care needs (CSHCN). The CISS promotion projects are intended to be conducted within the context of overall State efforts to develop comprehensive, community based systems of services and are to focus on unmet needs and service gaps identified in the State's MCH Services Block Grant plan. In the 15 communities in the Nation with HRSA-administered Healthy Start grants, CISS projects must be coordinated with Healthy Start program efforts.

It is anticipated that approximately $1.6 million will be available to support approximately 10 new projects. Award size will vary, averaging $160,000 per grant for a one year budget period. Awards will be made for varying project periods of up to 4 years. Funds for the MCH CISS Set-Aside Program are authorized in fiscal years in which total appropriated funds for the MCH Services Block Grant exceed $600 million. Funds are appropriated by Public Law 102–394. Applicants are advised that continued support of grants awarded under this announcement beyond FY 1993 is subject to limits in the authorizing legislation and the appropriation of funds. Projects funded under the MCH CISS Set-Aside Program are selected and administered under the same procedures and practices as are currently in effect with regard to MCH Special Projects of Regional and National Significance (SPRANS) set-aside activities. The regulation implementing the MCH SPRANS Set-Aside Program was published in the March 5, 1986, issue of the **Federal Register** at 51 FR 7726 (42 CFR Part 51a).

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention

objectives and goals of Healthy People 2000, a PHS-led national activity for setting priority areas. The MCH CISS program addresses the Healthy People 2000 objectives related to improving maternal, infant, child and adolescent health and developing service systems for children at risk of chronic and disabling conditions. Potential applicants may obtain a copy of Healthy People 2000 (Full Report: Stock No. 017–001–00474–0 or Healthy People 2000 (Summary Report; Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office Washington, DC 20402–9325 (telephone: 202–783–3238).

ADDRESSES: Grant applications for the MCH CISS Set-Aside Program (PHS form #5161–1, approved under OMB #0937–0189) must be obtained from and submitted to: Chief, Grants Management Branch, Office of Program Support, Maternal and Child Health Bureau, Health Resources and Services Administration, room 18–12, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–1440. Potential applicants should specify the project category for which the application is requested.

DATES: The application deadline date is May 18, 1993. Competing applications will be considered to be on time if they are either:

(1) Received on or before the deadline date, or

(2) Postmarked on or before the deadline date and received in time for orderly processing. (Applicants should request a legibly dated receipt from a commercial carrier or U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late applications not accepted for processing or those sent to an address other than specified in the **ADDRESSES** section will be returned to the applicant.

FOR FURTHER INFORMATION CONTACT: Requests for technical or programmatic information should be directed to Audrey H. Nora, M.D., M.P.H., Director, Maternal and Child Health Bureau, HRSA, Room 18–05, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, telephone 301–443–2170. Requests for information concerning business management issues should be directed to: John Gallicchio, Grants Management Officer (GMO), Maternal and Child Health Bureau, at the address listed in the **ADDRESSES** section.

Project periods for grantees begin October 1, 1993.

SUPPLEMENTARY INFORMATION:

Program Background and Objectives

Current Title V law specifies a number of programs and projects for which the Secretary is authorized to expend appropriated funds directly. These activities are funded through two distinct Federal "set-asides" under the MCH Services Block Grant, made up of monies obligated directly by the Secretary. The first set-aside, for SPRANS, is designed to fund programs and projects which contribute to improving the health of mothers, children, and CSHCN; MCH research and training; genetic disease testing, counseling and information services; and hemophilia diagnostic and treatment centers. The second set-aside, for the CISS program, is the set-aside covered by this announcement. It was established under section 502(b)(1)(A) of the Act by the Omnibus Budget Reconciliation Act of 1989. It authorizes the Secretary to retain 12.75 percent of amounts above $600 million appropriated for a fiscal year to fund projects employing one or more of the approaches to development and expansion of community integrated service systems set out in subparagraphs (A) through (F) of section 501(a)(3) of the Act:

—Maternal and infant home visiting programs in which, among other services, case management services are provided in the home.
—Projects designed to increase the participation of obstetricians and pediatricians under both the MCH Services Block Grant and Medicaid programs.
—Integrated maternal and child health service delivery (i.e., one-stop shopping) systems.
—MCH centers operated under the direction of not-for-profit hospitals.
—MCH projects to serve rural populations.
—Outpatient and community based services programs (including day care services) for CSHCN.

Purpose

This grant program is intended to support development and expansion of community integrated service systems employing six designated community-oriented strategies which show promise of promoting greater access to family centered, culturally competent, and coordinated care for pregnant women and children. Projects in this category are expected to be integrated into the general plan to improve the health of mothers and children submitted by each State's MCH program in order to receive title V funds. Proposed project activities must be compatible with State efforts to develop comprehensive, community based systems of services to improve the health of women, infants, children, adolescents, and CSHCN. These elements of systems are described more fully in the program guidance included in the application packet.

Priorities

At the request of Congress, priority will be given to funding projects which can demonstrate: (1) A high likelihood of having continuing support beyond the federal grant period; and (2) strong community-based public/private organizational collaboration, including participation of the local (county/municipal) health department, the State MCH program, and, where they exist, community and migrant health centers. This means that in determining scores for ranking the funding of applications, merit reviewers will assign scores based on the extent to which applicants address these program priorities in addition to the review criteria listed below.

Availability of Funds

Approximately $1.6 million is available under the MCH CISS Set-Aside Program to support up to 10 projects at an average of $160,000 per award for a one year budget period. Awards will be made for project periods of up to 4 years. Applicants are advised that continued support of grants awarded under this announcement beyond FY 1993 is subject to conditions in the authorizing legislation and the appropriation of funds.

Special Concerns

Projects supported under the MCH CISS Set-Aside Program are expected to be part of community-wide, comprehensive initiatives, to reflect appropriate coordination of primary care and public health activities, and to target HRSA resources effectively to fill gaps in the Nations health system for mothers and children. This applies specifically to projects in the 15 communities in the Nation which have received grants from HRSA under the President's *Healthy Start* initiative. Grantees in these communities providing services related to activities of a *Healthy Start* program are expected to coordinate their projects with *Healthy Start* program efforts. Healthy Start communities include: Aberdeen Area Indian Nations, NE/ND/SD; Baltimore, MD; Birmingham, AL; Boston, MA; Chicago, IL; Cleveland, OH; Detroit, MI;

Lake County, IN; New Orleans, LA; New York, NY; Oakland, CA; Philadelphia, PA; Pittsburgh, PA; PeeDee Region, SC; Washington, DC.

In its administration of the MCH Services Block Grant, the MCHB places special emphasis on improving service delivery to women and children from culturally identifiable populations who have been disproportionately affected by barriers to accessible care. This means that MCH CISS projects are expected to serve and appropriately involve in project activities members of ethno-culturally distinct groups, unless there are compelling programmatic or other justifications for not doing so. The MCHB's intent is to ensure that project outcomes are of benefit to culturally distinct populations and to ensure that the broadest possible representation of culturally distinct and historically underserved groups is supported through programs and projects sponsored by the MCHB.

Consistent with the statutory purpose and with particular attention to involvement of women and persons from culturally distinct populations, the Department will review applications as competing applications and will fund those which, in the Department's view, best meet the purposes of the MCH CISS Set-Aside Program and address the achievement of applicable *Healthy People 2000* objectives in communities with demonstrated need.

Eligible Applicants

Any public or private entity, including an Indian tribe or tribal organization (as defined at 25 U.S.C. 450b), is eligible to apply for MCH CISS Set-Aside Program project grants. Projects are intended to facilitate the development of systems of services in communities. However, because the projects need to be consistent with State systems development efforts and because State assistance will be required to improve local systems, a defined role for the State MCH/CSHCN agency and the support of the agency are essential. Projects must also promote community/State partnerships. Governmental and nonprofit community agencies and State agencies are encouraged to apply.

Review Criteria

Review panels composed mainly of nonfederal members will evaluate applications for awards. Specific requirements for each project category will be reflected in the program guidance included in the application packet. The following review criteria will be used to review all applications:

—The importance of the proposed project to the advancement of maternal and child health and the strength of the evidence that the purpose, goals and objectives of the proposal are important within the community project area, are consistent with the needs assessment in the State's MCH Services Block Grant plan and may have application in other States or regions.

—Compatibility of proposed project activities with State efforts to develop comprehensive, community based systems of services with regard to:

(a) Population(s) served;
(b) Community based services;
(c) Comprehensive services;
(d) Coordinated services;
(e) Family centered care; and
(f) Culturally competent care.

—Involvement in the application of the local health department, State MCH program, and, where applicable, community/migrant health centers.

—Clarity of the health problem statement, its potential for improving the health status of pregnant women and/or infants and children and quality of the analysis of the problem and its causal or contributing factors.

—Clarity of the goals and objectives of the project and their linkage to the identified problem. The project objectives should be time-framed and measurable. They should have a reasonable potential for impacting the stated problem.

—The quality and feasibility of the project plan or methodology and its relation to the project's goals and objectives. This includes the adequacy of the approaches and activities that will be used to achieve the objectives and the degree to which the approaches are technically sound and appropriate to the project goals and objectives.

—The quality of the plan for tracking project activities. The proposed methods for tracking each project activity and collecting the appropriate information are feasible and economical.

—The quality of the plan to measure achievement of project goals and objectives.

—The capacity of the applicant to carry out the proposed project and the degree to which budget items are realistic and adequate to plan, implement and evaluate the project. Capacity of the applicant refers to qualified personnel and other resources sufficient to carry out the proposed project methodology. The budget should reflect appropriate financial support for the proposed project activities for the project period. Justification of each budget item should be provided.

—The extent to which the project places special emphasis on improving service delivery to women and children from culturally identifiable populations who have been disproportionately affected by barriers to accessible care and the extent to which the project ensures that members of culturally distinct groups are appropriately represented in the activities of approved grants and cooperative agreements.

—In communities with Healthy Start projects, a commitment by applicants whose projects are related to activities of a Healthy Start program to coordinate their projects with Healthy Start program efforts.

—Within the context of community based systems of services, a commitment to collaborate with State MCH/CSHCN programs, primary care plans, public health, and prevention programs in the respective State(s), and other related programs.

Public Health System Reporting Requirements

This program is subject to the Public Health System Reporting Requirements (approved under OMB No. 0937–0195). Under these requirements, the community-based nongovernmental applicant must prepare and submit a Public Health System Impact Statement (PHSIS). The PHSIS is intended to provide information to State and local health officials to keep them apprised of proposed health services grant applications submitted by community-based nongovernmental organizations within their jurisdictions.

Community-based nongovernmental applicants are required to submit the following information to the head of the appropriate State and local health agencies in the area(s) to be impacted no later than the Federal application receipt due date:

(a) A copy of the face page of the application (SF 424).

(b) A summary of the project (PHSIS), not to exceed one page, which provides:

(1) A description of the population to be served.

(2) A summary of the services to be provided.

(3) A description of the coordination planned with the appropriate State and local health agencies.

Executive Order 12372

The Maternal and Child Health Services Block Grant program has been determined to be a program which is not subject to the provisions of Executive Order 12372 concerning intergovernmental review of Federal programs.

The OMB Catalog of Federal Domestic Assistance number is 93.110.

Dated: March 11, 1993.

Robert G. Harmon,

Administrator.

[FR Doc. 93–6075 Filed 3–16–93; 8:45 am]

BILLING CODE 4160–15–P

Program Announcement and Proposed Funding Priorities for Grants for Health Education and Training Centers for Fiscal Year 1993

The Health Resources and Services Administration (HRSA) announces that applications will be accepted for fiscal year (FY) 1993 Grants for the Health Education and Training Centers (HETC) Program under the authority of section 746(f) (previously section 781(f)) of the Public Health Service Act (the Act), as amended by the Health Professions Education Extension Amendments of 1992, Pub. L. 102–408, dated October 13, 1992.

Public Law 102–408 makes the following revisions to the HETC program.

The former section 781(f) has been changed to section 746(f). Substantive changes include the addition of Florida as a "border" State and new requirement relative to the participation of schools of public health located in the service area of the HETC.

Comments are invited on the proposed funding priorities stated below.

Approximately $2.8 million is available in FY 1993 to award approximately 12 competitive grants averaging $230,000.

Previous Funding Experience

Previous funding experience is provided to assist potential applicants to make better informed decisions regarding submission of an application for this program. There was no competitive cycle for this program in FY 1992. In FY 1991, HRSA reviewed one application for this grant program. The application was approved and funded. In FY 1990, HRSA reviewed 22 applications for this grant program. Of those applications, 68 percent were approved and 32 percent were not recommended for further consideration. Fifteen grant projects, or 100 percent of the approved grant applications, were funded.

Eligibility and Purpose

Eligible applicants are schools of allopathic or osteopathic medicine, or the parent institution on behalf of these schools, or a consortium of them. Assistance is for planning, developing, establishing, maintaining, and operating Health Education and Training Centers. Such support is designed to improve the supply, distribution, quality, and efficiency of personnel providing health services in the State of Florida or (in the United States) along the border between the United States and Mexico or providing, in other urban and rural areas (including frontier areas) of the United States, health services to any population group, including Hispanic individuals and recent refugees, that has demonstrated serious health care needs. Assistance is also to encourage health promotion and disease prevention through public education.

National Health Objectives for the Year 2000

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS led national activity for setting priority areas. The Health Education and Training Centers (HETC) Program is related to the priority area of Education and Community-Based Programs. Potential applicants may obtain a copy of Healthy People 2000 (Full Report; Stock. No. 017–001–00474–0) or Healthy People 2000 (Summary Report; Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325 (Telephone (202) 783–3238).

Education and Service Linkage

As part of its long-range planning, HRSA will be targeting its efforts to strengthening linkages between U.S. Public Health Service education programs and programs and programs which provide comprehensive primary care services to the underserved.

Statutory Project Requirements

Each project must meet the following requirements:

(a) Establish and advisory group comprised of health service providers, educators and consumers from the service area and of faculty from participating schools;

(b) Develop a plan for carrying out the Health Education and Training Centers Program, after consultation with the advisory group required in items (a) above;

(c) Enter into contracts, as needed, with other institutions or entities to carry out the plan as required in item (b) above;

(d) Enter into a contract or other written agreement with one or more public or nonprofit private entities in the State which have expertise in providing health education to the public;

(e) Be responsible for the evaluation of the program;

(f) Evaluate the specific service needs for health care personnel in the service area;

(g) Assist in the planning, development, and conduct of training programs to meet the needs determined under item (f) above;

(h) Conduct or support not less than one training and education program for physicians and one program for nurses for at least a portion of the clinical training of such students;

(i) Conduct or support training in health education services, including training to prepare community health workers to implement health education programs in communities, health departments, health clinics, and public schools that are located in the service area;

(j) Conduct or support continuing medical education programs for physicians and other health professionals (including allied health personnel) practicing in the service area;

(k) Support health career educational opportunities designed to provide student residing in the service area with counseling, education, and training in the health professions;

(l) With respect to the Border HETCs, assist in coordinating their activities and programs with any similar activities and programs carried out in Mexico along the border between the United States and Mexico;

(m) Make available technical assistance in the service area in the aspects of health care organization, financing and delivery;

(n) In the case of any school of public health located in the service area of the HETC, to permit any such school to participate in the program of the center if the school makes a request to so participate; and

(o) Encourage health promotion and disease prevention through health education in the service area.

Grant Funds

Grants are to assist in meeting the costs of the program which cannot be met from other sources. The following restrictions apply to all funding:

(a) Not less than 75 percent of the total funds provided to a school or schools of allopathic or osteopathic medicine must be spent in the development and operation of the health education and training center in the service area of such program;

(b) To the maximum extent feasible, the grantee will obtain from non-Federal sources the amount of the total

operating funds for the HETC program which are not provided by HRSA;

(c) No grant or contract shall provide funds solely for the planning or development of an HETC program for a period in excess of two years;

(d) Not more than 10 percent of the annual budget of each program may be used for the renovation and equipping of clinical teaching sites; and

(e) No grant or contract shall provide funds to be used outside the United States except as HRSA may prescribe for travel and communications purposes related to the conduct of a border Health Education and Training Center.

Applicants may apply for up to 3 years of support for a project period.

Statutory Definitions

Border Health Education and Training Center means an entity that is a recipient of an award under section 746(f)(1) and that is carrying out (or will carry out) the purpose of the program as described under Eligibility and Purpose above.

Community Health Center means an entity as defined in section 330 (a) and (b) of the Act and regulations at 42 CFR 51c.102(c).

Health Education and Training Center or "center" means an entity that is the recipient of an HETC grant under section 746(f)(1).

Migrant Health Center means an entity as defined in section 329(a) of the Act and in regulations at 42 CFR 56.102(g)(1).

Service area means the geographic area designated for the center to carry out the HETC program, as designated by HRSA. It is located entirely within the State in which the center is located.

School of Medicine or Osteopathic Medicine means a school as described in section 799 and which is accredited as provided in section 799(E) of the Act.

State means, in addition to the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands (the Republic of Palau), the Republic of the Marshall Islands, and the Federated States of Micronesia.

These terms are discussed in more detail in program application materials.

Definitions

The following Definitions, Project Requirements, Criteria for Designating Geographic Service Areas, Review Criteria, Funding Priorities and Formula for Allocating Border Area Funds will be used in FY 1993. These were established in FY 1990 after public comment (at 55 FR 31237, dated August 1, 1990) and the Administration is extending them in FY 1993.

Close proximity to the Border means a county, in a State, any portion of which lies within three hundred (300) miles of the Border between the United States and Mexico.

Frontier area means those areas with a population density of less than seven individuals per square mile.

Health professional means any physician, dentist, optometrist, podiatrist, pharmacist, nurse, nurse practitioner, nurse midwife, physician assistant or allied health personnel.

Project Requirements

In order to assure effective program administration and assessment, the following requirements will be used in addition to the above listed statutory project requirements.

Each grantee must:

(a) Have a project director who holds a faculty appointment at an allopathic or osteopathic medical school and who is responsible for the overall direction of the project;

(b) Provide faculty to assist in the conduct of community-based educational programs and training activities;

(c) Be responsible for the quality of the community-based educational programs and training activities, and the evaluation of trainees;

(d) Provide for active participation of individuals who are associated with the administration of the medical school, and staff and faculty members of departments of family medicine, internal medicine, pediatrics, and obstetrics and gynecology; and

(e) Provide an annual evaluation of the project, including an assessment of the educational programs and the trainees.

Considerations for Designating Geographic Service Areas

The following considerations will be used in designating geographic service areas:

1. Low-income population for the specific county(ies) in the service areas;

2. Percent change in low-income population for the specific county(ies);

3. Ratio of primary care physicians per 100,000 population for the specific county(ies); and

4. Infant mortality rate for the specific county(ies) in the service area.

Review Criteria

The Health Resources and Services Administration will review applications taking into consideration the following criteria:

1. The potential effectiveness of the proposed project in carrying out the intent of section 746(f);

2. The extent to which the proposed project adequately provides for the project requirements;

3. The extent to which the proposed project explains and documents the need for the project in the geographic area to be served, including relevant socioeconomic and cultural characteristics of the population to be served;

4. The administrative and management capability of the applicant to carry out the proposed project in a cost-effective manner;

5. The evaluative strategy to assess the project and the trainees in terms of effectiveness and proposed outcomes;

6. The extent of coordination of HETC training and education with similar activities in the areas involved; and

7. The potential of the proposed project to continue on a self-sustaining basis.

Other Considerations

In addition, the following funding factors may be applied in determine the funding of approved applications:

A funding preference is defined as the funding of a specific category or group of approved applications ahead of other categories or groups of applications.

A funding priority is defined as the favorable adjustment of aggregate review scores of individual approved applications when applications meet specified objective criteria.

It is not required that applicants request consideration for a funding factor. Applications which do not request consideration for funding factors will be reviewed and given full consideration for funding.

Statutory Funding Preference

In making awards for FY 1993, the Secretary shall make available 50 percent of the appropriated funds for approved applications for border health education and training centers in the State of Florida and (in the United States) along the border between the United States and Mexico. The remaining 50 percent shall be made available for approved applications for HETCs from non-border areas (both urban and rural). If funds remain available after all approved applications in one category are funded, the balance shall be utilized for approved applications in the other category. This addresses the statutory funding requirements while allowing maximum flexibility in the use of funds.

Proposed Funding Priorities for Fiscal Year 1993

It is proposed to give a funding priority to:

1. Applicants which propose to implement HETC training programs for a minimum of 50 underrepresented minority trainees annually in Health Professional Shortage Areas (HPSAs) or Medically Underserved Areas (MUAs). The term "underrepresented minorities" means, with respect to a health profession, racial and ethnic populations that are underrepresented in the health profession relative to the number of individuals who are members of the population involved. For this program, it means American Indians or Alaskan Natives, Blacks, Hispanics, and, potentially, various subpopulations of Asian individuals. Applicants must evidence that any particular subgroup of Asian individuals is underrepresented in a specific discipline. This funding priority is proposed to encourage the training of minority health professionals and local people from areas with health care access problems. These individuals, following training, are most likely to provide much needed care in the shortage areas to predominantly minority populations. A specific number of trainees (50) was established for this funding priority to ensure that the priority is quantifiable, measurable, and outcome oriented. This figure will encourage applicants to focus their training efforts and resources to attract and train minority students in health personnel shortage areas. A minimum of 50 trainees is considered reasonable, given the range of training programs conducted, the historical performance of projects with built-in incentives for increases and the geographic areas served by HETCs.

2. Applicants which propose to implement a substantial Public Health training experience (of 4 to 8 weeks for a minimum of 25 trainees, annually) in one or more of the following training sites: (1) Facilities operated by a State or local health department; (2) a Migrant Health Center designated under section 329 of the PHS Act; (3) a Community Health Center designated under section 330 of the PHS Act; or (4) hospitals or other health care facilities of the Indian Health Service. If such training sites are unavailable in a proposed HETC service area, applicants may propose comparable public health training experiences (e.g., a 4 to 8 week community health project supervised by a rural preceptor). Trainees participating in activities described in Priority Nos. 1 and 2 may include: students pursuing health professions education, medicine, nursing; students pursuing nurse practitioner, certified nurse midwifery, or physician assistant training; residents (in family medicine, general internal medicine, general pediatrics, or preventive medicine); community health worker trainees (indigenous to the area); dentists, nurses, physicians, or environmental health personnel pursuing a training program in Public Health.

3. Applications which propose to have as part of the advisory group, as described in section 746(f)(4), at least one designated representative from a health department in the area being served.

Funding priorities Nos. 2 and 3 promote and provide a strong incentive to actively involve state or local health departments. These programs are designed to assure that health professions trainees are prepared to provide the public health services necessary to meet the National Health Objectives for the Year 20000 and are also consistent with the Bureau and the Public Health Service strategic directions and objectives to strengthen public health education and service systems at the State and local levels.

Border Area Funding

Section 746(f) requires that certain criteria relative to the service area be considered by the Secretary in the establishment of a formula for allocating funds for each approved application for a border health education and training center. Specifically, these criteria are:

1. The low-income population, including Hispanic individuals, and the growth rate of such population in the State of Florida and along the border between the United States and Mexico;

2. The need of the low-income population referenced in Item 1 above for additional personnel to provide health care services along such border and in the State of Florida; and

3. The most current information concerning mortality and morbidity and other indicators of health status for such population.

Formula for Allocating Border Area Funds

Considering the criteria in the statute, the following formula will be used for allocating Border Area funds in FY 1993, to be applied to each of the counties included in the service area of the center on behalf of which the application is made:

$$P\times(1+C)\times N\times I\times 100{,}000=F$$

Where: (P)=Low-income population in the county; (C)=Percent change of population in the county; (N)=Need for primary care physicians in the county; (I)=Infant mortality rate in the county; (F)=Factor for each county in close proximity to the border.

By statute, the entire State of Florida is eligible for this allocation.

For this program (HETC), project support recommended for future years will be subject to enabling legislation, appropriations, satisfactory progress, adjustment (up or down) based upon changes in data utilized in the above formula, and any changes in the scope of the project, as approved.

Formula Definitions and Data Sources

(P) "Low-income population": The population in the county classified by the United States Bureau of the Census as having an average income at or below 125 percent of the poverty level.

Data Source: U.S. 1990 Census Population, Department of Commerce, Bureau of the Census

(C) "Percent change of population": The number of births minus the number of all deaths, plus or minus net migration in the county, divided by the 1990 county population.

Data Source: County and City Data Book, 1990, U.S. Bureau of the Census.

(N) "Need for primary care physicians": The ratio of primary care physicians per 100,000 population in all 236 counties in close proximity to the border, and all 67 counties in the State of Florida, divided by the ratio of primary care physicians to 100,000 population in the county.

Data Source: Area Resource File (ARF) System, U.S. Department of Health and Human Services (year: most recent ARF data available annually)

(I) "Infant mortality rate": The 5-year infant mortality rate for the county, divided by the average of the 5-year infant mortality rate in all 236 counties in close proximity to the border and all 67 counties in the State of Florida.

Data Source: Area Resource File (ARF) System, U.S. Department of Health and Human Services (most recent data available: 1984–1988)

(F) "Factor for each county": A factor for each of the 236 counties in close proximity to the border and each of the 67 counties in the State of Florida is calculated from the formula. The factor will be recalculated each year to reflect more recent data. The calculated factor of each county is aggregated for a multi-county service area.

For the purposes of allocating border area funds, the 236 counties in close proximity (within 300 miles) of the border between the United States and Mexico are located in the four States contiguous to the border: Arizona, California, New Mexico, and Texas. All

67 counties located in the State of Florida are also included.

Additional Information

Interested persons are invited to comment on the proposed funding priorities. The comment period is 30 days. All comments received on or before April 16, 1993, will be considered before the final funding priorities are established. No funds will be allocated or final selections made until a final notice is published stating when the final funding priorities will be applied.

Written comments should be addressed to: Marc L. Rivo, M.D., M.P.H., Director, Division of Medicine, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 4C–25, 5600 Fishers Lane, Rockville, Maryland 20857.

All comments received will be available for public inspection and copying at the Division of Medicine, Bureau of Health Professions, at the above address, weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5 p.m.

Application Requests

Requests for application materials, questions regarding grants policy and business management issues should be directed to: Ms. Jacquelyn Whitaker (D–39 PE), Grants Management Specialist, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 8C–26, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–6857, FAX: (301) 443–6343.

Completed applications should be returned to the Grants Management Office at the above address.

If additional programmatic information is needed, please contact: Ms. Cherry Y. Tsutsumida, Chief, AHEC and Special Programs Branch, Division of Medicine, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 4C–03, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–6950, FAX: (301) 443–8890.

The application deadline date is April 23, 1993.

Applications shall be considered as meeting the deadline if they are either:

1. Received on or before the deadline date, or

2. Postmarked on or before the deadline and received in time for submission to the independent review group.

A legibly dated receipt from a commercial carrier or U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmarks shall not be acceptable as proof of timely mailing. Late applications not accepted for processing will be returned to the applicant.

The standard application form PHS 6025–1, HRSA Competing Training Grant Application, General Instructions and supplement for this program have been approved by the Office of Management and Budget (OMB). The OMB clearance number is 0915–0060.

The program, Grants for Health Education and Training Centers, is listed at 93.189 in the *Catalog of Federal Domestic Assistance*. It is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs (as implemented through 45 CFR part 100).

This program is not subject to the Public Health System Reporting Requirements.

Dated: March 11, 1993.

Robert H. Harmon,

Administrator.

[FR Doc. 93–6031 Filed 3–16–93; 8:45 am]

BILLING CODE 4160–15–M

Program Announcement for Centers of Excellence in Minority Health Professions Education for Fiscal Year 1993

The Health Resources and Services Administration (HRSA) announces that applications for fiscal year (FY) 1993 for Grants for Centers of Excellence (COE) in Minority Health Professions Education will be accepted under the authority of section 739 (previously section 782), title VII of the Public Health Service Act (the Act), as amended by the Health Professions Education Extension Amendments of 1992, Public Law 102–408, dated October 13, 1992.

Public Law 102–408 makes the following revisions to this program:

Section 782 has been renumbered as section 739 of the Act.

Schools of osteopathic medicine have been added to the list of schools eligible for support. A grant made for a fiscal year may not be made in an amount that is less than $500,000 for each center. Accompanying legislative language states that this minimum award amount applies to new and continuing centers funded in FY 1993.

The FY 1993 appropriation provides $23.5 million for this program. Of this amount, $12.0 million will be used to continue support to four multi-year Historically Black Colleges and Universities (HBCUs) projects funded in previous years. In addition, a $700,000 continuation commitment has been made to an Other Center of Excellence. It is projected that $10.8 million will be available for Hispanic, Native American and Other COEs ($6.9 million for Hispanic and Native American Centers of Excellence which would support approximately 13 new centers and $3.9 million which would support seven new Other Centers of Excellence).

Previous Funding Experience

Previous funding experience information is provided to assist potential applicants to make better informed decisions regarding submission of an application for this program. In fiscal year 1992, a total of 21 new COE projects, averaging $229,548, was awarded.

Purposes

Grants for eligible Historically Black Colleges and Universities (HBCUs), Hispanic, Native American and Other Centers of Excellence may be used by the schools for the following purposes:

1. To establish, strengthen, or expand programs to enhance the academic performance of minority students attending the school;

2. To establish, strengthen, or expand programs to increase the number and quality of minority applicants to the school;

3. To improve the capacity of such school to train, recruit, and retain minority faculty;

4. With respect to minority health issues, to carry out activities to improve the information resources and curricula of the school and clinical education at the school; and

5. To facilitate faculty and student research on health issues particularly affecting minority groups.

Applicants must address the five legislative purposes.

In addition, grants for eligible HBCUs as described in section 799(1)(A) and which have received a contract under section 788B of the Act (Advanced Financial Distress Assistance) for FY 1987 may also be used to develop a plan to achieve institutional improvements, including financial independence, to enable the school to support programs of excellence in health professions education for minority individuals, and to provide improved access to the library and informational resources of the school.

Eligibility

Section 739 authorities the Secretary to make grants to schools of medicine, osteopathic medicine, dentistry and pharmacy for the purpose of assisting the schools in supporting programs of

excellence in health professions education for Black, Hispanic and Native American individuals, as well as for HBCUs as described in section 799(1)(A) and which have received a contract under section 788B of the Act (Advanced Financial Distress Assistance) for FY 1987.

To qualify as a COE, a school is required to:

1. Have a significant number of minority individuals enrolled in the school, including individuals accepted for enrollment in the school;

2. Demonstrate that it has been effective in assisting minority students of the school to complete the program of education and receive the degree involved;

3. Show that it has been effective in recruiting minority individuals to attend the school, including providing scholarships and other financial assistance to such individuals, and encouraging minority students of secondary educational institutions to attend the health professions school; and

4. Demonstrate that it has made significant recruitment efforts to increase the number of minority individuals serving in faculty or administrative positions at the school.

These entities must be located in any of the several states, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Republic of Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia.

Other Requirements

For Hispanic Centers of Excellence, the health professions schools must agree to give priority to carrying out the duties with respect to Hispanic individuals.

Regarding Native American Centers of Excellence, the health professions school must agree to:

1. Give priority to carrying out the duties with respect to Native Americans;

2. Establish a linkage with one or more public or nonprofit private institutions of higher education whose enrollment of students has traditionally included a significant number of Native Americans for purposes of identifying potential Native American health professions students of the institution who are interested in a health professions career and facilitating their educational preparation for entry into the health professions school; and

3. Make efforts to recruit Native American students, including those who have participated in the undergraduate program of the linkage school, and assist them in completing the educational requirements for a degree from the health professions school.

With respect to meeting these requirements, a grant for a Native American Center of Excellence may be made not only to a school of medicine, osteopathic medicine, dentistry, or pharmacy that individually meets eligibility conditions but also to such school that has formed a consortium of schools that collectively meet conditions, without regard to whether the schools of the consortium individually meet the conditions. The consortium would be required to consist of the school seeking the grant and one or more schools of medicine, osteopathic medicine, dentistry, pharmacy, nursing, allied health, or public health. The schools of the consortium must have entered into an agreement for the allocation of the grant among the schools. Each of the schools must have agreed to expend the grant in accordance with requirements of this program. Each of the schools of the consortium must be part of the same institution of higher education as the school seeking the grant or be located not farther than 50 miles from the school.

To quality as an Other Minority Health Professions Education Center of Excellence, a health professions school (i.e., a school of medicine, osteopathic medicine, dentistry, or pharmacy) must have an enrollment of underrepresented minorities above the national average for such enrollments of health professions schools.

To receive support, applicants must meet the requirements of the program regulations which are located at 42 CFR part 57, subpart V.

National Health Objectives for the Year 2000

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS led national activity for setting priority areas. The Centers of Excellence Program is related to the priority area of Educational and Community-Based Programs. Potential applicants may obtain a copy of Healthy People 2000 (Full Report; Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report; Stock No. 017–001–473–1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325 (Telephone 202–783–3238).

Education and Service Linkage

As part of its long-range planning, HRSA will be targeting its efforts to strengthening linkages between U.S. Public Health Service education programs and programs which provide comprehensive primary care services to the underserved.

Statutory Requirements

Duration of Grants

Payments under grants for Centers of Excellence may not exceed 3 years, subject to annual approval by the Secretary and to the availability of appropriations for the fiscal year involved.

Maintenance of Effort

A health professions school receiving a grant will be required to maintain expenditures of non-Federal amounts for such activities at a level that is not less than the level of such expenditures maintained by the school for the fiscal year preceding the fiscal year for which the school receives such a grant.

Statutory Definitions

Health professions schools mean schools of medicine, osteopathic medicine, dentistry and pharmacy, as defined in section 739(h) and as accredited in section 799(1)(E) of the Act. For purposes of the HBCUs, this definition means those schools described in section 799(1)(A) of the Act and which have received a contract under section 788B of the Act (Advanced Financial Distress Assistance) for fiscal year 1987.

Native Americans means American Indians, Alaskan Natives, Aleuts, and Native Hawaiians.

Program of Excellence means any programs carried out by a health professions school with funding under section 739 Grants for Centers of Excellence in Minority Health Professions Education.

Other Definitions

The following definitions established in fiscal year 1991 after public comment, 56 FR 22440, dated May 15, 1991, are being continued in fiscal year 1993. Osteopathic medicine was added by Public Law 102–408.

"A significant number of minority individuals enrolled in the school" means that to be eligible to apply for a Hispanic COE, a medical, osteopathic medicine, dental school must have at least 25 enrolled Hispanic students. Schools of pharmacy must have at least 20 enrolled Hispanic students. To apply as a Native American COE, an eligible medical or dental school must have at

least eight enrolled Native American students and a school of pharmacy or osteopathic medicine must have at least five enrolled Native American students. To be eligible to apply for an Other Minority Health Professions Education COE, an eligible school must have above the national average of underrepresented minorities (medicine 13%, osteopathic medicine 8%, dentistry 15%, pharmacy 11%) enrolled in the school. These numbers represent the critical mass necessary for a viable program. A viable program is one in which there is a sufficient number of students to warrant a Center of Excellence level educational program. Data from relevant professional associations include sharp differentiation in target group numbers among schools. Stated numerical levels are just above the median for schools reporting a critical mass necessary for a viable program. The requirement that schools applying for Other Minority Health Professions Education Centers have an enrollment of underrepresented students that is above the national average for that discipline is statutory.

"Effectiveness in Providing Financial Assistance" will be evaluated by examining the data on scholarships and other financial aid provided to the targeted group in relation to the scholarships and financial aid provided to the total school population.

"Effectiveness in Recruitment" will be evaluated by examining the first-year and total enrollments of targeted students in relation to the first-year and total enrollments for the entire school.

"Effectiveness in Retaining Students" will be determined by retention rates for targeted group and academic and non-academic support systems operative for the target group of students at the school.

Hispanic means a person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish origin.

Minority means an individual whose race/ethnicity is classified as American Indian or Alaskan Native, Asian or Pacific Islander, Black, or Hispanic.

Underrepresented Minority means, with respect to a health profession, racial and ethnic populations that are underrepresented in the health profession relative to the number of individuals who are members of the population involved. This definition encompasses Blacks, Hispanics, Native Americans, and, potentially, various subpopulations of Asian individuals. Applicants must evidence that any particular subgroup of Asian individuals is underrepresented in a specific discipline.

Review Criteria

The review of applications will take into consideration the following criteria:

1. The degree to which the applicant can arrange to continue the proposed project beyond the federally-funded project period;

2. The degree to which the proposed project meets the purposes described in the legislation;

3. The relationship of the objectives of the proposed project to the goals of the plan that will be developed.

4. The administrative and managerial ability of the applicant to carry out the project in a cost effective manner;

5. The adequacy of the staff and faculty to carry out the program;

6. The soundness of the budget for assuring effective utilization of grant funds, and the proportion of total program funds which come from non-Federal sources and the degree to which they are projected to increase over the grant period;

7. The number of individuals who can be expected to benefit from the project; and

8. The overall impact the project will have on strengthening the school's capacity to train the targeted minority health professionals and increase the supply of minority health professionals available to serve minority populations in underserved areas.

Application Requests

Application materials will be sent to projects funded in FY 1992 and to those who request them.

Requests for grant application materials and questions regarding grants policy and business management issues should be directed to: Ms. Diane Murray (D–34), Grants Management Specialist, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 8C–26, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–6857, FAX: (301) 443–6343.

Completed applications should be returned to the Grants Management Office at the above address.

The standard application form PHS 6025–1, HRSA Competing Training Grant Application, General Instructions and supplement for this program have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. The OMB clearance number is 0915–0060.

The application deadline date is April 16, 1993. Applications shall be considered as meeting the deadline if they are either:

(1) *Received* on or before the deadline date, or

(2) *Postmarked* on or before the deadline and received in time for submission to the independent review group. A legibly dated receipt from a commercial carrier or U.S. Postal Service will be accepted in lieu of a postmark.

Private metered postmarks shall not be acceptable as proof of timely mailing.

Late applications not accepted for processing will be returned to the applicant.

To obtain specific information regarding the aspects of this grant program, direct inquiries to: Mr. Darl Stephens, Chief, Program Coordination Branch, Bureau of Disadvantaged Assistance, Bureau of Health Professions, HRSA, Parklawn Building, Room 8A–09, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–4493; FAX: (301) 443–5242.

This program is listed at 93.157 in the *Catalog of Federal Domestic Assistance.* It is not subject to the provisions of Executive Order 12732, Intergovernmental Review of Federal Programs (as implemented through 45 CFR part 100). This program is not subject to the Public Health System Reporting Requirements.

Dated: March 11, 1993.

Robert H. Harmon,

Administrator.

[FR Doc. 93–6029 Filed 3–16–93; 8:45 am]

BILLING CODE 4160–15–M

National Institutes of Health

Division of Research Grants; Notice of Meetings

Pursuant to Public Law 92–463, notice is hereby given of meetings of the Division of Research Grants Behavioral and Neurosciences Special Emphasis Panel.

The meetings will be closed in accordance with the provisions set forth in section 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and sec. 10(d) of Public Law 92–463, for the review, discussion and evaluation of individual grant applications and Small Business Innovation Research Program Applications in the various areas and disciplines related to behavior and neuroscience. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Office of Committee Management, Division of Research

Grants, Westwood Building, National Institutes of Health, Bethesda, Maryland 20892, telephone 301–496–7534, will furnish summaries of the meetings and rosters of panel members.

Meetings To Review Individual Grant Applications

Scientific Review Administrator: Dr. Jane Hu (301) 496–7550.
Date of Meeting: March 22, 1993.
Place of Meeting: Westwood Bldg., room 309, NIH, Bethesda, MD (Telephone Conference).
Time of Meeting: 1 p.m.

Scientific Review Administrator: Dr. Peggy McCardle (301) 496–7640.
Date of Meeting: April 6, 1993.
Place of Meeting: Westwood Bldg., room 305, NIH, Bethesda, MD (Telephone Conference).
Time of Meeting: 11:30 a.m.

Scientific Review Administrator: Dr. Leonard Jakubczak (301) 496–7251.
Date of Meeting: April 16, 1993.
Place of Meeting: Pooks Hill Marriott, Bethesda, MD.
Time of Meeting: 8:30 a.m.

Scientific Review Administrator: Dr. Leonard Jakubczak (301) 496–7251.
Date of Meeting: April 19, 1993.
Place of Meeting: Westwood Bldg., room 325C, NIH, Bethesda, MD (Telephone Conference).
Time of Meeting: 2 p.m.

Scientific Review Administrator: Dr. Leonard Jakubczak (301) 496–7251.
Date of Meeting: April 20, 1993.
Place of Meeting: Westwood Bldg., room 325C, NIH, Bethesda, MD (Telephone Conference).
Time of Meeting: 2 p.m.

Meetings To Review Small Business Innovation Research Program Applications

Scientific Review Administrator: Dr. Keith Murray (301) 496–7058.
Date of Meeting: March 24–25, 1993.
Place of Meeting: Omni Georgetown Hotel, Washington, DC.
Time of Meeting: 9 a.m.

This notice is being published less than 15 days prior to the meetings due to the difficulty of coordinating the attendance of members because of conflicting schedules.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: March 11, 1993.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 93–6169 Filed 3–16–93; 8:45 am]

BILLING CODE 4140–01–M

Public Health Service

State Offices of Rural Health Grant Program

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice of availability of funds.

SUMMARY: The Office of Rural Health Policy, Health Resources and Services Administration (HRSA), announces that applications are being accepted for matching grants to States for the purpose of improving health care in rural areas through the operation of State Offices of Rural Health. This program is authorized by section 338J of the Public Health Service Act, 42 U.S.C. 254r, as added by Pub. L. 101–597, and awards will be made from funds appropriated under Public Law 102–394 (HHS Appropriations Act for FY 1993). It is anticipated that up to $300,000 will be available to support the first year of new grants under this program, and $2.1 million will be available to support continuation of existing grants.

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity for setting priority areas. The State Offices of Rural Health Program is related to the priority areas of Educational and Community-Based Programs as well as Clinical Preventive Services. Potential applicants may obtain a copy of Healthy People 2000 (Full Report; Stock No. 017–001–00474–C) or Health People 2000 (Summary Report; Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325, (Telephone (202) 783–3238).

DATES: Application deadline for this program is May 30, 1993. Applications must be received by the Grants Management Officer at the address shown below.

Applications shall be considered as meeting the deadline if they are either (1) received on or before the deadline date; or (2) postmarked on or before the deadline date and received in time for orderly processing. A legibly dated receipt from a commercial carrier or U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmarks will not be acceptable as proof of timely mailing. Late applications will be returned to the sender.

ADDRESSES: Requests for grant application kits and guidance should be directed to: Opal McCarthy, Grants Management Office (GMO), Bureau of Primary Health Care, HRSA, PHS, U.S. Department of Health and Human Services, 12100 Parklawn Drive, Rockville, Maryland 20857, (Telephone (301) 443–5414). The GMO can also provide information on business management issues.

Requests for technical or programmatic information should be directed to Jerry Coopey, Director of Government Affairs, Office of Rural Health Policy, HRSA, PHS, U.S. Department of Health and Human Services, Room 9–05, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (Telephone (301) 443–0835).

The standard application form and general instructions for completing applications (Form PHS–5161–1, OMB #0937–0189) have been approved by the Office of Management and Budget.

SUPPLEMENTARY INFORMATION:

Program Objectives

The purpose of the program is to improve health care in rural areas by making matching grants to States to support the operation of State Offices of Rural Health.

These federal funds are available to all States whether or not they have previously established an office or "focal point" for rural health.

To receive a Federal grant, each State must agree that its Office of Rural Health will carry out at least the following activities: (1) Establish and maintain a clearinghouse for collecting and disseminating information on rural health care issues, research findings relating to rural health care, and innovative approaches to the delivery of health care in rural areas, (2) coordinate the activities carried out in the State that relate to rural health care, including providing coordination for the purpose of avoiding redundancy in such activities; (3) identify Federal and State programs regarding rural health, and provide technical assistance to public and nonprofit private entities regarding participation in such programs, and (4) submit an annual report regarding its activities. In addition to these required activities, a State Office of Rural Health may use Federal grant funds for activities which support, but do not directly fund, the recruitment and retention of health professionals to serve in rural areas. Consideration will be given to applicants that demonstrate a commitment to this discretionary activity. The Secretary, DHHS, views this as an important program activity which can produce tangible results.

The State (e.g. Department of Health, Governor's Office, State University) can

conduct the required and any discretionary activities directly or through grants or contracts to other public or nonprofit private entities (e.g. Private Universities, Area Health Education Centers, Foundations).

States, however, may not use grant funds to (1) provide health care (2) duplicate activities for which Federal funds are being used under the State primary care association, cooperative agreement and State loan repayment programs, (3) purchase medical equipment, vehicles, or real property, or (4) conduct certificate of need activities. In addition, not more than 10 percent of grant funds may be expended on research.

To encourage States to commit their own resources toward improving rural health care, this program requires a minimum non-Federal match to support the establishment and operation of State Offices of Rural Health. For the first fiscal year of participation, States must match at least $1 for each $3 of Federal funds; $1 for each $1 in the second year; and $3 for each $1 in the third year. In the first year, the State match can be 100 percent in-kind. In the second year at least 50 percent must be in cash, and in the third year solely in cash. Rules regarding in-kind and in cash State contributions are found in 45 CFR, part 92.

To assure that each State Office of Rural Health has the resources to carry out its minimum responsibilities, a State must make sure that the Office has a total budget of not less than $50,000.

Eligible Applicants

The fifty States.

Review Consideration

Grant applications will be evaluated on the basis of the following criteria:

(1) The extent to which the application is responsive to the requirements and purposes of the program.

(2) The extent to which the applicant has developed measurable goals, objectives, and an evaluation plan for the required, and any discretionary, activities

(3) The extent to which the Office is coordinated with, and has the cooperation of, other health entities and activities within the State.

(4) The strength of the applicant's plans for administrative and financial management of the Office.

(5) The reasonableness of the budget proposed for the Office.

(6) The likelihood that the Office will be continued after Federal grant support is completed.

Other Award Information

A total of up to $2.4 million will be available to support this grant program in this, its third year. Approximately $2.1 million will fund 42 continuation grants in their second and third years, and up to $300,000 will be available to fund the first year of new grants. Although difficult to predict, it is expected that approximately 8 grants will be awarded to first year projects. Grant applications should be submitted for a three-year project period. While support for additional years is contingent upon satisfactory performance and the availability of funds for this program, States should be aware that continued participation will require an increase in their contribution. Only one grant application will be accepted from each State and it must indicate approval by the Governor.

Executive Order 12372

The State Office of Rural Health Grant Program has been determined to be a program which is subject to the provisions of Executive Order 12372 concerning intra-governmental review of Federal programs, as implemented by 45 CFR part 100. Executive Order 12372 sets up a system for State and local government review of proposed Federal assistance applications. A current list of SPOCs, including their names, addresses, and telephone numbers is included in the application kit. Applicants (other than federally-recognized Indian tribal governments) should contact their State Single Point of Contact (SPOCs) as early as possible to alert them to the prospective applications and receive any necessary instructions on the State process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC of each affected State. All SPOC recommendations should be submitted to Opal McCarthy, Grants Management Office, Bureau of Primary Health Care, 12100 Parklawn Drive, Rockville, Maryland 20857, (301) 443-5414. The due date for State process recommendations is 60 days after the application deadline date for new and existing awards. The granting agency does not guarantee to "accommodate or explain" for State process recommendations it receives after that date. (See Part 148, Intergovernmental Review of PHS Programs under Executive Order 12372 and 45 CFR part 100 for a description of the review process and requirements.)

The OMB Catalog of Federal Domestic Assistance number is 93.913.

Dated: March 12, 1993.

Robert G. Harmon,

Administrator.

[FR Doc. 93-6087 Filed 3-16-93; 8:45 am]

BILLING CODE 4160-15-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Meeting of Exxon Valdez Oil Spill Public Advisory Group

AGENCY: Office of the Secretary, Interior.

ACTION: Notice of meeting.

SUMMARY: The Department of the Interior is announcing a public meeting of the Exxon Valdez Oil Spill Public Advisory Group to be held on April 16, 1993, at 10 a.m., in the first floor conference room, 645 "G" Street, Anchorage, Alaska.

FOR FURTHER INFORMATION CONTACT: Douglas Mutter, Department of the Interior, Office of Environmental Affairs, 1689 "C" Street, suite 119, Anchorage, Alaska, (907) 271-5011.

SUPPLEMENTARY INFORMATION: The Public Advisory Group was created by Paragraph V.A.4 of the Memorandum of Agreement and Consent Decree entered into by the United States of America and the State of Alaska on August 27, 1991, and approved by the United States District Court for the District of Alaska in settlement of *United States of America* v. *State of Alaska,* Civil Action No. A91-081 CV. This meeting will include:

(1) A review of restoration plan alternatives and the status of the comprehensive plan;

(2) A review of the status of habitat protection activities; and

(3) A review of the proposed 1994 work plan.

Dated: March 12, 1993.

Jonathan P. Deason,

Director, Office of Environmental Affairs.

[FR Doc. 93-6139 Filed 3-16-93; 8:45 am]

BILLING CODE 4310-RG-M

Bureau of Land Management

[CA-060-02-4410-08]

Amendment to Notice of Availability of Proposed South Coast Resource Management Plan and Final Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: To amend a notice of availability which gave an incorrect address for submission of protest letters.

SUMMARY: An incorrect address for submission of protest letters was published in the notice of availability for the South Coast Proposed Resource Management Plan and Final Environmental Impact Statement (ES control #93–5), published in the Federal Register on March 3, 1993 (58 FR 12249). Written protests are to be submitted to the Director and not to the District Manager as stated in the original notice. Any protests that have been sent to the District Manager will automatically be forwarded to the Director.

DATES: All protests must be postmarked no later than April 5, 1993.

ADDRESSES: Written protests should be mailed to: Director (760), Bureau of Land Management, 1800 C Street, NW. Washington, 20240.

FOR FURTHER INFORMATION CONTACT: David McIlnay, Acting Area Manager, 63–500 Garnet Ave., P.O. Box 2000, Palm Springs—South Coast Resource Area; phone (619) 251–0812.

Dated: March 11, 1993.

David McIlnay,

Acting Area Manager, Palm Springs—South Coast Resource Area.

[FR Doc. 93–6165 Filed 3–16–93; 8:45 am]

BILLING CODE 4310–40–M

[AK–967–4230–15; AA–6978–A]

Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of section 14(b) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(b), will be issued to Kootznoowoo Incorporated for approximately 40 acres. The lands involved are within the Tongass National Forest, Alaska.

T. 78 S., R. 88 E., Copper River Meridian, Alaska

A notice of the decision will be published once a week, for four (4) consecutive weeks, in the JUNEAU EMPIRE. Copies of the decision may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599 (907) 271–5960).

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government or regional corporation, shall have until April 16, 1993, to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, subpart E, shall be deemed to have waived their rights.

Terry R. Hassett,

Chief, Branch of KCS Adjudication.

[FR Doc. 93–6014 Filed 3–16–93; 8:45 am]

BILLING CODE 4310–JA–M

[ES–020–03–4110–05]

Notice of Availability of a Draft Environmental Impact Statement (DEIS) on a Proposed Exploratory Well, Broward County, FL

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of a Draft Environmental Impact Statement (DEIS) on a proposed exploratory well in Broward County, Florida.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, a DEIS has been prepared under the direction of the Bureau of Land Management (BLM), Jackson District and the Bureau of Indian Affairs (BIA), Eastern Area Office analyzing a proposed exploratory well on the Federal Miccosukee Indian Reservation in Broward County, Florida. The DEIS was prepared by the consulting firm of Dames & Moore of Boca Raton, Florida. A copy of the DEIS or summary is available upon request to the BLM, Jackson District Office. Public reading copies are available at the following locations:

Bureau of Land Management, Office of Public Affairs, Main Interior Building, room 5600, 18th & C Streets, NW., Washington, DC 20240.

Bureau of Land Management, 5411 Briarwood Drive, suite 404, Jackson, Mississippi 39206.

Bureau of Indian Affairs, 3701 N. Fairfax Drive, suite 260, Arlington, Virginia 22203.

Broward County Public Library, Government Documents Division, 100 South Andrews Avenue,Ft. Lauderdale, Florida 33301.

Leon County Library, 200 West Park Avenue, Tallahassee, Florida 32301.

Palm Beach County Library, 3650 West Summit Blvd., West Palm Beach, Florida 33406.

State Library of Florida, Document Section, R.A. Gray Building, Tallahassee, Florida 32399.

DATES: Written commens will be accepted until May 18, 1993. Oral and/or written comments may also be presented at a public hearing to be held on April 14, 1993 beginning at 6 p.m. at the Greater Fort Lauderdale-Broward County Convention Center, 1950 Eisenhower Blvd., Fort Launderdale, Florida. Representatives of BLM, BIA and Dames & Moore will be available on an informal basis from 2 to 4:30 p.m. to discuss the proposal with interested individuals.

ADDRESSES: Requests for a copy of the DEIS or summary and/or written comments on the document should be sent to the District Manager, Bureau of Land Management, 411 Briarwood Drive, suite 404, Jackson, Mississippi 39206; ATTN: Robert V. Abbey.

FOR FURTHER INFORMATION CONTACT: Robert V. Abbey (BLM) (601) 977–5400 or Jim Harriman (BIA) (703) 235–3177.

SUPPLEMENTARY INFORMATION:

1. Proposed Action

On January 17, 1991, Shell Western E&P Inc. submitted an "Application for Permit to Drill" for an exploratory well to the BLM. The proposed well is on the Miccosukee Indian Reservation in Broward County, Florida. The well is identified as the SWEPI Miccosukee 3–1 and is designed to test oil and gas potential. The site is located directly north of Interstate 75 and west of the L–28 Canal adjacent to Water Conservation Area 3A.

2. Alternatives

The DEIS analyzes potential impacts associated with drilling and testing of the exploration well. The analysis considers several alternate drill sites and road routes. Technological and environmental constraints limit the reasonable alternatives to the proposed well site and access route, two alternative access road routes and the No Action Alternative. The agencies preferred alternative is the Proposed Action with recommended mitigation measures.

3. Public Participation

The public was invited on March 22, 1991 to identify issues and concerns specifically related to the proposed drilling. This public comment period ended on May 3, 1991. A public meeting was held January 23, 1992 at the Fort Launderdale Airport Hilton, 1870 Griffin Road, Dania, Florida. The meeting was held to accept oral and written comments concerning the proposal. This comment period ended on Febuary 14, 1992. A Notice of Intent to prepare an Environmental Impact Statement was announced on April 16,

1992 and an additional comment period was opened until May 18, 1992.

Dated: March 8, 1993.

Robert V. Abbey,

Jackson District Manager, BLM.

[FR Doc. 93-6016 Filed 3-16-93; 8:45 am]

BILLING CODE 4310-GJ-M

[NM-030-03-3130-10; NMNM 82703]

Issuance of Exchange Conveyance Documents and Order Providing for Opening of Public Land in Catron County; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This action informs the public of the conveyance of 15,447.73 acres of public land out of Federal ownership. This action will also open 12,292.93 acres of reconveyed land to the operation of the public land laws.

FOR FURTHER INFORMATION CONTACT: Harlen Smith, Socorro Resource Area Manager, 198 Neel Ave., Socorro, New Mexico 87801.

SUPPLEMENTAL INFORMATION: The United States issued exchange conveyance documents to the persons listed below on March 13, 1992, for the following described land in Socorro, Catron, and Sierra Counties, New Mexico, pursuant to Section 206 of the Act of October 21, 1976 (43 U.S.C. 1716). Both surface and mineral estates were conveyed to Eunice Dean Nunn, Wilma H. and Truman V. Hatley, and Billy Frank Shivers; surface estate only was conveyed in the remaining land:

New Mexico Principal Meridian

T. 7 S., R. 3 W.,
Sec. 31, lot 3, NE¼SW¼, and N½SE¼.
T. 7 S., R. 4 W.,
Sec. 9 lot 1;
Sec. 13 lots 1 and 4, inclusive, 6, 7, W½NE¼, and E½W½;
Sec. 14, lots 1 to 4, inclusive;
Sec. 21, lot 1;
Sec. 22, lot 1;
Sec. 23, NE¼;
Sec. 27, lots 1 to 5, inclusive;
Sec. 28, lots 1 to 4, inclusive;
Sec. 33, lots 1 to 4, inclusive;
Sec. 34, lots 1, 2, 3, W½NE¼, SE¼NE¼, and E½NW¼;
Sec. 35, lot 1, N½NE¼, and NE¼NW¼;
Sec. 36, lots 1 to 4, inclusive.
T. 8. S., R. 4 W.,
Sec. 9, NE¼SE¼;
Sec. 26, SE¼.

Containing 1,541.94 acres conveyed to Eunice Dean Nunn.

T. 8 S., R. 4 W.,
Sec. 35, S½S½SE¼.
T. 9 S., R. 4 W.,
Sec. 1, lots 2, 3, 4, SW¼NE¼, S½NW¼, SW¼, and W½SE¼;
Sec. 3, S½NE¼;
Sec. 4, lot 1 and N½NE¼SW¼;
Sec. 11, N½SW¼NE¼ and SE¼NE¼.

Containing 718.56 acres conveyed to Wilma H. and Truman V. Hatley.

T. 3S., R. 9 W.,
Sec. 26, S½;
Sec. 27, S½;
Sec. 28, S½;
Sec. 29, S½;
Sec. 30, lots 3, 4, E½SW¼, and SE¼.

Containing 1,602.61 acres conveyed to Marvin Ake.

T. 2 S., R. 4 W.,
Sec. 21, lots 3, 4, 5, SW¼NE¼, and W½NW¼.

Containing 217.10 acres conveyed to James Neal Gregg.

T. 3 N., R. 11 W.,
Sec. 12.

Containing 640.00 acres conveyed to Carole Newberry Roberson.

T. 2 S., R. 5 W.,
Sec. 26, lot 1.

Containing 4.01 acres conveyed to T3 Ranch, Inc. (NSL).

T. 8 S., R. 10 W.,
Sec. 1, lots 1, 2, 3, S½NE¼, SE¼NW¼, E½SW¼, and SE¼;
Sec. 12, S½.
T. 9 S., R. 10 W.,
Sec. 4, N½, W½SW¼, and SE¼SW¼.
T. 9 S., R. 11 W.,
Sec. 14, NE¼NW¼.
T. 8 S., R. 12 W.
Sec. 21, E½NE⅛ and SE¼SE¼.

Containing 1,399.87 acres conveyed to Mary O'Boyle English.

T. 4S., R. 6 W.,
Sec. 5, lot 3, NE¼NW¼, S½NW¼, and SW¼;
Sec. 6, lots 1, 2, S½NE¼, and SE¼.
T. 3 S., R. 12 W.,
Sec. 34, SW¼NW¼;
Sec. 35, E½SE¼.

Containing 761.04 acres conveyed to Elliott Gonzales McMaster.

T. 7S., R. 8 W.,
Sec. 27;
Sec. 33, W½W½;
Sec. 34, E½W½;
Sec. 35, S½NW¼ and S½.
T. 8 S., R. 8 W.,
Sec. 5, E½SE¼ and SW¼;
Sec. 8, W½SE¼ and SE¼SE¼.
T. 8 S., R. 9 W.,
Sec. 1, lot 4, SW¼NW¼, and SW¼.

Containing 1,960.35 acres conveyed to Clay Wesley Henderson.

T. 3 N., R. 17 W.,
Sec. 17, S½, S½.

Containing 160.00 acres conveyed to Viola L. Orona.

T. 2 N., R. 12 W.,
Sec. 18, lots 2, 3, 4, SE¼NW¼, and NE¼SW¼.
T. 2 N., R. 13 W.,
Sec. 24, N½NE¼, SW¼NE¼, SE¼NW¼, E½SW¼, and W½SE¼.

Containing 526.03 acres conveyed to Vera L. and Marvin J. Davis.

T. 7 S., R. 8 W.,
Sec. 30, lot 4, SE¼SW¼, and S½SE¼.
T. 7 S., R. 9 W.,
Sec. 15, N½N½;
Sec. 17, S½;
Sec. 25, N½N½, NW¼SW¼, E½SW¼, and SE¼.

Containing 1,077.37 acres conveyed to William Rowland Edwards, Jr.

T. 1 N., R. 16 W.,
Sec. 22, W½NW¼;
Sec. 34, E½SE¼.
T. 2 S., R. 18 W.,
Sec. 3, lots 1, 2, S½NE¼, and SE¼;
Sec. 9, SE¼;
Sec. 10, NE¼ and S½.

Containing 1,120.76 acres conveyed to James Oliver Williams.

T. 3 S., R. 8 W.,
Sec. 7, lots 1, 2, 3, N½NE¼, E½NW¼, and NE¼SW¼.
T. 3 S., R. 9 W.,
Sec. 11;
Sec. 12, N½, and N½S½;
Sec. 28, N½;
Sec. 29, N½;
Sec. 30, lots 1, 2, NE¼, and E½NW¼.
T. 3 S., R. 10 W.,
Sec. 25, NE¼.

Containing 2,558.98 acres conveyed to John T. Hand.

T. 2 N., R. 15 W.,
Sec. 9, S½.

Containing 320.00 acres conveyed to Phyllis and James Edward Carroll.

T. 8 S., R. 4 W.,
Sec. 35, NE¼, N½SE¼, and N½S½SE¼.

Containing 280.00 acres conveyed to Billy Frank Shivers.

T. 1 N., R. 3 W.,
Sec. 26, SW¼SW¼;
Sec. 35, NW¼.

Containing 200.00 acres conveyed to Patsy K. and Ed Ross Ligon.

T. 10. S., R. 4 W.,
Sec. 1, lots 2, 3, 4, SW½NE¼, S½NW¼, and NW¼SE¼.

Containing 359.11 acres conveyed to Velma Inez Kleitz, Philip Rex Kleitz, and Beryl Lamar Kleitz.

In exchange for the above-described land, Shepard and Associates, Public Land Exchange, conveyed to the United State the surface and mineral estate in the SW¼SE¼, Sec. 11, T. 8 S., R. 15 W., NMPM, Catron County, and the surface estate only in the following land located within Catron County, New Mexico:

New Mexico Principal Meridian

T. 7 S., R. 13 W.,
Sec. 32;
Sec. 34, S½;
Sec. 36.
T. 8 S., R. 13 W.,
Sec. 2, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 3, lots 3, 4, S½NW¼, and SW¼;
Sec. 4, lots 1, 2, S½NE¼, and SE¼;
Sec. 5, S½, S½NE¼, and SE¼NW¼;
Sec. 8, lots 2 to 6, inclusive;
Sec. 9, N½;

Sec. 16, NE¼NE¼, E½NW¼NE¼, W½NE¼NW¼, NW¼NW¼, S½N½, and S½;
Sec. 19, NE¼SE¼, and S½SE¼;
Sec. 20, E½NE¼, SW¼NE¼, and S½;
Sec. 21;
Sec. 28;
Sec. 29, lots 1 to 16, inclusive;
Sec. 30, lots 5 to 20, inclusive E½W½, and E½;
Sec. 31, lots 1 to 4, inclusive, NE¼, and E½W½;
Sec. 32, NE¼, E½NW¼, SW¼NW¼, and S½;
Sec. 33.
T. 7 S., R. 14 W.,
Sec. 36.
T. 8 S., R. 14 W.,
Sec. 2, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 3, NE¼SW¼;
Sec. 12;
Sec. 13, N½ and N½S½;
Sec. 14, N½ and N½S½.
Containing 12,292.93 acres.

The purpose of this exchange was to acquire non-Federal land which has high public values for wilderness, recreation, scenic, wildlife habitat and geologic resources. The land was acquired in support of the Pelona Mountain Special Management Area, the Continental Divide National Scenic Trail and the Continental Divide Wilderness Study Area. The public interest was served through completion of this exchange.

The values of the Federal public land and the non-Federal land in the exchange were appraised at $681,400 and $625,000, respectively. An equalization payment in the amount of $56,400 was paid to the United States.

At 9 a.m. on April 16, 1993, the land reconveyed to the United States shall be open to the operation of the public land laws, generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All applications received at or prior to 9 a.m. on April 16, 1993, shall be considered as simultaneously filed at the time. Those received thereafter shall be considered in the order of filing.

Dated: March 5, 1993.

Monte G. Jordan,

State Director.

[FR Doc. 93–6018 Filed 3–16–93; 8:45 am]

BILLING CODE 4310–FB–M

[AZ–920–03–4212–13; AZA 22643]

Arizona, Exchange of Public and Private Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of issuance of exchange documents.

SUMMARY: Notice is hereby given of the completion of an exchange between the United States and Jeffrey Menges. The United States transferred 125.49 acres and Mr. Menges transferred 160.00 acres, all in Greenlee County, Arizona.

FOR FURTHER INFORMATION CONTACT: Evelyn Stob, Arizona State Office, P.O. Box 16563, Phoenix, Arizona 85011. Telephone (602) 640–5534.

SUPPLEMENTARY INFORMATION: On December 3, 1992, the Bureau of Land Management transferred the following described lands, containing 125.49 acres, to Mr. Menges pursuant to section 206 of the Federal Land Policy and Management Act, 1976:

Gila and Salt River Meridian, Arizona

T. 5 S., R. 29 E.,
Sec. 36, lots 7 to 8, inclusive.
T. 5 S., R. 30 E.,
Sec. 31, lots 3, 10 and 12.
Containing 125.49 acres.

In exchange, Mr. Menges conveyed the following described lands, containing 548.64 acres, to the United States by General Warranty Deed:

Gila and Salt River Meridian, Arizona

T. 5 S., R. 29 E.,
Sec. 33, S½S½

The total value of the Federal land was $18,800; the value of the private land was $14,400. Mr. Menges paid an equalization payment of $4,400 to the United States.

The lands received in this exchange have become public land. They will not be available for location under the mining laws of application for sale, entry or mineral leasing until such availability is published in the **Federal Register.**

Mary Jo Yoas,

Chief, Branch of Lands Operations.

[FR Doc. 93–6017 Filed 3–16–93; 8:45 am]

BILLING CODE 4310–32–M

[WY–010–4331–08]

Notice of Intent to Conduct a Planning Review of the Cody Resource Management Plan (RMP) and Request for Public Participation, Concerning an Important Dinosaur Discovery in Big Horn County, WY

SUMMARY: The Bureau of Land Management (BLM), Cody Resource Area, invites the public to identify concerns to be addressed in a review of the Cody RMP and the management implications, needs, and issues associated with the discovery of an *Allosaurus* skeleton in Big Horn County, Wyoming.

FOR FURTHER INFORMATION CONTACT: Interested parties may obtain further information by contacting Tom Hare or Jim Chase, Planning Review Team Leaders, at the Cody Resource Area Office, Bureau of Land Management, P.O. Box 518, 1002 Blackburn Avenue, Cody, Wyoming 82414, telephone (307) 587–2216.

To be placed on the Worland BLM District mailing list, contact Margy Tidemann, Worland District Office, Bureau of Land Management, P.O. Box 119, Worland, Wyoming 82401, telephone (307) 347–9871.

SUPPLEMENTARY INFORMATION: A review of the Cody RMP is being conducted to evaluate the management implications, needs, and issues associated with the discovery of an *Allosaurus* skeleton on BLM administered public lands in the Cody Resource Area. The discovery was made approximately one year after the approval of the Cody RMP and a review of the RMP is needed to evaluate the adequacy of existing management prescriptions for the protection of paleontological resources and related values in the discovery area. The planning review is to also identify the need for any changes in existing management or any additional management actions to be prescribed for the area. Management options to be considered in the review area include possible designation of the area as an Area of Critical Environmental Concern (ACEC), and possible closure of the area to the staking of mining claims and mining activity. The planning review will include opportunities for public participation. If necessary, the Cody RMP will be amended.

About 5,500 acres of BLM-administered public lands, around and including the *Allosaurus* discovery site, in Big Horn County, Wyoming, will be the focus of the planning review.

The National Environmental Policy Act (NEPA) environmental analysis process will be used in developing a multiple-use management prescription for the discovery area and in making other management decisions for the area (for example, closure to mineral location, ACEC designation, the need to amend the Cody RMP).

The date, the following planning issues have been identified: (1) The need to protect important paleontological resources from being damaged by potential surface-disturbing activities in the area of the dinosaur discovery, including possible mining claim and mining-related activities; (2) the need to protect important paleontological resources from unauthorized collection in the area; (3)

the need to consider special management needs and a possible ACEC designation in the area; and (4) management of the area for research, public education, recreation, and other land uses. The public, including other Federal Agencies and State and local Government, is invited to identify other issues and management opportunities that should be addressed in the planning review and to comment on those identified by the BLM staff. The BLM will not conduct any inventory specifically for the purposes of the planning review. Existing, available resource information and data, including ongoing paleontological research by major universities, will be relied upon for the review. However, the BLM is requesting from the public any available resource data and information that may be used to further define issues, update the resource data base or to identify resource data needs, help define land use and resource management options and alternatives for the area, and to analyze the environmental consequences of management options and alternatives.

Public participation activities will be initiated with two open houses. The first will be held Thursday, April 1, 1993, from 1 p.m. to 8 p.m., at the BLM Cody Resource Area office, 1002 Blackburn Avenue, Cody, Wyoming. The second will be held on Friday, April 2, 1993, from 2 p.m. to 8 p.m., at the Greybull Museum, 325 Greybull Avenue, Greybull, Wyoming. Notice of additional public participation activities to be conducted during the planning review process, will be provided through news releases and mailings to individuals, interest groups, and agencies that are included on the Worland BLM District mailing list.

If the planning review results in the need to amend the Cody RMP, other public participation requirements will include a public review, comment and protest period on the NEPA analysis documentation of the review and any proposed amendments to the Cody RMP. These activities will also be announced through the news media and mailings.

Dated: March 8, 1993.

Ray Brubaker,

State Director, Wyoming.

[FR Doc. 93-6080 Filed 3-16-93; 8:45 am]

BILLING CODE 4310-22-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-643 (Preliminary)]

Defrost Timers From Japan; Import Investigation

Determination

On the basis of the record[1] developed in the subject investigation, the Commission unanimously determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Japan of defrost timers for residential refrigerators, provided for in subheading 9107.00.40 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (LTFV).

Background

On January 19, 1993, a petition was filed with the Commission and the Department of Commerce by Paragon Electric Co., Inc., Two Rivers, WI, alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV imports of defrost timers for residential refrigerators from Japan. Accordingly, effective January 19, 1993, the Commission instituted antidumping investigation No. 731-TA-643 (Preliminary).

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of January 27, 1993 (58 FR 6296). The conference was held in Washington, DC, on February 9, 1993, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on March 5, 1993. The views of the Commission are contained in USITC Publication 2609 (March 1993), entitled "Defrost Timers from Japan: Determination of the Commission in Investigation No. 731-TA-643 (Preliminary) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation."

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

By order of the Commission.

Issued: March 8, 1993.

Paul R. Bardos,

Acting Secretary.

[FR Doc. 93-6117 Filed 3-16-93; 8:45 am]

BILLING CODE 7020-02-M

[Investigations Nos. 701-TA-314 through 317 (Final) and Investigations Nos. 731-TA-552 through 555 (Final)]

Certain Hot-Rolled Lead and Bismuth Carbon Steel Products From Brazil, France, Germany, and the United Kingdom; Import Investigation

Determinations

On the basis of the record[1] developed in the subject investigations, the Commission unanimously determines, pursuant to section 705(b) of the Tariff Act of 1930 (the Act) (19 U.S.C. 1671d(b)), that an industry in the United States is materially injured by reason of imports from Brazil, France, Germany, and the United Kingdom of certain hot-rolled lead and bismuth carbon steel products, provided for in subheadings 7213.20.00, 7213.31.30, 7213.31.60, 7213.39.00, 7214.30.00, 7214.40.00, 7214.50.00, 7214.60.00 and 7228.30.80 of the Harmonized Tariff Schedule of the United States (HTS),[2] that have been found by the Department of Commerce to be subsidized by the Governments of those countries.

The Commission also unanimously determines, pursuant to section 735(b) of the Act (19 U.S.C. 1673d(b)), that an industry in the United States is materially injured by reason of imports from Brazil, France, Germany, and the United Kingdom of certain hot-rolled lead and bismuth carbon steel products, provided for in subheadings 7213.20.00, 7213.31.30, 7213.31.60, 7213.39.00, 7214.30.00, 7214.40.00, 7214.50.00 7214.60.00 and 7228.30.80 of the HTS, that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] For purposes of these investigations, the subject hot-rolled lead and bismuth carbon steel products are hot-rolled products of nonalloy or other alloy steel, whether or not descaled, containing by weight 0.03 percent or more of lead or 0.05 percent or more of bismuth, in coils or cut lengths, and in numerous shapes and sizes. Excluded from the scope of these investigations are other alloy steels, except steels classified as such by reason of containing by weight 0.4 percent or more of lead, or 0.1 percent or more of bismuth, selenium, or tellurium. Also excluded are semifinished steels and flat-rolled carbon steel products.

Background

The Commission instituted these investigations effective November 2, 1992, and November 13, 1992, following preliminary determinations by the Department of Commerce that imports of certain hot-rolled lead and bismuth carbon steel products from Brazil, France, Germany, and the United Kingdom were being subsidized within the meaning of section 703(b) of the Act (19 U.S.C. 1671b(b)) and were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. 1673(b)). Notice of the institution of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notices in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notices in the Federal Register of November 19, 1992 (57 FR 54607) and December 9, 1992 (57 FR 58220). The hearing was held in Washington, DC, on February 2, 1993, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on March 10, 1993. The views of the Commission are contained in USITC Publication 2611 (March 1993), entitled "Certain Hot-Rolled Lead and Bismuth Carbon Steel Products from Brazil, France, Germany, and the United Kingdom: Determinations of the Commission in Investigations Nos. 701–TA–314 through 317 (Final) and 731–TA–552 through 555 (Final) Under the tariff Act of 1930, Together With the Information Obtained in the Investigations."

By order of the Commission.

Issued: March 11, 1993.

Paul R. Bardos,

Acting Secretary.

[FR Doc. 93–6118 Filed 3–16–93; 8:45 am]

BILLING CODE 7020–02–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 32253]

The Belt Railway Co. of Chicago (Trackage Rights Exemption); Norfolk and Western Railway Co.

Norfolk and Western Railway Company has agreed to grant trackage rights to the Belt Railway Company of Chicago (BRC) between Belt Junction and WI Junction, in Chicago IL, a total distance of approximately 1 mile. BRC will use the trackage rights as a bridge route, and for the local interchange of cars in Chicago, IL. The trackage rights became effective March 10, 1993.[1]

This notice is filed under 49 CFR 1180.2(d)(7). If the notice contains false or misleading information the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Commission and served on: Woodrow M. Cunningham, The Belt Railway Company of Chicago, 6900 South Central Avenue, Chicago, IL 60638.

As a condition to the use of this exemption, any employees affected by the trackage rights will be protected pursuant to *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

Decided: March 12, 1993.

By the Commission, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–6110 Filed 3–16–93; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 32262]

Exemption; Gregory B. Cundiff—Continuance in Control Exemption—Rio Valley Railroad, Inc.

Gregory B. Cundiff has filed a notice of exemption to continue in control of Rio Valley Railroad, Inc. (Rio Valley) upon its becoming a carrier. Rio Valley, a noncarrier, has concurrently filed a notice of exemption in Finance Docket No. 32261, Rio Valley Railroad, Inc.—Lease and Operation Exemption—Missouri Pacific Railroad Company, to lease and operate 49.12 miles of line owned by Missouri Pacific Railroad Company (MP) in the State of Texas.[1] Rio Valley expected that transaction to be consummated on or after March 4, 1993.

Mr. Cundiff currently controls two class III rail carriers: (1) Railroad Switching Service of Missouri, Inc., which operates approximately 4 miles of line in the St. Louis, MO, switching district; and (2) Texas Railroad Switching, Inc., which operates 55 miles of line between Gardendale and Carrizo Springs, TX. He states that: (1) The properties operated by these railroads do not connect with the properties being acquired by Rio Valley; (2) the continuance in control is not a part of a series of anticipated transactions that would connect the three railroads with each other or any other railroad in their corporate family; and (3) the transaction does not involve a class I carrier. The transaction is therefore exempt from the prior approval requirements of 49 U.S.C. 11343. See 49 CFR 1180.2(d)(2).

As a condition to use of this exemption, any employees adversely affected by the transaction will be protected by the conditions set forth in New York Dock. Ry.—Control—Brooklyn Eastern Dist., 360 I.C.C. 60 (1979).

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction. Pleadings must be filed with the Commission and served on: Thomas F. McFarland, Jr., Belnap, Spencer, McFarland & Herman, 20 North Wacker Drive, suite 3118, Chicago, IL 60606–3101.

Decided: March 12, 1993.

By the Commission, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–6108 Filed 3–16–93; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 32247]

Fox River Valley Railroad Corp. (Trackage Rights Exemption); Chicago and North Western Transportation Co.

Chicago and North Western Transportation Company (C&NW) has agreed to grant overhead trackage rights to Fox River Valley Railroad Corporation (FRVR) over a 1.7-mile rail line between milepost 4.00 at Duck Creek, WI, and milepost 5.70 at Howard, WI. FRVR will use these trackage rights to reach the outer limits of the Industrial Park, at Howard, WI,[1] to serve the

[1] To qualify for an exemption under 49 CFR 1180.2(d), a railroad must file a verified notice of the transaction with the Commission at least a week before the transaction is consummated. See 49 CFR 1180.4(g). In this proceeding, the parties filed their verified notice of exemption on March 3, 1993, and stated that the transaction had been consummated on February 24, 1993. However, counsel for the parties has clarified that February 24, 1993, was the date the parties executed their agreement, not the consummation date. According to counsel, the parties did not consummate the transaction prior to the effective date.

[1] The MP segments to be leased by Rio Valley include: (1) The Mission Industrial Lead track extending 41 miles between milepost 1.0, near Harlingen, and milepost 42.0, near Mission, and (2) the Hidalgo Industrial Lead track extending 8.12 miles between milepost 0.0, near Mission, and milepost 8.12, near Hidalgo.

[1] FRVR has access to the Industrial Park by virtue of its status as successor in interest to a

Continued

interests of its customer, GenCorp, located at the Village of Howard Industrial Park, in Howard, WI. The trackage rights became effective February 11, 1993.[2]

This notice is filed under 49 CFR 1180.2(d)(7). If the notice contains false or misleading information the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Commission and served on: Charles A. Spitulnik and Alicia M. Serfaty, Hopkins & Sutter, 888 Sixteenth Street, NW., suite 700, Washington, DC 20006.

As a condition to the use of this exemption, any employees affected by the trackage rights will be protected pursuant to *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

Decided: February 19, 1993.

Note: This notice of exemption is corrected to reflect the correct dates in footnote 2 from January 4, 1993 to February 4, 1993, and December 18, 1993 to December 18, 1992.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–6107 Filed 3–16–93; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 32261]

Rio Valley Railroad, Inc. (Lease and Operation Exemption); Missouri Pacific Railroad Co.

Rio Valley Railroad, Inc. (Rio Valley), a noncarrier, has filed a notice of exemption to lease and operate 49.12 miles of line owned by Missouri Pacific Railroad Company (MP) in Cameron and Hidalgo Counties, TX.[1] The involved MP segments include: (1) The Mission Industrial Lead track extending 41 miles between milepost 1.0, near Harlingen, and milepost 42.0, near Mission; and (2) the Hidalgo Industrial Lead track extending 8.12 miles between milepost 0.0, near Mission, and milepost 8.12, near Hidalgo.[2] Rio Valley will become a class III rail carrier. The parties expected to consummate the proposed transaction on or after March 4, 1993, the effective date.

Any comments must be filed with the Commission and served on: Thomas F. McFarland, Jr., Belnap, Spencer, McFarland & Herman, 20 North Wacker Drive, suite 3118.

This notice is filed under 49 CFR 1150.31. If the notice of exemption contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: March 12, 1993.

By the Commission, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–6109 Filed 3–16–93; 8:45 am]

BILLING CODE 7035–01–M

Construction Agreement between C&NW and the Escanaba & Lake Superior Railroad dated November 27, 1985, which provided for joint access to the Industrial Park.

[2] To qualify for an exemption under 49 CFR 1180.2(d), a railroad must file a verified notice of the transaction with the Commission at least a week before the transaction is consummated. See 49 CFR 1180.4(g). In this proceeding, the parties filed their verified notice of exemption on February 4, 1993, and stated that the transaction had been consummated on December 18, 1992. However, counsel for the parties has clarified that December 18, 1992, was the date the parties executed their agreement, not the consummation date. According to counsel, the parties did not consummate the transaction prior to the effective date.

[1] This proceeding is related to Finance Docket No. 32262, in which Gregory B. Cundiff has concurrently filed a notice of exemption to continue in control of Rio Valley when it becomes a carrier upon consummation of the transaction described in this notice.

[2] The line to be leased by Rio Valley connects with the line of Border Pacific Railroad Company (Border Pacific), at Mission, TX. The existing interchange agreement between Border Pacific and MP will be assigned to Rio Valley.

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Order Modification Pursuant to the Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent order modification in *United States* v. *New Boston Coke Corporation*, Civil Action No. C–1–84–1427 was lodged on March 9, 1993, with the United States District Court for the Southern District of Ohio. Defendant New Boston Coke Corporation owns and operates a coke battery located in New Boston, Ohio. The proposed consent order modification requires the defendant to bring this facility into compliance with the benzene National Emissions Standards for Hazardous Air Pollutants. The consent order modification also modifies the injunctive measures and deadlines in a 1986 consent order that required defendant to bring the facility into compliance with the federally-enforceable Ohio State Implementation Plan (Ohio SIP). The defendant shall also pay a civil penalty of $250,000.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *New Boston Coke Corporation*, D.J. reference #90–5–2–1–710A.

The proposed consent decree may be examined at the office of the United States Attorney for the Southern District of Ohio, 220 U.S. Post Office/Courthouse, 100 East Fifth Street, Cincinnati, Ohio 45202; the Region V Office of the Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois; and at the Environmental Enforcement Section Document Center, 1120 G Street NW., 4th Floor, Washington, DC 20005, 202–624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Document Center. In requesting a copy, please enclose a check in the amount of $8.75 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Myles E. Flint,

Acting Assistant Attorney General, Environmental and Natural Resources Division.

[FR Doc. 93–6009 Filed 3–16–93; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Consent Decree Pursuant to the Clean Water Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed Consent Decree in *United States* v. *City of Niagara Falls*, Civil Action No. Civ–81–363C, was lodged on March 8, 1993 with the United States District Court for the Western District of New York. The proposed Consent Decree concerns the City of Niagara Fall's failure to comply with a prior Consent Decree addressing the City's noncompliance with its National Pollutant Discharge Elimination System permit and other requirements of the Clean Water Act, 33 U.S.C. 1251 *et seq.*, at its publicly owned treatment works (POTW).

Under the terms of the Consent Decree, the City of Niagara Falls is required to covey all existing flows during dry weather in the Falls Street Tunnel portion of its POTW to the Wastewater Treatment Plant (WWTP) for treatment prior to discharge to the

Niagara River, and to certify that its discharge does not exceed residual chlorine and fecal coliform limitations contained in its National Pollutant Discharge Elimination System permit. As part of the Consent Decree the City and intervenor Industrial Liaison Committee of the Niagara Falls Area Chamber of Commerce have agreed to accept and not challenge a proposed new permit for the City's WWTP.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *City of Niagara Falls*, D.J. reference 90–5–1–1–1342.

The proposed Consent Decree may be examined at the office of the United States Attorney, Western District of New York, 502 United States Courthouse, 68 Court Street, Buffalo, New York 14202: at the Region II Office of the Environmental Protection Agency, 26 Federal Plaza, New York, New York 10278; and at the Consent Decree Library, 1120 G Street, NW., Washington, DC 20005, (202) 624–0982. 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 $4.75 (25 per page reproduction costs), payable to the Consent Decree Library.

John C. Cruden,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 93–6008 Filed 3–16–93; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Consent Decree Pursuant to CERCLA

Notice is hereby given that a proposed consent decree in *United States* v. *U.T. Alexander et al.*, Civil Action No. G–86–267, was lodged on March 1, 1993 with the United States District Court for the Southern District of Texas.

This enforcement action was filed under Sections 106 and 107 of the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), 42 U.S.C. 9606 and 9607, on July 18, 1986, against twenty four generators and transporters in the Texas City, Texas area. The complaint seeks injunctive relief and reimbursement of costs incurred by the United States in responding to the release or threat of release of a hazardous substance from the Motco (formerly Petro Processors) site in Lamarque, Texas. This final consent decree requires the six defendants, including Amoco Chemical Company, Amoco Production Company, Marathon Oil Company, Monsanto Company, Quantum Chemical Corporation and Texas City Refining, Inc., to pay the United States past and future response costs for the remediation of the MOTCO Site after August 31, 1991 and implement the remedy set forth in the two Records of Decision.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, DC 20044, and should refer to *United States* v. *U.T. Alexander, et al.*, DOJ Ref. # 90–11–3–74.

The proposed consent decree may be examined at the Office of the United States Attorney, Southern District of Texas 515 Rusk Avenue, Third Floor, Houston, Texas 77002; the Region VI Office of the Environmental Protection Agency, 1445 Ross Avenue, Dallas; Texas 75202–2733; and at the Consent Decree Library, 1120 G Street, NW. 4th Floor, Washington, DC 20005, 202–624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $25.00 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Myles E. Flint,

Acting Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 93–6006 Filed 3–16–93; 8:45 am]

BILLING CODE 4410–01–M

Antitrust Division

Notice Pursuant to the National Cooperative Research Act of 1984—Advanced Display Manufacturers of America

Notice is hereby given that, on December 29, 1992, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), Advanced Display Manufacturers of America ("ADMA") has filed written notifications on behalf of ADMA and American Display Consortium simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties are Electro-Plasma Inc., Milbury, OH; Magnascreen, Pittsburgh, PA; OIS Optical Imaging Systems, Troy, MI; Photomus Imaging, Northwood, OH; Planar Systems, Inc., Beaverton, OR; Plasmaco, Inc., Highland, NY; Standish Industries, Inc., Lake Mills, WI; and Tektronix Incorporated, Beaverton, OR. All aforementioned companies entered into an agreement dated September 8, 1992, to engage in cooperative research to develop technology applicable to the design, production, testing and manufacture of advanced displays.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 93–6007 Filed 3–16–93; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research Act of 1984—Low Emission Paint Research and Development Partnership

Notice is hereby given that, on February 16, 1993, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), General Motors Corporation has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties are Chrysler Corporation, Highland Park, MI; Ford Motor Company, Dearborn, MI; and General Motors Corporation, Detroit, MI.

The parties intend to identify opportunities for joining aspects of their independent research and development efforts pertaining to low emission paint technologies for motor vehicles, including but not limited to powder paint and application devices and processes. The objectives are to avoid duplication of effort and expense in research in this area; collect, exchange and, where appropriate, license paint technology research information; coordinate the scientific investigations

of each party into selected paint technologies; develop and test prototype paints and systems and perform further acts allowed by the Act that would advance the partnership's objectives.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 93–6010 Filed 3–16–93; 8:45 am]

BILLING CODE 4410–01–M

Drug Enforcement Administration

Lakshmi N. Murty Achalla, M.D.; Denial of Application for Registration

On November 5, 1992, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Lakshmi N. Murty Achalla, M.D., of Poughquag, New York, proposing to deny his application, executed on April 1, 1991 for registration as a practitioner. The statutory basis for the Order to Show Cause was that Respondent's registration would be inconsistent with the public interest, as set forth in 21 U.S.C. 823(f).

The Order to Show Cause was served on Dr. Murty Achalla on November 9, 1992. More than thirty days have passed since the Order to Show Cause was received by Dr. Murty Achalla. The Drug Enforcement Administration has received no response from Dr. Murty Achalla or anyone purporting to represent him.

Pursuant to 21 CFR 1301.54(d), the Administrator finds that Dr. Murty Achalla has waived his opportunity for a hearing. Accordingly, under the provision of 21 CFR 1301.54(e), the Administrator enters his final order in this matter, based on findings of fact and conclusions of law as hereinafter set forth.

The Administrator finds that on March 24, 1987, Dr. Murty Achalla was arrested by Pennsylvania state narcotics agents for offering a bribe of $1,500.00 and 100 Percocet tablets, a Schedule II controlled substance, to a potential witness against him in another alleged illegal drug transaction. As a result, on August 3, 1987, he was convicted in the Court of Common Pleas of the 41st Judicial District of Pennsylvania, upon a plea of guilty, of one felony count of unlawfully dispensing a controlled substance. Dr. Murty Achalla was sentenced to three years probation, fined, and ordered to surrender his controlled substances privileges, and to undergo psychiatric treatment and enter an impaired physician program. Subsequently, on August 14, 1989, the Pennsylvania State Board of Medicine suspended his license to practice medicine on the basis of his conviction of a felony.

The Administrator may deny an application for registration if he determines that such registration would be inconsistent with the public interest. Pursuant to 21 U.S.C. 823(f), "[i]n determining the public interest, the following factors will be considered:

(1) The recommendation of the appropriate State licensing board or disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct as may threaten the public health or safety."

It is well established that these factors are to be considered in the disjunctive, i.e., the Administrator may properly rely on any one or a combination of factors, and give each factor the weight he deems appropriate. Henry J. Schwarz, Jr., M.D., Docket No. 88–42, 54 FR 16422 (1989).

The Administrator concludes that Dr. Murty Achalla has demonstrated improper dispensing practices with respect to controlled substances, has been convicted of a felony offense related to controlled substances, has violated Federal and State laws relating to controlled substances, and has engaged in conduct which resulted in the suspension of his state medical license.

Dr. Murty Achalla, although given the opportunity to request a hearing or to submit a written statement, has failed to do either. Thus the facts recited above stand uncontroverted. Based on those facts, the Administrator concludes that his registration would be inconsistent with the public interest and that his application for registration must be denied.

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that the application for registration, executed by Lakshmi N. Murty Achalla, M.D., on April 1, 1991, be, and it hereby is, denied. This order is effective March 17, 1993.

Dated: March 11, 1993.

Robert C. Bonner,

Administrator of Drug Enforcement.

[FR Doc. 93–6133 Filed 3–15–93; 8:45 am]

BILLING CODE 4410–09–M

Ruggero Angiolicchio, M.D.; Denial of Application for Registration

On November 5, 1992, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Ruggero Angiolicchio, M.D., of New York, New York, and Pasadena, California, proposing to deny his application, executed on May 5, 1989, for registration as a practitioner. The statutory basis for the Order to Show Cause was that Respondent's registration would be inconsistent with the public interest, as set forth in 21 U.S.C. 823(f).

The Order to Show Cause was served on Dr. Angiolicchio on November 9, 1992. More than thirty days have passed since the Order to Show Cause was received by Dr. Angiolicchio. The Drug Enforcement Administration has received no response from Dr. Angiolicchio or anyone purporting to represent him.

Pursuant to 21 CFR 1301.54(d), the Administrator finds that Dr. Angiolicchio has waived his opportunity for a hearing. Accordingly, under the provision of 21 CFR 1301.54(e), the Administrator enters his final order in this matter, based on findings of fact and conclusions of law as hereinafter set forth.

The Administrator finds that on July 18, 1977, the New York State Board of Regents found that Dr. Angiolicchio self-prescribed the Schedule II controlled substance Demerol, failed to keep proper records for the disposal of narcotics, engaged in fraud and deceit in the practice of medicine by obtaining narcotics for his own use, been addicted to narcotics, and engaged in unprofessional conduct. As a result, Dr. Angiolicchio's New York State license to practice medicine was suspended for nine months, with the execution of suspension stayed.

The Administrator further finds that on April 4, 1983, the State of California, Board of Medical Quality Assurance, revoked Dr. Angiolicchio's medical license. This action was based on charges of unprofessional conduct during the period April through September, 1980, when Dr. Angiolicchio improperly prescribed, without a valid medical purpose, the Schedule II controlled substances Tuinal and Ritalin to state undercover officers.

On November 22, 1983, before the United States District Court of the Central District of California, Dr. Angiolicchio was convicted, upon his plea of guilty, of two felony counts of conspiracy to distribute controlled substances under 21 U.S.C. 846 and distribution of controlled substances under 21 U.S.C. 841(a)(1). These charges reflected Dr. Angiolicchio's conduct in operating a weight loss clinic from which he and a partner prescribed large amounts of stimulants such as Preludin and Ritalin, in conjunction with sedatives such as Quaalude and Tuinal, without a valid medical purpose. Dr. Angiolicchio was sentenced to two years imprisonment and five years probation.

The Administrator may deny an application for registration if he determines that such registration would be inconsistent with the public interest. Pursuant to 21 U.S.C. 823(f), "[i]n determining the public interest, the following factors will be considered:

(1) The recommendation of the appropriate State licensing board or disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct as may threaten the public health or safety."

It is well established that these factors are to be considered in the disjunctive, i.e., the Administrator may properly rely on any one or a combination of factors, and give each factor the weight he deems appropriate. Henry J. Schwarz, Jr., M.D., Docket No. 88–42, 54 FR 16422 (1989).

The Administrator concludes that Dr. Angiolicchio has a history of improperly dispensing practices with respect to controlled substances, that he has been convicted of felony offenses related to controlled substances, that he has violated Federal and State laws relating to controlled substances, and that his conduct involving the prescribing of controlled substances for other than valid medical purposes, and his conduct resulting in sanctions imposed against his State medical licenses pose a threat to the public health and safety.

Dr. Angiolicchio, although given the opportunity to request a hearing or to submit a written statement, has failed to do either. Thus the facts recited above stand uncontroverted. Based on those facts, the Administrator concludes that Respondent's registration would be inconsistent with the public interest and that his application for registration must be denied.

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that the application for registration, executed by Ruggero Angiolicchio, M.D. on May 25, 1989, be, and it hereby is denied. This order is effective March 17, 1993.

Dated: March 11, 1993.

Robert C. Bonner,

Administrator of Drug Enforcement.

[FR Doc. 93–6138 Filed 3–16–93; 8:45 am]

BILLING CODE 4410–09–M

Importation of Controlled Substances; Notice of Application

Pursuant to section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with § 1311.42 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on February 5, 1993, The Binding Site, Inc., 5889 Oberlin Drive, suite 101, San Diego, California 92121, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Methaqualone (2565)	I
Lysergic acid diethylamide (7315).	I
Tetrahydrocannabinols (7370)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Amobarbital (2125)	II
Phencyclidine (7471)	II
Cocaine (9041)	II
Methadone (9250)	II
Morphine (9300)	II

The firm plans to import derivatives of the above listed substances in milligram quantities for labelling with enzymes, fluorophores and radioisotopes for immunoassays.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of this basic class of controlled substance may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than April 16, 1993.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42(b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator of the Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42(a), (b), (c), (d), (e), and (f) are satisfied.

Dated: March 11, 1993.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 93–6112 Filed 3–16–93; 8:45 am]

BILLING CODE 4410–09–M

Manufacturer of Controlled Substances; Registration

By Notice dated January 28, 1993, and published in the **Federal Register** on February 9, 1993, (58 FR 7817), Dupont Pharmaceuticals, The Dupont Merck, Pharmaceutical Company, 1000 Stewart Avenue, Garden City, New York 11530, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Codeine (9050)	II
Oxycodone (9143)	II
Hydrocodone (9193)	II
Thebaine (9333)	II
Oxymorphone (9652)	II

No comments or objections have been received. Therefore, pursuant to section 303 of the Comprehensive Drug Abuse

Prevention and Control Act of 1970 and title 21, Code of Federal Regulations, § 1301.54(e), the Deputy Assistant Administrator hereby orders that the application for registration submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substance listed above is granted.

Dated: March 11, 1993.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 93–6131 Filed 3–16–93; 8:45 am]

BILLING CODE 4410–09–M

Sam F. Moore, D.V.M., Revocation of Registration

On October 8, 1992, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Sam F. Moore, D.V.M., 916 F Avenue, Lawton, Oklahoma 73501, proposing to revoke his DEA Certificate of Registration, AM3030424, and to deny any pending applications for registration as a practitioner under 21 U.S.C. 823(f). The proposed action was predicated on Dr. Moore's lack of authorization to handle controlled substances in the State of Oklahoma. 21 U.S.C. 824(a)(3).

The Order to Show Cause also alleged that Dr. Moore's continued registration would be inconsistent with the public interest as that term is used in 21 U.S.C. 823(f) and 21 U.S.C. 824(a)(4); that Dr. Moore was convicted of a felony related to controlled substances, as that term is used in 21 U.S.C. 824(a)(2), in the District Court, Comache County, State of Oklahoma, on September 8, 1976; and that Dr. Moore materially falsified an application for a DEA Certificate of Registration submitted on June 20, 1991, pursuant to 21 U.S.C. 824(a)(1).

The Order to Show Cause was served on Dr. Moore in person. More than thirty days have passed since the Order to Show Cause was received by Dr. Moore and the Drug Enforcement Administration has received no response thereto. Pursuant to 21 CFR 1301.54(a) and 1301.54(d), Sam F. Moore, D.V.M., is deemed to have waived his opportunity for a hearing. Accordingly, the Administrator now enters his final order in this matter without a hearing and based on the investigative file. 21 CFR 1301.57.

The Administrator finds that Dr. Moore's veterinary license was revoked by the State Board of Veterinary Medical Examiners, State of Oklahoma, effective January 22, 1992. This revocation was based upon a finding that Respondent ordered numerous controlled substances between October 1989 and August 1991 and failed to account for the disposition of such controlled substances. Based upon the revocation of Dr. Moore's veterinary license, the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, State of Oklahoma, suspended Dr. Moore's controlled substance registration. Consequently, Dr. Moore is no longer authorized to prescribe, dispense, administer or otherwise handle controlled substances in any schedule in the State of Oklahoma.

The Administrator concludes that the DEA does not have the statutory authority under the Controlled Substances Act to issue or maintain a registration if the applicant or registrant is without State authority to handle controlled substances. See 21 U.S.C. 823(f). The Administrator and his predecessors have consistently so held. See Howard J. Reuben, M.D., 52 FR 8375 (1987); Ramon Pla, M.D., Docket No. 86–54, 51 FR 41168 (1986); Dale D. Shahan, D.D.S., Docket No. 85–57, 51 FR 23481 (1986); and cases cited therein.

Since Dr. Moore lacks State authorization to handle controlled substances, it is not necessary for the Administrator to decide the issue of whether Dr. Moore's continued registration is inconsistent with the public interest at this time, or whether his registration should be revoked based upon the aforementioned felony conviction in the State of Oklahoma or upon the falsification of his application for a DEA Certificate of Registration.

No evidence of explanation or mitigating circumstances has been offered by Dr. Moore. Therefore, the Administrator concludes that Dr. Moore's DEA Certificate of Registration must be revoked.

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that DEA Certificate of Registration, AM3030424, previously issued to Sam F. Moore, D.V.M., be, and it hereby is, revoked, and any pending applications for the renewal of such registration, be, and they hereby are, denied. This order is effective March 17, 1993.

Dated: March 11, 1993.

Robert C. Bonner,

Administrator of Drug Enforcement.

[FR Doc. 93–6135 Filed 3–16–93; 8:45 am]

BILLING CODE 4410–09–M

Importation of Controlled Substances; Application

Pursuant to section 1008 of the Controlled Substance Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with § 1311.42 of title 21, Code of Federal Regulations (CFR), notice is hereby given that on February 10, 1993, Noramco of Delaware, Inc., Division McNeilab, Inc., 500 Old Swedes Landing Road, Wilmington, Delaware 19801, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Opium, raw (9600)	II
Poppy Straw Concentrate (9670)	II

Any manufacturer holding, or applying for, registration as a bulk manufacturer of this basic class of controlled substance may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CRR), and must be filed no than April 16, 1993.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42(b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator of the Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21

CFR 1311.42(a), (b), (c), (d), (e), and (f) are satisfied.

Dated: March 11, 1993.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 93–6132 Filed 3–16–93; 8:45 am]

BILLING CODE 4410–09–M

Manufacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.43(a) of title 21 of the Code of Federal Regulations (CFR), this is notice that on February 16, 1993, Noramco of Delaware, Inc., Division McNeilab, Inc., 500 Old Swedes Landing Road, Wilmington, Delaware 19801, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substance listed below:

Drug	Schedule
Codeine (9050)	II
Oxycodone (9143)	II
Hydocodone (9193)	II
Morphine (9300)	II
Thebaine (9333)	II

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than April 16, 1993.

Dated: March 11, 1993.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 93–6111 Filed 3–16–93; 8:45 am]

BILLING CODE 4410–09–M

John David Perzik, M.D.; Revocation of Registration

On October 23, 1992, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to John David Perzik, M.D. of San Jose, California, proposing to revoke his DEA Certificate of Registration, AP4555768, and deny any pending applications for registration as a practitioner. The statutory basis for the Order to Show Cause was that Dr. Perzik's continued registration would be inconsistent with the public interest, as set forth in 21 U.S.C. 824(a)(4).

The Order to Show Cause was served on Dr. Perzik on November 3, 1992. More than thirty days have passed since the Order to Show Cause was received by Dr. Perzik. The Drug Enforcement Administration has received no response from Dr. Perzik or anyone purporting to represent him.

Pursuant to 21 CFR 1301.54(d), the Administrator finds that Dr. Perzik has waived his opportunity for a hearing. Accordingly, under the provision of 21 CFR 1301.54(e), the Administrator enters his final order in this matter, based on findings of fact and conclusions of law as hereinafter set forth.

The Administrator finds that during the period November 1983 through January 1986, Dr. Perzik allegedly conspired to conduct a clandestine prescription drug distribution business for predominantly non-controlled steroids. Additionally, on May 14, 1991, an eight felony count information was filed in the Superior Court for the State of California in and for the County of Contra Costa against Dr. Perzik. This information alleged that Dr. Perzik, during the period September 11, through December 5, 1990, had unlawfully sold, transported and/or issued prescriptions for the controlled substances stanozolol and fluoxymesterone, without a valid medical purpose. At the time, these were controlled substances under California law and now are Schedule II controlled substances federally.

On July 25, 1991, before the United States District Court for the Northern District of California, Dr. Perzik was convicted, upon a plea of guilty, of one felony count of a violation of 18 U.S.C. 371, for conspiracy to defraud the United States, particularly the Food and Drug Administration, by interfering and obstructing their lawful function to ensure, *inter alia*, that prescription drugs (steroids) are dispensed pursuant to a lawful prescription; and of one felony count of violating 21 U.S.C. 331(a) and 333(a)(2), by introducing a prescription drug, Methandrostenolone, into commerce without a valid prescription. Dr. Perzik was sentenced to four years imprisonment on the Federal convictions.

The Administrator also finds that in September 1992, the Medical Board of California held a hearing to determine whether cause for disciplinary action existed against Dr. Perzik. Dr. Perzik was found to have violated the State Health and Safety Code and the Business and Professions Code on account of actions resulting in his Federal felony convictions and his sale and distribution of large quantities of steroids without a valid medical purpose. As a result, Dr. Perzik's license to practice medicine in the State of California was revoked effective February 28, 1993.

The Administrator may revoke or suspend a DEA Certificate of Registration under 21 U.S.C. 824(a), upon a finding that the registrant:

(1) Has materially falsified any application filed pursuant to or required by this subchapter or subchapter II of this chapter;

(2) Has been convicted of a felony under this subchapter or subchapter II of this chapter or any other law of the United States, or of any State relating to any substance defined in this subchapter as a controlled substance;

(3) Has had his State license or registration suspended, revoked, or denied by competent state authority and is no longer authorized by state law to engage in the manufacturing, distribution, or dispensing of controlled substances or has had the suspension, revocation, or denial of registration recommended by competent state authority;

(4) Has committed such acts as would render his registration under section 823 of this title inconsistent with the public interest as determined under such section;

(5) Has been excluded (or directed to be excluded) from participation in a program pursuant to section 1320A–7(a) of title 42.

Pursuant to 21 U.S.C. 823(f), "[i]n determining the public interest, the following factors will be considered:

(1) The recommendation of the appropriate State licensing board or disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct as may threaten the public health or safety.

It is well established that these factors are to be considered in the disjunctive,

i.e., the Administrator may properly rely on any one or a combination of factors, and give each factor the weight he deems appropriate. Henry J. Schwarz, Jr., M.D., Docket No. 88–42, 54 FR. 16422 (1989).

The Administrator concludes that Dr. Perzik has engaged in illegal dispensing practices with respect to controlled substances, that he has violated Federal and State laws relating to controlled substances, and that his conduct as evidenced by his convictions under Federal food and drug laws and by the revocation of his California medical license poses a threat to the public health and safety.

Dr. Perzik, although given the opportunity to request a hearing or to submit a written statement, has failed to do either. Thus the facts recited above stand uncontroverted. Based on those facts, the Administrator concludes that his registration would be inconsistent with the public interest and that his registration must be revoked.

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that DEA Certificate of Registration, AP4555768, previously issued to John David Perzik, M.D., be, and it hereby is, revoked, and any pending applications for renewal of such registration be, and they hereby are, denied. This order is effective April 16, 1993.

Dated: March 11, 1993.

Robert C. Bonner,

Administrator of Drug Enforcement.

[FR Doc. 93–6137 Filed 3–16–93; 8:45 am]

BILLING CODE 4410–09–M

Manufacturer of Controlled Substances Application

Pursuant to § 1301.43(a) of title 21 of the Code of Federal Regulations (CFR), this is notice that on February 3, 1993, Lonza Riverside, 900 River Road, Conchohocken, Pennsylvania 19428, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
4-Methoxyamphetamine (7411)	I
Amphetamine (1100)	II
Phenylacetone (8501)	II

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than April 16, 1993.

Dated: March 11, 1993.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 93–6114 Filed 3–16–93; 8:45 am]

BILLING CODE 4410–09–M

[Docket No. 92–89]

Charles H. Ryan, M.D., Revocation of Registration

On August 3, 1992, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Charles H. Ryan, M.D., at New Road, Vincentown, New Jersey proposing to revoke his DEA Certificate of Registration, AR5421425. The proposed action was predicated on Dr. Ryan's lack of authorization to handle controlled substances in the State of New Jersey.

By letter dated September 22, 1992, Respondent requested a hearing on the issue raised in the Order to Show Cause. The matter was placed on the docket of Administrative Law Judge Paul A. Tenney. On October 20, 1992, the Government filed a motion for summary disposition. On October 21, 1992, Judge Tenney issued an order which allowed the Respondent fourteen days from the date of the order in which to file a response to the Government's motion. Respondent failed to file a timely response. On November 9, 1992, Judge Tenney issued his Opinion and Recommended Decision, granting the Government's motion for summary disposition and recommending revocation of Respondent's DEA Certificate of Registration. No exceptions were filed and, on December 9, 1992, the administrative law judge transmitted the record in this matter to the Administrator. After careful consideration of the record, the Administrator adopts the administrative law judge's opinion and recommended decision.

The Administrator finds that on March 31, 1991, the Respondent's state registration to handle controlled substances expired. Consequently, Respondent is without authority to handle controlled substances in the State of New Jersey. The DEA does not have the statutory authority under the Controlled Substances Act to issue or maintain a registration if the applicant or registrant is without state authority to handle controlled substances. *See* 21 U.S.C. 802(21), 823(f) and 824(a)(3). This prerequisite has been consistently upheld. See *Bobby Watts, M.D.*, 53 FR 11919 (1988); *Wingfield Drugs, Inc.*, 52 FR 27070 (1987); *Robert F. Witek, D.D.S.*, 52 FR 47770 (1987); and cases cited therein.

Since there is no dispute about Respondent's lack of authority to handle controlled substances in the State of New Jersey, the administrative law judge properly granted the Government's motion for summary disposition. When no question of fact is involved, or when the facts are agreed upon, a plenary, adversarial administrative proceeding with the full panoply of due process rights is not obligatory. See *Philip E. Kirk, M.D.*, 48 FR 32887 (1983), *aff'd sub nom Kirk* v. *Mullen*, 749 F.2d 297 (6th Cir. 1984).

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that DEA Certificate of Registration, AR5421425, previously issued to Charles H. Ryan, M.D., be, and it hereby is, revoked. The Administrator further orders that any pending applications for the renewal of such registration, be, and they hereby are, denied. This order is effective April 16, 1993.

Dated: March 11, 1993.

Robert C. Bonner,

Administrator of Drug Enforcement.

[FR Doc. 93–6134 Filed 3–16–93; 8:45 am]

BILLING CODE 4410–09–M

[Docket No. 91–30]

Gary E. Stanford, M.D., Revocation of Registration

On July 19, 1991, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), directed an Order to Show Cause to Gary E. Stanford, M.D. (Respondent) of Detroit, Oregon proposing to revoke his DEA Certificate of Registration, AS8564925, as a practitioner under 21 U.S.C. 824(a)(4), and to deny any pending applications under 21 U.S.C. 823(f).

The statutory basis for seeking the revocation of the registration was that Respondent's continued registration would be inconsistent with the public interest, as set forth in 21 U.S.C. 823(f) and in 21 U.S.C. 824(a)(4) for reason that on August 15, 1985, Respondent's license to practice medicine in Oregon was restricted for six months as a result of his conviction for negligent homicide; that on August 19, 1986, Respondent's license to practice medicine in Illinois was suspended indefinitely; that on December 21, 1987, the Washington State Medical Board denied his application to practice medicine due to unprofessional conduct; that between 1983 and 1985, the Respondent diverted cocaine from Oregon hospital emergency rooms; that Respondent wrote prescriptions, without a valid medical purpose, for himself and his girlfriend; and that while medical director of Firstcare Medical Center, Respondent failed to maintain proper inventory, receiving and dispensing records, and improperly destroyed controlled substances.

Respondent, by counsel, filed a request for hearing on the issues raised by the Order to Show Cause, and the matter was docketed before Administrative Law Judge Mary Ellen Bittner. Following prehearing procedures, a hearing was held in Portland, Oregon on February 25–27, 1992.

On October 28, 1992, in her Opinion and Recommended Ruling, the administrative law judge recommended that Dr. Stanford's DEA Certificate of Registration be revoked and that any pending applications for renewal be denied. Both the Government and Respondent filed exceptions in response to Judge Bittner's opinion. On December 7, 1992, the administrative law judge transmitted the record to the Administrator.

The Administrator has carefully considered the entire record in this matter and, pursuant to 21 CFR 1316.67, hereby issues his final order in this matter based upon findings of fact and conclusions of law as hereinafter set forth.

Gary E. Stanford, M.D., currently possesses DEA Certificate of Registration, AS8564925, as a practitioner in Schedule II through V controlled substances and is employed at a medical center in Roseburg, Oregon. As background, the administrative law judge found that Respondent, a board certified emergency medicine physician, received his medical degree from the University of Illinois in 1977, and was a resident and staff physician in Illinois until 1983. Respondent moved to Oregon where he worked at various hospitals, subsequently worked at Firstcare urgent care clinic, and then went into private practice in Detroit, Oregon until 1992.

The Government offered evidence that the Respondent had used cocaine for emergency room treatment procedures in quantities that appeared to be excessive. There was testimony that the Respondent signed out quantities of cocaine that exceeded patient requirements. The Government also maintained that numerous patients received treatment with cocaine with recorded dosages that appeared excessive. The Respondent testified that his use of topical cocaine solutions (TAC) was appropriate, and that some degree of waste was to be expected. Respondent offered medical journal articles and the testimony of another emergency room physician in support of his position.

The Government offered evidence that Respondent had forged a nurse's initials on an emergency room narcotics log in order to acquire cocaine for his own use. Respondent testified that this entry was simply a confusion of the initials for medical doctor (MD) and those initials of a hospital nurse. The Government also presented testimony that Respondent personally used both street and pharmaceutical cocaine with friends and relatives. The Respondent testified that he had used street cocaine socially with friends, had never used pharmaceutical cocaine, and had stopped his own cocaine abuse in 1985 without any treatment. The Government also alleged that the Respondent administered Valium to his girlfriend, against her will. Respondent testified that he had administered the drug, but that he felt it was medically appropriate treatment.

The Government presented evidence on the death of the Respondent's girlfriend; his subsequent conviction of negligent homicide and sentencing; and the resultant actions against Respondent's medical license by the Illinois and Oregon Medical Boards. The Government also presented evidence concerning the denial of Respondent's application for a medical license by the Washington State Medical Board.

The Government presented evidence on security and recordkeeping violations involving the handling of controlled substances at Firstcare Medical Center where Respondent had been employed as medical director. Witnesses on behalf of the Respondent presented evidence that many of the discrepancies had been corrected and new procedures adopted.

The Government presented evidence that Respondent's probation officer found him in possession of a prescription bottle containing various pills, including the Schedule IV controlled substances Serax and Xanax. The State of Oregon, through its Circuit Court, issued an order extending Respondent's probation on grounds that he had "used or possessed controlled substances in violation of his conditions of probation". Respondent testified that he had used these substances at the suggestion of his court-appointed psychiatrist in order to help him sleep, and had not used them to excess. Respondent subsequently served and completed his probation.

On the issue of rehabilitation, the Respondent presented evidence that during his probation he attended therapy, entered a Health Professionals Recovery Program, entered a residential therapy program, and is currently under supervision by the Oregon State Medical Board. Witnesses testified on the Respondent's behalf and concluded in part that he was at low risk for relapse for cocaine, and moderate risk for relapse to alcohol.

The Government argued that Respondent had admitted to personal abuse of controlled substances and that he failed to show that his rehabilitation was complete. The Respondent contended that no state board recommended that his DEA registration be revoked; there was no evidence that his experience in dispensing controlled substances is contrary to the public interest; he was not convicted of any crime related to controlled substances; he has complied with all laws regarding controlled substances for at least the last six years; and there is no evidence of other conduct that threatens the public health or safety.

The administrative law judge found that Respondent was a well-respected emergency room physician who performed much needed services in Detroit, Oregon; that the Respondent's use of pharmaceutical cocaine in emergency room work was a medically accepted method for anesthesia and vasoconstriction and that the Government failed to show the contrary; that the affidavits and evidence indicating that Respondent may have diverted cocaine from his hospital employment were given little weight and that the Government failed to show by a preponderance of the evidence that diversion of cocaine occurred; that Respondent's testimony regarding the alleged falsification of controlled substances records was credible; that Dr. Stanford, in his capacity as medical director of Firstcare, was not

responsible for those violations of DEA regulations that occurred at that facility; that Respondent admitted a history of abuse of alcohol, recreational use of cocaine, and other controlled substances for other than a legitimate medical purpose over several years; that Respondent had made a significant start in rehabilitation by completing a residential phase of treatment, individualized therapy, group therapy and 12-step meetings; and that Respondent had significant support from his wife, employer and others, and had tested negative on his urine screenings. The administrative law judge also found that Respondent did not seek treatment on his own initiative until October 1991, and the only indication of remission from cocaine use in 1985 is the Respondent's own testimony; that according to one witness, the Respondent was strengthening his support system and that his prognosis for recovery is good, but that he is only in the early months of recovery, and his risk of relapse to alcohol, his primary drug of choice, is moderate; that the Respondent took the controlled substances Serax and Xanax, in violation of his probation agreement. The administrative law judge found that Respondent, at best, carelessly complied with the terms of his probation, or at worst, knowingly violated them.

Lastly, the Respondent argued that he was entitled to an award of attorney fees under 5 U.S.C. 504 on grounds that the charges against the Respondent were either unsubstantiated or an improper basis for revocation of a DEA registration. The administrative law judge found that the Respondent failed to meet the statutory conditions precedent for the award of fees and found no merit to his request.

The Administrator may revoke or suspend a DEA Certificate of Registration under 21 U.S.C. 824(a), or deny any application under 21 U.S.C. 823(f), if he determines that the continued registration would be inconsistent with the public interest.

Pursuant to 21 U.S.C. 823(f), "[i]n determining the public interest, the following factors will be considered:

(1) The recommendation of the appropriate State licensing board or disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct as may threaten the public health or safety."

It is well established that these factors are to be considered in the disjunctive, i.e., the Administrator may properly rely on any one or a combination of factors, and give each factor the weight he deems appropriate. Henry J. Schwarz, Jr., M.D., Docket No. 88–42, 54 FR 16422 (1989).

Of the stated factors, the administrative law judge found that 21 U.S.C. 823(f) (1), (2), (4), and (5) are applicable to this case. The first factor is relevant in light of State actions by Illinois and Oregon against his medical license, and the denial of his application to practice medicine in Washington. The second and fourth factors are relevant in light of allegations of Respondent's use of pharmaceutical cocaine in his emergency department practice. The fourth factor is also relevant in light of Respondent's personal use of cocaine, allegations regarding falsification of a hospital record, and allegations concerning his accountability for an office supply of controlled substances while medical director at Firstcare. The fifth factor is relevant insofar as Respondent pled guilty to criminally negligent homicide and later violated terms of probation.

The administrative law judge concluded that Respondent's being in the early stages of rehabilitation, his illegal use of controlled substances from approximately 1980 to 1985, and his violation of probation in 1988 establish that the Respondent's registration is not in the public interest and, as a result, his registration should be revoked.

The administrative law judge further recommended that if after the passage of one year from the final disposition of the case, the Respondent files a new application for registration, and if his rehabilitation efforts have continued successfully, investigation of that application should be expedited, and favorable consideration should be given to the application.

The Administrator adopts the opinion and recommended ruling, findings of fact, conclusions of law and decision of the administrative law judge in its entirety.

The Government filed a single exception to the opinion and recommended ruling in which it asserted that subsequent to the hearing Dr. Stanford submitted an application for registration on behalf of Wilt's Emergency Service and Transport, Inc., dba Medic-4 Ambulances. Although such evidence was not previously placed on the record, as an administrative matter, such application is considered as a pending application of the Respondent for purposes of this action.

Respondent filed a listing of 29 exceptions, a memorandum of law, and supporting exhibits. These exceptions include contentions regarding the exclusion of evidence, the admissibility of hearsay, argument on the conclusions of the administrative law judge, and proposed additional findings by the Respondent. A number of these arguments were placed before the administrative law judge and ruled upon during the proceeding. Since Respondent's hearing was conducted in accordance with applicable statute and regulation, the Administrator declines to adopt Respondent's Exceptions 1–11, 13–17, 19–22, 24, and 26–27. The Administrator does concur with Respondent's Exception 12, relating to the consideration of a document not in evidence, and did not consider the document in rendering this final order. The Administrator further finds that Respondent's actions in complying with the terms of his probation, as well as his rehabilitative potential, either as to his potential for abuse of controlled substances or alcohol, are relevant to the public interest inquiry. Accordingly, the Administrator rejects any contrary contention as noted in exceptions 18, 23 and 28. The Administrator also rejects, as the administrative law judge has done previously, the Respondent's contention in Exception 25 that the DEA is limited in its public interest inquiry to consider only those adverse State licensure actions which involve controlled substances. Lastly, Respondent proposed in Exception 29 that any DEA action be stayed for five years pending Respondent's successful compliance with an agreement with the State of Oregon. Since the issue before the Administrator is whether the Respondent's continued registration is in the public interest, no such stay will be granted.

Based on the foregoing, Dr. Stanford's continued registration is inconsistent with the public interest. Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that DEA Certificate of Registration, AS8564925, previously issued to Gary Eugene Stanford, M.D., be, and it hereby is, revoked, and that any pending applications for registration be, and they hereby are, denied. This order is effective April 16, 1993.

Dated: March 11, 1993.

Robert C. Bonner,

Administrator of Drug Enforcement.

[FR Doc. 93–6136 Filed 3–16–93; 8:45 am]

BILLING CODE 4410–09–M

NUCLEAR REGULATORY COMMISSION

Biweekly Notice Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law (P.L.) 97-415, the Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. P.L. 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 February 5, 1993, through February 19, 1992. The last biweekly notice was published on February 17, 1993 (58 FR 6992).

Notice of Consideration of Issuance of Amendment to Facility Operating License, 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 amendments 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. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Rules and Directives Review Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this Federal Register notice. Written comments may also be delivered to Room P-223, Phillips Building, 7920 Norfolk Avenue, Bethesda, 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 20555. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By April 2, 1993, 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 20555 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 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 fifteen (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 fifteen (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.

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.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington DC 20555, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to **(Project Director)**: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for 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 20555, and at the local public document room for the particular facility involved.

The Cleveland Electric Illuminating Company, Centerior Service Company, Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company, Toledo Edison Company, Docket No. 50-440, Perry Nuclear Power Plant, Unit No. 1, Lake County, Ohio

Date of amendment request: November 16, 1992

Description of amendment request: The proposed amendment would revise Technical Specification 3.6.3.4, "Suppression Pool Makeup (SPMU) System," to allow continued operation with a reduced upper containment pool water level when the minimum required suppression pool water level is increased to compensate. The revision will allow for maintenance in portions of the upper containment pool. The proposed amendment also clarifies the requirements for the upper containment pool gate positions.

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 function of the upper containment pool (UCP) as part of the suppression pool makeup (SPMU) system is to provide a source of makeup water to the suppression pool (SP), subsequent to the occurrence of a LOCA [loss of coolant accident], in order to maintain the required horizontal vent coverage and provide an adequate suppression pool heat sink to ensure the primary containment internal pressure and temperature stays within design limits.

The proposed Action statement and Surveillance Requirement to permit reductions in the upper containment pool level, maintains the same "effective upper containment pool water volume" as the current design basis, the difference being that some of this "effective UCP water volume" has been relocated to the suppression pool as additional volume needed beyond that required to meet the minimum suppression pool low water level requirement of Limiting Condition for Operation 3.6.3.1.a. The probability of a LOCA occurring has not increased as a result of the proposed changes since the probability of a LOCA is unaffected by a relocation of the UCP water. The consequences of a LOCA are also not changed because under normal operating conditions the upper containment pool level is maintained within the required limits by the administrative controls imposed through the SPMU system Technical Specification Action and Surveillance Requirements. This change simply extends that approach by providing an additional Action and Surveillance Requirement to ensure that both the upper containment pool and suppression pool are maintained within their proposed respective limits (which ensure that the effective UCP water volume is maintained) when the upper containment pool is below its normal level. The proposed surveillance requirement ensures that the same "effective upper containment pool water volume" is always maintained. Therefore, there is no change in the overall water volume available as a heat sink for long-term cooling, no reduction in containment performance, and hence no change in consequences for any postulated LOCA.

There is also no change in the probability of occurrence of an inadvertent SPMU system dump, since no change has been made to the system design or initiating circuitry. This change clarifies that the fuel transfer tube pool gate is not required to be installed, but that it may be left in place, if desired, to allow for maintenance of equipment within the fuel transfer tube pool. With the gate installed the same amount of UCP water is available as was assumed in the current inadvertent dump analysis, therefore there is no change in consequences. With the gate removed there would be a slight increase in the volume of water contained in the UCP which would be dumped in the event of an inadvertent upper containment pool dump. However, there is a very small likelihood of an inadvertent UCP dump due to the necessity to have a LOCA permissive signal in conjunction with a low-low suppression pool level signal or the completion of a 30-minute time delay. The total volume would only actually be increased if the dump were to occur when the suppression pool is at its high water level (with maximum differential pressure). Even if a UCP dump were to occur, a bounding analysis (for up to ten feet of water in the drywell) for the drywell piping and components wetted in this event under worst case conditions has demonstrated that there would be no safety concerns. This analysis was reviewed and agreed with by the NRC as documented in Section 10.1 of Appendix R to Supplement 8 of the Safety Evaluation Report for Perry (NUREG-0887). Therefore, removing the fuel transfer tube pool gate during Operational Conditions 1,2, and 3 does not impose a significant increase in consequences, regarding a drywell flooding transient, while it does provide a positive benefit in that extra water would be

made available to provide for the long-term energy absorption within the suppression pool.

2. The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated because no design changes or new or different modes of operation are proposed for the plant. Operation under the proposed Action statement and Surveillance Requirement (determined to be acceptable on the basis discussed above) does not constitute a different mode of operation since adequate monitoring of both the suppression pool and upper containment pool levels is required by the Technical Specification Surveillance Requirements under both normal and reduced UCP water level conditions. The required upper containment pool gate positions are also controlled by Surveillance Requirements. The proposed Action statement and Surveillance Requirements on pool levels and gate positions ensure that the same (or greater) "effective upper containment pool volume" is available following an UCP dump, which is equivalent to the current design basis, therefore, the proposed changes do not create the possibility of a new or different accident from any previously evaluated.

3. The proposed changes do not involve a significant reduction in a margin of safety.

The design basis of the suppression pool makeup system is to provide a makeup volume from the UCP following an UCP dump, that together with the suppression pool volume (between the normal low water level (LWL) and the minimum post-accident water level) is sufficient to account for all conceivable post-accident entrapment volumes, to ensure the long-term energy sink capabilities of the suppression pool and maintain the two foot minimum water coverage over the uppermost horizontal vents. This capability is currently enforced by maintaining the water level within the suppression pool above the LWL (through Specification 3.6.3.1) and maintaining the upper containment pool above its minimum water level (through Specification 3.6.3.4). Adding Action statements and Surveillance Requirements to provide an alternative way of maintaining the same volume of water between the upper containment pool and the suppression pool does not reduce, but rather maintains the same margins of safety, provided that both the suppression pool and the upper containment pool levels are properly controlled. The water level values chosen, and enforced through the new Action and Surveillance Requirement meet both sets of requirements and consequently do not reduce the margin of safety. As described in the answer to question 1, a very unlikely set of circumstances has to occur to initiate an upper containment pool dump, and even if a dump were to occur, a bounding analysis for the drywell piping and components wetted in this event under worst case conditions has demonstrated that there would be no safety concerns. Therefore, removing the fuel transfer tube pool gate during Operation Conditions 1, 2, and 3 does not impose a significant reduction in the margin of safety, regarding a drywell flooding transient, while it does provide a positive benefit in that extra water would be made available to provide for the long-term energy absorption within the suppression pool (which would increase the margin of safety in this respect).

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: Perry Public Library, 3753 Main Street, Perry, Ohio 44081

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037

NRC Project Director: John N. Hannon

Commonwealth Edison Company, Docket Nos. 50-295 and 50-304, Zion Nuclear Power Station, Units 1 and 2, Lake County, Illinois

Date of amendment request: November 5, 1992

Description of amendment request: The proposed amendment would delete the Technical Specification requirements to perform additional surveillances when the associated redundant components and/or subsystems have been found to be inoperable.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

This change does not result in any hardware or operating procedure changes. The components covered by these Technical Specifications are not assumed to be initiators of any analyzed event. The components are assumed to be mitigators of analyzed events. This change redefines the method for demonstrating OPERABILITY of the remaining equipment when a component is declared inoperable. The requirement to maintain the remaining equipment OPERABLE is retained, ensuring the equipment is available to mitigate analyzed events. Since the equipment remains OPERABLE, redefining the method by which the equipment is demonstrated OPERABLE does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change does not necessitate a physical alteration of the plant (no new or different type of equipment will be installed) or changes in parameters governing normal plant operation. The proposed change will only redefine the method by which remaining equipment is verified OPERABLE when a component is declared inoperable. Redefining the method by which equipment is demonstrated OPERABLE does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does this change involve a significant reduction in a margin of safety?

This change eliminates the requirement to perform surveillances on equipment when a component is declared inoperable. Instead, this change allows credit to be taken for normal periodic surveillances as a demonstration of OPERABILITY and availability of the remaining components. The periodic frequencies specified to demonstrate OPERABILITY of the remaining components have been shown to be adequate to ensure equipment OPERABILITY. As stated in NRC Generic Letter 87-08, "It is overly conservative to assume that systems or components are inoperable when a surveillance requirement has not been performed. The opposite is in fact the case; the vast majority of surveillances demonstrate that systems or components in fact are operable." Therefore, reliance on the specified surveillance intervals does not result in a reduced level of confidence concerning the equipment availability. In addition, the current surveillance requirements for the affected components are more comprehensive than the current testing requirements being deleted. Therefore, the normal surveillance requirement approach can be judged to be an equivalent or more reliable testing program as compared to the requirements being deleted. Thus, this change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 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: Waukegan Public Library, 128 N. County Street, Waukegan, Illinois 60085

Attorney for licensee: Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60690

NRC Project Director: James E. Dyer

Duke Power Company, Docket Nos. 50-269, 50-270 and 50-287, Oconee Nuclear Station, Units 1, 2 and 3, Oconee County, South Carolina

Date of amendment request: December 8, 1992

Description of amendment request: The proposed amendments would

revise the Technical Specifications (TS) to: (1) extend the frequency of the Reactor Protection System (RPS) instrument channel tests in Table 4.1-1 from monthly to every 45 days on a staggered test basis, (2) add the definition of "staggered test basis" to TS Section 1.5, and (3) remove the time limitation in Table 3.5.1-1 on placing one RPS channel in bypass and one channel in the tripped condition. Also, the Bases would be revised to be consistent with the above 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:

Duke Power Company has made the determination 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:

Each accident analysis addressed within the Oconee Final Safety Analysis Report (FSAR) has been examined with respect to the change proposed within this amendment request. The probability of any Design Basis Accident (DBA) is not affected by this change, nor are the consequences of a DBA affected by this change since extension of the RPS on-line test interval and removal of limitations on placing one RPS channel in trip and one RPS channel in bypass based on an NRC approved Topical Report are not considered to be an initiator or contributor to any accident analysis addressed in the Oconee FSAR. Plant specific provisions of the associated NRC SER regarding drift data have been met. The probability of any DBA is not affected by this change, nor are the consequences of a DBA affected by this change since addition of the definition of "staggered test basis" is not considered to be an initiator or contributor to any accident analysis...addressed in the Oconee FSAR.

(2) Create the possibility of a new or different kind of accident from any kind of accident previously evaluated:

Operation of ONS in accordance with these Technical Specifications will not create any failure modes not bounded [by] previously evaluated accidents. Consequently, this change will not create the possibility of a new or different kind of accident from any kind of accident previously evaluated.

(3) Involve a significant reduction in a margin of safety:

The Technical Specifications will continue to require the RPS trip setpoints [to] remain within the assumptions of the accident analysis, thus preserving existing margins of safety. Therefore, there will be no significant reduction in any margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 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: Oconee County Library, 501 West South Broad Street, Walhalla, South Carolina 29691

Attorney for licensee: J. Michael McGarry, III, Winston and Strawn, 1200 17th Street, NW., Washington, DC 20036

NRC Project Director: David B. Matthews

Entergy Operations, Inc., Docket Nos. 50-313 and 50-368, Arkansas Nuclear One, Unit Nos. 1 and 2 (ANO-1&2), Pope County, Arkansas

Date of amendment request: November 10, 1992

Brief description of amendment: The proposed amendment would revise the Administrative Controls of the Technical Specifications (TSs) for each unit to change the qualifications of the Plant Safety Committee (PSC) to be independent of position titles. The proposed amendment would also incorporate the Technical Review and Control Process to facilitate procedure revision, change the approval authority for procedures to a more appropriate level of management and correct a typographical error.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Criterion 1 - Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated.

The change in the PSC composition qualification requirements is administrative in nature. The proposed changes do not affect assumptions contained in the plant safety analyses, the physical design or operation of the plants. TS that preserve the safety analyses assumptions of ANO-1 and ANO-2 are not affected by the changes. The same level of expertise applied to the PSC review function will remain with the approval of the proposed changes. There will be no loss in PSC effectiveness due to the proposed changes. The typographical error correction in the ANO-1 TS is purely administrative in nature, and has no affect on plant safety.

The addition of the Technical Review and Control Process to the TS provides an additional method for the technical review and approval of selected station procedures, while maintaining an equivalent level of thoroughness consistent with that established by the PSC. An independent technical review, conducted by an individual whose qualification and knowledge encompass the area affected by the procedure, combined with the added expertise contributed by the cross-disciplinary review will establish an equivalent level of review to that provided by the PSC. The Technical Review and Control Process will be controlled by station administrative procedures which will continue to be reviewed by the PSC, thereby allowing PSC oversight of the process.

Approval of procedures reviewed by the Technical Review and Control Process may be performed by the department head responsible for the affected procedure, after ensuring all necessary procedure reviews and cross-disciplinary reviews have been completed. Additionally, the General Manager, Plant Operations has the option of designating a higher approval authority for any procedure or block of procedures.

The procedures governing plant operation will continue to ensure that the plant parameters are maintained within acceptable limits. Procedure changes will be reviewed and approved at a level commensurate with their importance to nuclear safety and, where appropriate, an interdisciplinary review will be required. All modifications, tests, and experiments that affect nuclear safety will continue to be reviewed by the PSC. Also, the PSC will continue to review the Plant Security Plan, Emergency Plan, and Fire Protection Program.

Therefore, this change does not involve a significant increase in the probability or consequences of any accident previously evaluated.

Criterion 2 - Does Not Create the Possibility of a New or Different Kind of Accident from any Previously Evaluated.

The proposed changes are administrative in nature. No physical alterations of plant configuration or changes to setpoints or operating parameters are proposed. The level of position qualifications of the PSC members are not reduced in the TS. The same quality of PSC review is maintained by this proposed change.

Because no new equipment is being introduced, and no equipment is being operated in a manner inconsistent with its design, the probability of equipment malfunction is not increased. The applicable procedures governing the operation of installed equipment will receive reviews and approvals at a level commensurate with their importance to nuclear safety and, where appropriate, an interdisciplinary review will be required. This provides an equivalent level of review to that provided by the PSC. The PSC will continue to review all modifications, tests, and experiments that affect nuclear safety ensuring a continuing commitment to nuclear safety by ANO management.

Therefore, this change does not create the possibility of a new or different kind of accident from any previously evaluated.

[Criterion 3 - Does Not Involve a Significant Reduction in the Margin of Safety.]

The proposed changes are administrative in nature and do not relate to or modify the safety margins defined in and maintained by the TS. The change does not alter ANO's commitment to maintain a management structure that contributes to the safe operation and maintenance of the plants. No position qualifications are being reduced in the TS. The level and quality of PSC review is maintained because there will be no change in the collective expertise on the PSC.

The independent review of those items important to nuclear safety by the PSC will continue with these changes.

The initial conditions utilized in the accident analyses remain unchanged. The methodologies used for the safety analyses are not affected by this change. Sufficient controls are included in the proposed review methodology to ensure that the plant conditions and equipment availability required to support the integrity of the analyses, and hence the margin to safety, will continue to be maintained.

Therefore, this change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, N.W., Washington, D.C. 20005-3502

NRC Project Director: George T. Hubbard, (Acting)

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, N.W., Washington, D.C. 20005-3502

NRC Project Director: George T. Hubbard, (Acting)

Florida Power and Light Company, Docket Nos. 50-250 and 50-251, Turkey Point Plant Units 3 and 4, Dade County, Florida

Date of amendment request: February 11, 1993

Description of amendment request: The proposed amendments would revise the Technical Specifications (TS) 6.0, "Administrative Controls" of the Turkey Point Units 3 and 4 relating to the qualifications of the plant Operations Manager. Presently, TS 6.2.2.h. requires the Operations Supervisor to hold a Senior Reactor Operator (SRO) License and TS 6.2.2.i. requires that the Operations Manager either hold or have held a SRO License on the Turkey Point plants or on a similar plant. The licensee proposes to revise the TS to require that either the Operations Manager or the Operations Supervisor hold an active SRO License on the Turkey Point plants. Accordingly, the proposed changes would delete TS 6.2.2.i. and revise TS 6.2.2.h. to read "The Operations Manager or the Operations Supervisor shall hold a Senior Reactor Operator License." Consistent with the proposed TS 6.2.2.h. change, the phrase in TS 6.3.1, "...the Operations Manager whose requirement for a Senior Reactor Operator License is as stated in Specification 6.2.2.h..." would be editorially revised to read "...the Operations Manager or Operations Supervisor whose requirement for a Senior Reactor Operator License is as stated in Specification 6.2.2.h..."

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The changes being proposed are administrative in nature, address organizational issues, and do not affect assumptions contained in plant safety analyses, the physical design and/or operation of the plant, nor do they affect Technical Specifications that preserve safety analysis assumptions.

The individual Florida Power & Light Company (FPL) chooses to fill the position of Operations Manager will have extensive educational and management-level nuclear power experience meeting the criteria of standard ANSI N18.1-1971. The Operations Supervisor and Nuclear Plant Supervisors maintain SRO Licenses on Turkey Point. The current Technical Specifications do not require the Operations Manager to hold an active SRO License at Turkey Point. In fact, the current Technical Specifications permit the Operations Manager to have held an SRO License on a similar plant (i.e. another pressurized water reactor). Since the proposed change will continue to require that at least one individual in the operations organization off-shift management chain of command hold an SRO License at Turkey Point, there will be no change in the operations management operational experience at Turkey Point.

Additionally, the proposed changes do not impact nor change, in any way, the minimum on-shift manning or qualifications for those individuals responsible for the actual licensed operation of the facility.

Based on the above, the proposed changes do not affect the probability or consequences of accidents previously analyzed.

(2) Operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated.

The changes being proposed are administrative in nature and do not affect assumptions contained in plant safety analyses, the physical design and/or operation of the plant, nor do they affect Technical Specifications that preserve safety analysis assumptions. The proposed changes address organizational and qualifications issues related to the criteria used for assignment of individuals to the operations organization off-shift management chain of command. In light of the above, and since the proposed changes do not impact nor change, in any way, the minimum on-shift manning or qualifications for those individuals responsible for the actual licensed operation of the facility, operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) Operation of the facility in accordance with the proposed amendment would not involve a significant reduction in a margin of safety.

The proposed changes address organizational and qualifications issues related to the criteria used for assignment of individuals to the operations organization off-shift management chain of command. The proposed changes do not impact nor change, in any way, the minimum on-shift manning or qualifications for those individuals responsible for the actual licensed operation of the facility. FPL's operating organization at Turkey Point Plant is shown on Figure 1-2, Appendix A of the NRC-approved FPL Topical Quality Assurance Report (TQAR). Since changes to the TQAR are governed by 10 CFR 50.54(a)(3), any changes to the TQAR that reduce commitments previously accepted by the NRC require approval by the NRC prior to implementation. FPL will continue to inform the NRC of any organizational changes affecting Turkey Point Plant.

While the Operations Manager is responsible for the plant's operating organization, his responsibilities also include management of the plant's Health Physics and Chemistry departments. The on-shift operations organization is supervised and directed by the Operations Supervisor, who is currently required by Technical Specification 6.2.2.h. to hold a Senior Reactor Operator License. Since the Technical Specifications do not require that the Operations Manager maintain an SRO License (nor even that the incumbent has ever held a Senior Reactor Operator License at Turkey Point), the other qualifications guidance of standard ANSI N18.1-1971, as required by Turkey Point Technical Specification 6.3.1, *FACILITY STAFF QUALIFICATIONS*, will ensure that the individual filling the Operations Manager position has the requisite education and experience for the management position. As a result, operation of the facility in accordance with the proposed amendment would not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Florida International University, University Park, Miami, Florida 33199

Attorney for licensee: Harold F. Reis, Esquire, Newman and Holtzer, P.C., 1615 L Street, NW., Washington, DC 20036

NRC Project Director: Herbert N. Berkow

Indiana Michigan Power Company, Docket Nos. 50-315 and 50-316, Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, Michigan

Date of amendments request: April 16, 1991, as supplemented by letter of January 6, 1993

Description of amendments request: The proposed amendments would make changes to the Technical Specifications (TS) in accordance with the guidance of Generic Letter (GL) 90-06. Specifically, TS 3.4.9.3, "Overpressure Protection System," TS 3.4.11, "Relief Valves - Operating," and the applicable bases would be changed to reflect guidance contained in GL 90-06 regarding power operated relief valves (PORVs) and low-temperature overpressure protection (LTOP), with some exceptions and modifications to reflect plant-specific design features. The changes would require different actions for a PORV that is inoperable because of excessive leakage rather than any other reason, and add additional surveillances to be conducted in Mode 3 for verifying PORV operability. The changes also allow the use of a blocked open PORV as a suitable vent path in low pressure conditions as well as apply a more conservative allowable outage time for a single LTOP channel.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Does not involve a significant increase in the probability or consequences of an accident previously analyzed.

The proposed [TS] changes in this submittal generally adopt the PORV and overpressure protection [TS] proposed by the staff in Generic Letter 90-06 with three exceptions, and also with minor modifications necessary to reflect the plant-specific design features of Cook Nuclear Plant. The staff's proposed [TS] will result in an increase in PORV and block valve reliability as well as additional LTOP. Since the proposed [TS] changes augment or preserve the requirements contained in the current Cook Nuclear Plant [TS], and since the three exceptions to GL 90-06 retain the current [TS] requirements, it is concluded that the proposed [TS] changes do not involve a significant increase in the probability or consequences of an accident previously analyzed in Chapter 14, "Safety Analysis," of the Updated FSAR [Final Safety Analysis Report] for Cook Nuclear Plant.

(2) Does not create the possibility of a new or different kind of accident from any accident previously analyzed or evaluated.

The proposed [TS] changes either retain or enhance the LCOs, action statements, and surveillance requirements of the current Cook Nuclear Plant [TS]. It is concluded, therefore, that the proposed [TS] changes do not create the possibility of a new or different kind of accident from any accident previously analyzed or evaluated in Chapter 14, "Safety Analysis," of the UFSAR.

(3) Does not involve a significant reduction in a margin of safety.

The proposed [TS] changes either retain or enhance the LCOs, action statements, and surveillance requirements of the current Cook Nuclear Plant [TS]. It is concluded, therefore, that the proposed [TS] changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendments request involves no significant hazards consideration.

Local Public Document Room location: Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW, Washington, DC 20037

NRC Project Director: L. B. Marsh

Indiana Michigan Power Company, Docket Nos. 50-315 and 50-316, Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, Michigan

Date of amendments request: May 1, 1992

Description of amendments request: The proposed amendments would make changes to the Technical Specifications (TS) in accordance with the guidance of Generic Letter (GL) 90-09. The changes would revise the visual inspection surveillance requirements and the acceptance criteria associated with TS-related snubbers. Additionally, the changes would remove the snubber component lists contained in TSs in accordance with the guidance contained in GL 84-13.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed changes do not result in any physical change to the facility which could cause an increase in the probability or consequences of any previously evaluated accident. The requested changes incorporate the alternative inspection schedule provided by the NRC in Generic Letter 90-09, dated December 11, 1990, and remove the snubber component lists from the [TS] in accordance with the guidance set forth in Generic Letter 84-13, dated May 3, 1984.

As determined by the NRC, the alternative schedule for visual inspections maintains the same confidence level as the existing schedule and, therefore, does not affect the probability or consequences of an accident previously evaluated.

The removal of the snubber component lists from the [TS] will not alter the existing [TS] requirements nor change the components to which they apply. The lists being removed from the [TS]s will be placed under administrative control and a 10 CFR 50.59 evaluation will be required for changes in snubber quantities, types, or location. The editorial changes to the [TS] will not affect the probability or consequences of an accident in any way, they merely reflect the shifting of page numbers. Therefore, the proposed amendment does not involve a change in the probability or consequences of an accident previously evaluated.

(2) Create the possibility of a new or different kind of accident from any previously analyzed.

The proposed amendment does not create the possibility of a new or different kind of accident previously evaluated. The proposed amendment does not result in any physical change to the plant or method of operating the plant from that allowed by the [TS]. No new failure modes have been defined for any system or component nor has any new limiting single failure been identified.

The NRC has generically reviewed the proposed changes and has determined that the alternative snubber visual inspection interval maintains the same confidence level in snubber operability. Therefore, the proposed change does not create the possibility of a new or different kind of accident.

The removal of snubber component lists will not alter existing [TS] requirements or those components to which they apply. No physical changes are being made to the facility as a result or in support of the removal of the component lists. Since the requirements for the components will remain the same, this proposed amendment will not affect the outcome of previously evaluated accidents. A 10 CFR 50.59 review will be performed for changes to the administrative snubber list to ensure that an unreviewed safety question, such as a new accident, does not result from future changes in the list. The editorial changes to the [TS] will not affect the previously evaluated accidents since they do not change the meaning of any [TS]. Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any previously evaluated.

(3) Involve a significant reduction in a margin of safety.

The proposed amendment does not involve a significant reduction in the margin of safety. As stated above, the proposed amendment incorporates the alternative [TS] requirements for visual inspections of snubbers provided by the NRC in Generic Letter 90-09 and removes the snubber component lists from the [TS] in accordance with the guidance set forth in Generic Letter 84-13.

The NRC has previously reviewed these changes and determined that the alternative visual inspection interval maintains the same confidence level in snubber operability. The removal of the component lists from the [TS] will not alter the existing [TS] requirements nor change the components to which they apply. The component lists will be incorporated into plant procedures that are subject to the change control provisions for plant procedures specified in the administrative controls section of [TS]. Since neither the list of components nor the requirements that those components are required to meet are changing, the margin of safety is not affected.

The editorial changes made to refine the [TS] will not affect the margin of safety. Consequently, the proposed amendment, including both changes, does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendments request involves no significant hazards consideration.

Local Public Document Room location: Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085

Indiana Michigan Power Company, Docket Nos. 50-315 and 50-316, Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, Michigan

Date of amendments request: November 11, 1992

Description of amendments request: The proposed amendments would increase the tolerances for the main steam safety valves to within three percent of set point for both units as contained in Table 4.7-1 (Unit 1) and Table 3.7-4 (Unit 2) of Technical Specification (TS) 3.7.1.1 "Safety Valves." The amendments would also modify Unit 2 TS 3.5.2 to provide a limitation to the allowable thermal power when a safety injection cross-tie valve is closed.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated.

Based on the analyses presented in Attachment 4, [Westinghouse Report SECL-91-429, Rev. 1, "Donald C. Cook Units 1 and 2, Main Steam Safety Valve Lift Setpoint Tolerance Relaxation≥] all of the applicable LOCA and non-LOCA design basis acceptance criteria are satisfied. Although increasing the valve setpoint [tolerances] may result in an [increased steam release to the environment]... in the event of a steam generator tube rupture [that is] above the current UFSAR [Updated Final Safety Analysis Report] value foundin Chapter 14.2.4 for both units by approximately 0.2 percent, the analysis indicates that the calculated doses are within a small fraction of the [10 CFR 100] dose guidelines. The evaluation also concludes that the existing mass releases used in the offsite dose calculations for the remaining transients (i.e., steam line break, rod ejection) are still applicable.

There are no hardware modifications to the valves and, therefore, there is no increase in the probability of a spurious opening of a MSSV. Sufficient margin exists between the normal steam system operating pressure and the valve setpoints with the increased tolerance to preclude an increase in the probability of actuating the valves.

Based on the above, there is no significant increase in the probability of an accident previously evaluated in the UFSAR or in the dose consequences.

(2) Create the possibility of a new or different kind of accident from any previously analyzed.

Increasing the lift setpoint tolerance on the MSSVs [main steam safety valves] does not introduce a new accident initiator mechanism. No new failure modes have been defined for any system or component important to safety nor has any new limiting single failure been identified. No accident will be created that will increase the challenge to the MSSVs and result in increased actuation of the valves. Therefore, the possibility of a new or different kind of accident than any already evaluated in the UFSAR is not created.

(3) Involve a significant reduction in a margin of safety.

As discussed in the safety evaluation (Attachment 4), the proposed increase in the MSSV lift setpoint tolerance will invalidate neither the LOCA nor the non-LOCA conclusions presented in the UFSAR accident analyses of record. The new loss of load/turbine trip analysis concluded that all applicable acceptance criteria are still satisfied. For all the UFSAR non-LOCA transients, the DNB design basis, primary and secondary pressure limits, and dose limits continue to be met. Peak cladding temperatures remain below the limits specified in 10 CFR 50.46 for normal operation and when the thermal power is reduced to compensate for closure of the safety injection cross tie valves as required by the proposed Technical Specifications. The calculated doses resulting from a steam generator tube rupture event remain within a small fraction of the 10 CFR 100 permissible releases. Thus, there is no reduction in the margin to 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 amendments request involves no significant hazards consideration.

Local Public Document Room location: Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW, Washington, DC 20037

NRC Project Director: L. B. Marsh

Indiana Michigan Power Company, Docket Nos. 50-315 and 50-316, Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, Michigan

Date of amendments request: December 16, 1992

Description of amendments request: The proposed amendments would allow the use of digital instrumentation in the reactor protection system. The amendments would add conditions to the Unit 1 and 2 licenses stating that the licensee is authorized to use digital signal processing instrumentation in the reactor protection system.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated.

The Foxboro SPEC 200 and SPEC 200 MICRO lines of instrumentation are designed to mitigate anticipated operational occurrences and design basis accidents by actuating the reactor trip and engineered safeguards signals credited in the Cook Nuclear Plant safety analyses (see Attachment 5, Report No. 2985-WGS-03, "SPEC 200/SPEC 200 MICRO Hardware and Firmware System Description"). This instrumentation is designed to monitor and process signals for temperature, pressure, fluid flow, and fluid level (see Attachment 5, Report No. 2985-HEI-01, "Summary Report for Response Time Evaluations," and Report No. 2985-SKF-01, "Technical Specification Compliance Assessment"). While it is a form, fit and functional replacement for the existing Foxboro reactor protection system instrumentation, its reliability and availability is better than that of the present instrumentation (see Attachment 5, Report No. 2985-HEI-15, "Reliability and MTBF Analysis"). As such, in the highly unlikely event that the new instrumentation experiences a failure, the consequences will not exceed those caused by a failure of the

existing system. The new instrumentation's failure modes and effects are discussed in Attachment 5 in Report No. 2985-HEI-14, "Failure Modes and Effects Analysis Protection Set 1 Foxboro SPEC 200."

Since the ability of the reactor protection system to detect faults and initiate protective action is not reduced and since the FSAR analyses remain bounding as indicated above, the probability or consequences of accidents previously analyzed are not increased.

(2) Create the possibility of a new or different kind of accident from any previously analyzed.

The Foxboro SPEC 200 and SPEC 200 MICRO instrumentation is designed to mitigate anticipated operational occurrences and design basis events by actuating reactor trip or engineered safeguards signals credited in the safety analyses. The instrumentation is designed to monitor and process signals for temperature, pressure, fluid flow, and fluid levels. It is a form, fit and functional replacement for the existing Foxboro analog instrumentation.

To ensure that the equipment will perform as required, extensive measures have been taken to ensure that the response of the new instrumentation is enveloped by the design basis accident analyses contained in Chapter 14 of the Cook Nuclear Plant FSAR. This is demonstrated, in part, in reports that are summarized in Attachment 5 including: Report No. 2985-VDV-01, "Reactor Protection Functional Diversity Assessment;" Report No. 2985-HEI-01, "Summary Report for Response Time Evaluations;" and Report No. 2985-SKF-01, "Technical Specification Compliance Assessment".

Application of the Foxboro instrumentation in the Cook Nuclear Plant reactor protection system includes, among other things, such considerations as single failure, independence, functional diversity, and separation criteria. In addition, the response of the instrumentation during events such as station blackout and design basis earthquake was assessed. The reports contained in Attachment 5 summarize these efforts.

An analysis of the response times of the instrumentation indicates that they will be bounded by the existing FSAR analyses and existing Cook Nuclear Plant technical specification limits (see Attachment 5, Report No. 2985-HEI-01, "Summary Report for Response Time Evaluations").

With regard to the application of digital technology in the Cook Nuclear Plant reactor protection system, a battery of EMI/RFI evaluations was performed, as discussed in Report No. 2985-HEI-03, "Preliminary EMI/RFI Evaluation." These evaluations concluded that the EMI/RFI environment at Cook Nuclear Plant is suitable for the application of this type of equipment.

The SPEC 200 and SPEC 200 MICRO have been designed, verified, and validated to be in compliance with the protection system functional requirements. This statement is supported by Report No. 2985-DPS-01, "Functional Requirement Summary," and Report No. 2985-HHH-01, "Qualification Compliance," both of which are provided in Attachment 5. Additionally, reliability studies of the instrumentation, as well as the verification and validation studies and the equipment qualification programs, indicate that the susceptibility of the reactor protection system to common mode failure mechanisms will be reduced. (See Attachment 5, Report No. 2985-HEI-15, "Reliability and MTBF Analysis.")

A failure of the digital instrumentation will not create a new or different accident. In the highly unlikely event that the new reactor protection system instrumentation should fail, the consequences experienced would be equivalent to those experienced if the existing equipment failed. (See Attachment 5, Report No. 2985-HEI-14, "Failure Modes and Effects Analysis Protection Set 1 Foxboro SPEC 200," and Report No. 2985-VDV-01, "Reactor Protection Functional Diversity Assessment.")

Consequently, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated for the Cook Nuclear Plant.

(3) Involve a significant reduction in a margin of safety.

The proposed change will not reduce a margin of safety. The accuracy and reliability of the reactor protection system will be improved with the installation of the Foxboro SPEC 200 and SPEC 200 MICRO instrumentation (see Attachment 5, Report No. 2985-HEI-15, "Reliability and MTBF Analysis"). The various reactor trip and engineered safeguard actuation circuits continue to provide signals to automatically open the reactor trip breakers or actuate engineered safeguards equipment, as applicable, whenever a condition monitored by the reactor protection system or the engineered safeguards features actuation system reaches a preset or calculated level. In addition to redundant channels and trains, the protection system will continue to monitor numerous system variables, thereby providing protection system functional diversity (see Attachment 5, Report No. 2985-VDV-01, "Reactor Protection Functional Diversity Assessment").

In addition, since it is assumed that our overall response times and setpoint and allowable values will continue to remain bounding (see Attachment 5, Report No. 2985-HEI-01, "Summary Report for Response Time Evaluations," and Report No. 2985-SKF-01, "Technical Specification Compliance Assessment"), the results and conclusions of the accident analyses remain valid, as supported by Report No. 2985-VDV-01, "Reactor Protection Functional Diversity Assessment," contained in Attachment 5. Response time testing performed as part of the factory acceptance testing will verify that the response times assumed in the accident analyses are not exceeded.

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 amendments request involves no significant hazards consideration.

Local Public Document Room location: Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW, Washington, DC 20037

NRC Project Director: L. B. Marsh

Iowa Electric Light and Power Company, Docket No. 50-331, Duane Arnold Energy Center, Linn County, Iowa

Date of amendment request: January 29, 1993

Description of amendment request: The proposed amendment would revise the Technical Specifications (TS) by changing the surveillance interval for the Source Range Monitor (SRM) functional test from daily to weekly. In a previous TS amendment the surveillance interval was erroneously changed to daily.

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 increase the probability or consequences of an accident occurring because it merely corrects an error and restores the appropriate surveillance interval for the SRM functional test. No other changes are proposed.

2) The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated because this change to the surveillance interval merely corrects a previous error and is consistent with DAEC and NRC guidance.

3) The margin of safety will not be reduced since the change corrects an error as noted above and therefore does not affect 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: Cedar Rapids Public Library, 500 First Street, S.E., Cedar Rapids, Iowa 52401

Attorney for licensee: Jack Newman, Esquire, Kathleen H. Shea, Esquire, Newman and Holtzinger, 1615 L Street, NW., Washington, DC 20036

NRC Project Director: John N. Hannon

Nebraska Public Power District, Docket No. 50-298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: February 1, 1993.

Description of amendment request: The proposed amendment would revise the technical specifications (TS) for the Cooper Nuclear Station (CNS) to (1) incorporate the NRC staff position on leak detection per the guidance of Generic Letter 88-01 and its supplement, (2) incorporate the NRC staff position on inservice inspection schedules, methods, personnel, and sample expansion per the guidance of Generic Letter 88-01 and its supplement, and (3) make administrative changes where certain system names are replaced by system names which are more consistent with those used in other portions of the TS and the implementing surveillance procedures.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

The first proposed change addresses the NRC position on leak detection, delineated in Generic Letter 88-01. This change imposes a 2 gpm limit on the increase of unidentified reactor coolant leak rate over a 24-hour period, establishes specific operability requirements for drywell sump flow measuring systems, and increases the frequency of Reactor Coolant System (RCS) leakage checks. This proposed change provides more stringent criteria for the early detection of unidentified leakage within primary containment. This additional restriction will enhance the ability to detect leaks in the reactor coolant pressure boundary, thereby reducing the potential for a significant failure of the pressure boundary. Additional requirements regarding the drywell sump flow measuring systems will provide added assurance that the sumps will always be available for the early detection of unacceptable leakage during plant operations. This change incorporates additional restrictions into the plant Technical Specifications and does not involve the modification or addition of any plant hardware, nor does it involve a change in those plant settings that affect plant operation responses. The District concludes that this proposed change will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The second proposed change addresses the NRC position on inservice inspection methods and personnel, delineated in Generic Letter 88-01. This change involves the addition of a statement that commits the station to conducting the inservice inspection program in accordance with the guidance of Generic Letter 88-01, in regard to schedule, methods, personnel, and sample expansion. This change incorporates additional restrictions into the plant Technical Specifications and does not result in any plant modifications or change in plant hardware. The augmented inservice inspection program, for piping identified in Generic Letter 88-01, does not affect plant operations. However, adoption of this augmented inservice inspection program should provide added assurance that piping, susceptible to Intergranular Stress Corrosion Cracking, will maintain integrity throughout all modes of plant operation. Therefore, the proposed change will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The third proposed change involves the replacement of various terms (system names) used to refer to the drywell air sampling system and the sump flow measuring systems with the terms "drywell air sampling system" and "sump flow measuring systems", respectively. The purpose of this change is to utilize system names that are consistent with those used in other parts of the Technical Specifications and the applicable implementing surveillance procedures. This proposed change is administrative in nature and does not involve a change in plant operations, plant modification, or a change in plant hardware. Therefore, the proposed change will not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility for a new or different kind of accident from any accident previously evaluated?

The first proposed change addresses the NRC position on leak detection, delineated in Generic Letter 88-01, by establishing new requirements for restricting unidentified leak rate increases, increasing the surveillance frequency for RCS leakage, and establishing specific operability requirements for the drywell sump flow measuring systems. Cooper Nuclear Station (CNS) is analyzed for large, unisolatable leaks in primary containment and leakage is carefully monitored to reduce the probability of this occurring. This proposed change provides additional restrictions on operation with increasing leakage or inoperable monitoring equipment. Since this change does not result in a change to the design, operation, maintenance, or testing of the plant, a new mode of operation or failure is not created. Therefore, the proposed change does not create the possibility for a new or different kind of accident from any accident previously evaluated.

The second proposed change addresses the NRC position on inservice inspection methods and personnel, delineated in Generic Letter 88-01. This change adds a statement that requires piping, identified in Generic Letter 88-01, to undergo inservice inspection in accordance with NRC guidelines. This change does not result in the addition or modification of any structure, system, or component, and does not introduce or change any mode of plant operation. Therefore, the District concludes that the proposed change does not create the possibility for a new or different kind of accident from any accident previously evaluated.

The third proposed change involves the replacement of various terms (system names) used to refer to the drywell air sampling system and the sump flow measuring systems in order to utilize system names that are consistent with those used in other parts of the Technical Specifications and the applicable implementing surveillance procedures. This proposed change is administrative in nature and does not introduce a change in the way Technical Specifications are interpreted or implemented. This change does not result in the addition, deletion, or modification of any structure, system, or component, and does not introduce or change any mode of plant operation. Therefore, the District concludes that the proposed change does not create the possibility for a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change create a significant reduction in the margin of safety?

The first proposed change addresses the NRC position on leak detection, delineated in Generic Letter 88-01. This proposed change provides additional restrictions to the rate of leakage increase allowed to the primary containment from unidentified sources, along with additional testing frequency requirements. These additional requirements enhance the ability for early detection of small leaks in the reactor coolant pressure boundary, thereby reducing the potential for significant failure of the pressure boundary. This change also includes the establishment of specific operability requirements for the drywell sump flow measuring system. This change will provide additional assurance that the sumps are available for the monitoring of RCS leakage. There are no changes to the plant hardware and no changes to plant safety setpoint settings resulting from this change. Therefore, this proposed change does not create a significant reduction in the margin of safety.

The second proposed change addresses the NRC position on inservice inspection methods and personnel, delineated in Generic Letter 88-01. This proposed change involves the inclusion of piping, identified in Generic Letter 88-01, into the CNS in-service inspection program per the guidance provided in the Generic Letter. This proposed change incorporates additional restrictions into the plant Technical Specifications and there are no modifications to plant hardware or changes to the plant safety setpoint settings. Therefore, this proposed change does not create a significant reduction in the margin of safety.

The third proposed change involves the replacement of various system names used to refer to the drywell air sampling system and the sump flow measuring systems. This proposed change is administrative in nature. It involves no hardware changes, plant modifications, or changes in plant operations. There are no changes to the plant safety setpoint settings. Therefore, this proposed change does not create 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: Auburn Public Library, 118 15th Street, Auburn, Nebraska 68305

Attorney for licensee: Mr. G.D. Watson, Nebraska Public Power District, Post Office Box 499, Columbus, Nebraska 68602-0499

NRC Project Director: George T. Hubbard, Jr. (acting)

Philadelphia Electric Company, Docket Nos. 50-352 and 50-353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania

Date of amendment request: April 3, 1992, as supplemented January 12, 21, and 22, 1993

Description of amendment request: The amendment would revise the Surveillance Requirements (SRs) in the Technical Specifications (TS) for the Standby Liquid Control (SLC) system to substitute the pertinent requirements from the draft improved Standard TS provided in NUREG-1433.

The initial information supporting a finding of no significant hazards consideration was provided in the licensee's original application dated April 3, 1992, and confirmed in the licensee's January 12, 1993, submittal. The verification of SLC system operability focuses on maintaining or recovering the required temperature of the sodium pentaborate solution, and not on the means of achieving the solution temperature required to prevent precipitation.

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 revised proposed TS changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The revised proposed SR to verify that the SLC system pump suction line is unblocked does not delineate a specific flow path. The current TS SR specified flow path from the SLC system storage tank to the test tank creates a large amount of liquid waste requiring special handling as a result of the post-test pipe flushing. An alternative testing method would be to pump solution from the storage tank to a test drain. This would reduce the amount of piping and equipment subjected to the flow of the sodium pentaborate solution and the subsequent required flushing. Accordingly, the result of performing the proposed SR would be equivalent to performing the current SR; affected heat traced piping would continue to be verified unblocked. The revised proposed SR deletes the prescribed method specified in the current and originally proposed TS, and thereby allows flexibility in the methods employed to perform this SR verification. The revised proposed SR also includes a clarification of the period during which this SR is required to be performed if the piping temperature drops below the low temperature limit (i.e., 70°F).

The revised proposed SR changes include deletion of the required demonstration of SLC system storage tank heater operability. This proposed change is based upon the ultimate objective of determining SLC system operability as a function of the temperature of the sodium pentaborate solution in the storage tank, which the TS will continue to require to be checked daily, and not on the method of achieving this verification. Specifically, the storage tank heaters are the "A" heater, a 10KW cycling heater (i.e., controlling solution temperature between 75°F and 85°F), and the "B" heater, a 40KW manually operated heater used primarily during solution mixing activities. The storage tank is located within heated spaces of the Reactor Enclosure that are normally maintained at or above the "A" heater low temperature activation setpoint of 75°F. Furthermore, low storage tank solution temperature (i.e., 70°F) is alarmed in the Main Control Room.

In addition, the revised proposed SR includes clarification of the period within which the verification of solution concentration is required to be performed after water or boron is added to the storage tank, or if the solution temperature drops below 70°F.

This clarification is based on the recognition of realistic time limits to perform actions to preclude precipitation of the sodium pentaborate. Based on the above discussion, our previous conclusion that the proposed changes do not involve an increase in the probability or consequences of an accident previously evaluated remains unchanged.

2. The revised proposed TS changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The revised proposed changes tot he SLC system SRs do not add or delete any equipment, and do not involve any systems or equipment that would create an accident. Therefore, our previous conclusion that the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated remains unchanged.

3. The revised proposed TS changes do not involve a significant reduction in [a] margin of safety.

The revised proposed changes to the SLC system SRs do not involve physical changes to the system, and continue to provide an equivalent level of assurance that the SLC system will be capable of performing its safety function. Therefore, our previous conclusion that the proposed changes do not reduce the margin of safety remains unchanged.

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: Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Attorney for licensee: J. W. Durham, Sr., Esquire, Sr. V.P. and General Counsel, Philadelphia Electric Company, 2301 Market Street, Philadelphia, Pennsylvania 19101

NRC Project Director: Charles L. Miller

Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Docket No. 50-278, Peach Bottom Atomic Power Station, Unit No 3, York County, Pennsylvania

Date of application for amendment: January 28, 1993

Description of amendment request: The licensee proposes to modify Section 1.1.A of the Peach Bottom Atomic Power Station, Unit 3 Technical Specifications. The proposed change would revise the safety limit minimum critical power ratio (MCPR) for two recirculation loop and single recirculation loop operation to 1.07 and 1.08 respectively. The change is requested to accommodate installation and use of a new fuel type, GE-11 fuel, during the Cycle 10 operation. Unit 3, Cycle 10 is expected to begin in November of 1993.

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:

PECo [Philadelphia Electric Company] proposes that the changes to the MCPR Safety Limits do not involve significant hazards considerations for the following reasons.

i) The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated. Because the MCPR Safety Limits are operational thresholds analytically selected using proven methods, they cannot, themselves, initiate an accident. The probability of occurrence of transients is determined by the frequency of operator errors and equipment failures, not by the adequacy of the MCPR Safety Limits selected. Because the proposed MCPR safety limits have been selected such that no fuel damage is calculated to occur during the most severe moderate frequency transient events, they will ensure that the consequences of these events are not increased. The response of the plant to transients will be within the bounds

of the discussion in Chapter 14 and Appendix G of the Updated Final Safety Analysis Report since the proposed MCPR Safety Limits will accomplish the same objectives as the previous limits.

ii) The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated because the proposed MCPR Safety Limits have been selected such that the design basis is satisfied. The MCPR Safety Limits are operational thresholds analytically selected using proven methods; therefore, they cannot, themselves, initiate an accident. An improperly selected limit could result in fuel damage, which is a consequence of previously evaluated accidents. Thus, no new or different type of accident could be created by revising the limits.

iii) The proposed changes do not involve a significant reduction in a margin of safety because the proposed MCPR Safety Limits have been selected such that the design basis is satisfied and such that the conservatism described in the Bases for the Fuel Cladding Integrity Safety Limit TS are maintained. Thus, margins of safety with the proposed MCPR Safety Limits are the same as with the previous limits.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, (REGIONAL DEPOSITORY) Education Building, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Attorney for licensee: J. W. Durham, Sr., Esquire, Sr. V.P. and General Counsel, Philadelphia Electric Company, 2301 Market Street, Philadelphia, Pennsylvania 19101

NRC Project Director: Charles L. Miller

Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Dockets Nos. 50-277 and 50-278, Peach Bottom Atomic Power Station, Units Nos. 2 and 3, York County, Pennsylvania

Date of application for amendments: February 5, 1993

Description of amendment request: The licensee has requested a change in the Technical Specification fuel storage criticality criteria. The development of new fuel designs has resulted in fuel bundles with higher average enrichment and more burnable poisons than the design used as the basis for the existing TS requirement. The existing and the proposed TS criteria are used to ensure compliance with the requirement to have fuel storage k-eff less than or equal to 0.95. The licensee proposes to replace the existing TS 5.5.D that "The average fuel assembly loading shall not exceed 17.3 grams U-235 per axial centimeter of total active fuel height of the assembly" with a requirement that states "The spent fuel storage racks are designed and shall be maintained with fuel assemblies having a maximum k-infinity of 1.362 in the nominal reactor core configuration at cold conditions." The licensee contends the proposed criteria is more appropriate to new fuel designs.

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:

Licensee proposes that this application does not involve a significant hazards consideration for the following reasons:

i) The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed change replaces the method of assuring the compliance with the storage reactivity criterion. The existing fuel enrichment criteria is converted to a k-infinity criteria by computing the in-core k-infinity of the exact same lattice type used by the rack supplier in the original fuel storage criticality analysis. Since the proposed change does not affect operations, equipment, or any safety related activity, current accident precursors are unaffected. Therefore, there is no increase in the probability or consequences of an accident previously evaluated.

ii) The proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

The proposed change does not make any physical changes to the plant or changes to operating procedures. Therefore, implementation of the proposed change will not affect the design function or configuration of any component or introduce any new operating scenarios or failure modes or accident initiation. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

iii) The proposed change does not involve a significant reduction in a margin of safety.

Replacing the method by which the fuel storage criticality is assured does not affect any safety related equipment activity or equipment. Therefore, the proposed change does not reduce any margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, (REGIONAL DEPOSITORY) Education Building, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Attorney for licensee: J. W. Durham, Sr., Esquire, Sr. V.P. and General Counsel, Philadelphia Electric Company, 2301 Market Street, Philadelphia, Pennsylvania 19101

NRC Project Director: Charles L. Miller

Southern California Edison Company, et al., Docket Nos. 50-361 and 50-362, San Onofre Nuclear Generating Station, Unit Nos. 2 and 3, San Diego County, California

Date of amendment requests: October 14, 1992

Description of amendment requests: The licensee proposes to revise Technical Specification (TS) 3/4.7.5, "Control Room Emergency Air Cleanup System," and associated Bases, to delete requirements for duct heaters and diverting valves, and to incorporate modifications in the Action statement, Surveillance Requirements (SR), and 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. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's review is presented below:

1. The proposed TS change will not result in a significant increase in the probability or consequences of any accident previously evaluated. The proposed TS change clarifies the ACTION statements when each unit is in a different operational MODE, and will not decrease the ability of the control room emergency air cleanup system (CREACUS) to perform its intended function of protecting the control room operators from a postulated uncontrolled release of radioactivity or toxic gas. The proposed TS change also modifies the surveillance requirements for the CREACUS, including deleting duct heaters that are not required and removing reference to diverting valves that do not exist in the system. The licensee states that the duct heaters are not needed to maintain the relative humidity below the required level, and the reliability and performance of the CREACUS will not be affected by the proposed changes in the surveillance requirements. The staff concludes that the licensee's analysis of the impact of these modifications to the CREACUS

surveillance requirements appears to satisfy this standard of 10 CFR 50.92(c).

2. The proposed TS change will not create the possibility of a new or different kind of accident from any previously evaluated. The CREACUS is utilized to protect the control room operators from certain accident scenarios, and its operation will not create the possibility of a new or different kind of accident from any previously evaluated.

3. The operation of the facility in accordance with this proposed TS change will not result in a significant reduction in a margin of safety. The discussion in Item 1 above contains the staff's evaluation of the licensee basis for concluding that the reliability and performance will not be adversely affected by the proposed TS change. This conclusion also means that no significant decrease in any margin of safety will result from this proposed TS change.

Based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: Main Library, University of California, P.O. Box 19557, Irvine, California 92713

Attorney for licensee: James A. Beoletto, Esquire, Southern California Edison Company, P.O. Box 800, Rosemead, California 91770

NRC Project Director: Theodore R. Quay

Southern California Edison Company, et al., Docket Nos. 50-361 and 50-362, San Onofre Nuclear Generating Station, Unit Nos. 2 and 3, San Diego County, California

Date of amendment requests: December 30, 1992

Description of amendment requests: The licensee proposes to revise Technical Specification (TS) 3/4.3.2, "Engineered Safety Feature Actuation System Instrumentation," and TS 3/4.3.3, "Radiation Monitoring Instrumentation." This amendment request, identified as Proposed Change Number 405, would eliminate the TS requirements and ESFAS circuitry for the Control Room Isolation System (CRIS) particulate/iodine channel. The licensee has reviewed the design basis for the CRIS particulate/iodine channel and determined that it is not necessary for this channel to perform an Engineered Safety Feature Actuation System (ESFAS) function.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change would eliminate the ESFAS technical specification requirements and ESFAS circuitry of the CRIS particulate/iodine radmonitor channel. The function of the particulate/iodine channel is to detect airborne radioactivity entering the control room normal ventilation supply and initiate a CRIS signal. The CRIS signal realigns the ventilation system to a configuration that is capable of maintaining a suitable control room environment following a Design Basis Accident. Since the CRIS particulate/iodine channels are only used following an accident, the probability of occurrence of an accident previously evaluated would not be affected by the proposed change.

CRIS instrumentation is credited in the [Updated Final Safety Analysis Report] UFSAR for two design basis events: a steam generator tube rupture and a [Fuel Handling Accident] FHA inside containment. Eliminating the particulate/iodine channel would not alter the ESFAS function of the CRIS signal. The response time of the CRIS particulate/iodine channel has been evaluated in comparison with the CRIS gaseous channels. The gaseous channels would respond to initiate a CRIS signal faster than the particulate/iodine channels.

2. Will operation of the facility in accordance with this proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change would eliminate ESFAS technical specification requirements and ESFAS circuitry of CRIS instrumentation used solely for the purpose of protecting the control room during a design basis accident. Eliminating the particulate/iodine channel would not alter the ESFAS function of the CRIS system. With the exception of eliminating these two channels, the proposed change would not alter the design of the interface between CRIS instrumentation and existing plant equipment. CRIS functions would continue to be performed by the redundant gaseous channels of the airborne radmonitors. Operation of the facility in accordance with this proposed change would not create the possibility of a new or different kind of accident from any previously evaluated.

3. Will operation of the facility in accordance with this proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change would eliminate ESFAS technical specification requirements and ESFAS circuitry of the CRIS particulate/iodine channel. During all credible accidents which require CRIS actuation, the gaseous radmonitor channels would initiate the required safety function. Since the proposed change would not alter the response of the gaseous channels, operation of the facility in accordance with the proposed change would not involve a significant reduction in a margin of safety.

CRIS instrumentation is credited in the UFSAR for two design basis events: a steam generator tube rupture and a FHA inside containment. Eliminating the particulate/iodine channels would not alter the ESFAS function of the CRIS signal. The response time of the particulate/iodine channel has been evaluated in comparison with the CRIS gaseous channel. The gaseous channels would respond to initiate a CRIS signal faster than the particulate/iodine channels. Since for both design basis events, the response of the redundant gaseous channels would initiate a CRIS signal faster than would the particulate/iodine channel, operation of the facility in accordance with this proposed change would not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: Main Library, University of California, P.O. Box 19557, Irvine, California 92713

Attorney for licensee: James A. Beoletto, Esquire, Southern California Edison Company, P.O. Box 800, Rosemead, California 91770

NRC Project Director: Theodore R. Quay

Southern California Edison Company, et al., Docket Nos. 50-361 and 50-362, San Onofre Nuclear Generating Station, Unit Nos. 2 and 3, San Diego County, California

Date of amendment requests: December 30, 1992

Description of amendment requests: The licensee proposes to revise Technical Specification (TS) 3.3.3.1, "RADIATION MONITORING." This amendment request, identified as Proposed Change Number 416, would increase the required number of plant vent stack wide range noble gas radiation monitors from 1 to 2 when either Unit 2 or 3 is in Mode 1, 2, or 3. When either Unit 2 or 3 is in Mode 4 and the other unit is in Mode 4, 5, or 6, either the plant vent stack monitor (2/3RT-7808) or both wide range gas monitors (2RT-7865-1 and 3RT-7865-1) will be required. Editorial clarifications are also made.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the

issue of no significant hazards consideration, which is presented below:

1. Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

This proposed change increases the number of wide range noble gas plant vent stack radiation monitors from one to two. The proposed TS will require that whenever Unit 2 or Unit 3 is in Mode 1, 2, or 3, both plant vent stack effluent pathways will be continuously monitored. In Mode 4 either the normal plant vent stack monitor (2/3RT-7808) or both 2RT-7865-1 and 3RT-7865-1 will be required. This proposed change does not reduce the requirements for any radiation monitor credited in the UFSAR for mitigation of the consequences of any previously evaluated accident. Therefore, this proposed change will not increase the probability or consequences of an accident previously evaluated.

2. Will operation of the facility in accordance with this proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

This proposed change increases radiation monitoring requirements using existing qualified equipment. This proposed change neither adds new equipment nor changes the configuration or operation of the plant. Therefore, no new or different kind of accident is created from any previously evaluated.

3. Will operation of the facility in accordance with this proposed amendment involve a significant reduction in a margin of safety?

Response: No.

This proposed change increases the operability requirements for wide range noble gas plant vent stack radiation monitors. This proposed change is limited to the requirements of [Plant Vent Stack] PVS radiation monitoring with 2RT-7865-1 and 3RT-7865-1 which are not identified with any margin of safety. Therefore, this proposed change will not significantly reduce any margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: Main Library, University of California, P.O. Box 19557, Irvine, California 92713

Attorney for licensee: James A. Beoletto, Esquire, Southern California Edison Company, P.O. Box 800, Rosemead, California 91770

NRC Project Director: Theodore R. Quay

Southern California Edison Company, et al., Docket Nos. 50-361 and 50-362, San Onofre Nuclear Generating Station, Unit Nos. 2 and 3, San Diego County, California

Date of amendment requests: December 30, 1992

Description of amendment requests: The licensee proposes to include a new Technical Specification (TS) 3/4.7.3.1, "Component Cooling Water Safety Related Makeup System," and its associated Bases, in the San Onofre Units 2 and 3 Technical Specifications. This TS amendment request, identified as Proposed Change Number 418, is being submitted to support the installation (during the Units 2 and 3 Cycle 7 refueling outages) of a safety related Seismic Category I source of emergency makeup water for the Component Cooling Water (CCW) System.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of any accident previously evaluated?

Response: No

The CCW Safety Related Makeup System provides an assured water supply to the CCW in case of a Design Basis Event. As such, the proposed Technical Specifications describe a new system which will ensure that the CCW remains OPERABLE following a Design Basis Event. Therefore, this proposed change will not involve a significant increase in the probability or consequences of any accident previously evaluated.

2. Will operation of the facility in accordance with this proposed change create the possibility of a new or different kind of accident from any previously evaluated?

Response: No

The changes proposed herein improve the reliability of the CCW system by providing it with a safety related makeup. Therefore, this proposed change will not create the possibility of a new or different kind of accident from any previously evaluated.

3. Will operation of the facility in accordance with this proposed change involve a significant reduction in a margin of safety?

Response: No

Operation of the facility in accordance with the proposed change will not be altered as a result of the proposed change. The purpose of this change is to ensure the CCW will continue to perform its functions in case of a [Design Basis Event] [DBE] without reliance on the non-Seismic I Nuclear Service Water System. Therefore, the proposed change will not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: Main Library, University of California, P.O. Box 19557, Irvine, California 92713

Attorney for licensee: James A. Beoletto, Esquire, Southern California Edison Company, P.O. Box 800, Rosemead, California 91770

NRC Project Director: Theodore R. Quay

Southern California Edison Company, et al., Docket Nos. 50-361 and 50-362, San Onofre Nuclear Generating Station, Unit Nos. 2 and 3, San Diego County, California

Date of amendment requests: December 31, 1992

Description of amendment requests: The licensee proposes to revise Technical Specification (TS) 3.2.1, "LINEAR HEAT RATE," and TS 3.2.4, "DNBR MARGIN," and the corresponding Bases. This amendment request, identified as Proposed Change Number 325, increases the ACTION time from 1 hour to 4 hours when the Core Operating Limit Supervisory System (COLSS) is out of service. During the 4-hour ACTION period, new Surveillance Requirements will verify every 15 minutes that no adverse trend in departure from nucleate boiling ratio (DNBR) margin or linear heat rate (LHR) will occur. In addition, new power reduction requirements are proposed when the Limiting Conditions for Operability cannot be met from "HOT STANDBY" to "less than or equal to 20% Rated Thermal Power."

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

This proposed change distinguishes between the action requirements applicable when COLSS is either in service or out of service. If COLSS is in service the actions and time requirements remain unchanged. When COLSS is not available the action time is increased from 1 hour to 4 hours. The purpose of these TS changes is to provide a reasonable opportunity for appropriate

corrective actions when the COLSS becomes inoperable.

The TS [Limiting Conditions for Operation] LCOs for DNBR margin and LHR are more restrictive when operating without the COLSS due to [Core Protection Calculators] CPC uncertainties and the overpower margin reserved to ensure that specified acceptable fuel design limits are not exceeded in the event of anticipated operational occurrences. Consequently, when COLSS becomes inoperable the existing DNBR margin limits based on CPC information can only be satisfied by either a power reduction or by restoring the COLSS to service. By itself, a loss of COLSS or returning the COLSS to service does not affect plant operation and does not affect the actual DNBR or the LHR. In addition, a loss of the COLSS does not immediately mean that the actual core power should be changed. Therefore, during normal operation within the COLSS [Power Operating Limits] POLs, if there are no indications that the actual DNBR margin or LHR has degraded, the required overpower margin discussed in chapter 15 of the [Updated Final Safety Analysis Report] UFSAR will continue to be maintained.

When either TS 3.2.1 or TS 3.2.4 is not satisfied compensatory actions will provide additional assurance that the actual DNBR margin and LHR do not exceed the safety limits stated in the UFSAR. The new [surveillance requirements] SR will ensure that DNBR margin and LHR are monitored every 15 minutes and appropriate action is taken if an adverse trend is noted when COLSS is out of service and the LHR and DNBR TS LCOs are not met.

The primary consideration in extending the COLSS out of service time limit is the remote possibility of a slow, undetectable transient that degrades the DNBR margin or LHR within the 4 hour action time and is then followed by an anticipated operational occurrence or accident. The plant parameters monitored by COLSS which could affect DNBR margin and LHR include [Reactor Coolant System] RCS flow rate as determined from reactor coolant pump shaft speed, axial power distribution, cold leg temperature, reactor core power, RCS pressure, and azimuthal tilt. Of these parameters, the CPC's directly incorporate measured values for reactor core power, RCS flow rate as determined from reactor coolant pump shaft speed, RCS pressure, and cold leg temperature into the calculations of DNBR and LHR. Therefore, any degradation of conditions with respect to these parameters is expected to be evident in the equivalent CPC margins.

San Onofre is stable with respect to azimuthal power tilt within any 4 hour time period. The only credible events affecting azimuthal tilt are an inadvertent drop or misalignment of a Control Element Assembly (CEA). The probability of an undetected dropped or misaligned CEA is remote within any four hour time period and beyond the basis of LCO monitoring. In addition, a CEA calculator indicating light and alarm will alert operators that corrective action is required if this situation were to occur. Thus, during the proposed 4 hour action statement any degradation of azimuthal tilt is unlikely and would be quickly and positively identified.

Axial xenon oscillations are a normal consequence of the San Onofre Unit 2 and 3 core designs, particularly near the end of a fuel cycle. The resultant axial core power fluctuations are strictly controlled to insure efficient fuel burnup. As a result, axial power shape is strictly maintained by existing procedures well within the limits assumed in the safety analysis. Typically, axial shape control will maintain the [Axial Shape Index] ASI within 0.05 ASI units of the Equilibrium Shape Index (ESI).

Typically, one full xenon oscillation will take approximately 26 hours. Since operating procedures will be revised to require CPC calculated LHR and DNBR to be monitored every 15 minutes, any significant change in ASI will be identified. Therefore, due to the attention given the axial power distribution when COLSS is in service and the increased LHR and DNBR monitoring when COLSS is not in service, it is unlikely that a change in ASI during the 4 hour ACTION period of steady plant operation would either be undetected or lead to a condition outside the range of initial conditions assumed in the safety analysis.

This proposed change does not modify either the LHR or DNBR Limiting Conditions for Operation (LCOs). The core power distribution during all phases of normal operation and anticipated operational occurrences will remain bounded by the initial conditions assumed in chapter 15 of the safety analysis. The COLSS calculated POLs and the CPC based LHR and DNBR operating limits will remain unchanged. Therefore, this proposed change will not significantly increase the probability or consequences of an accident previously evaluated.

This proposed change increases the core power limit if LHR and DNBR limits are not restored within the applicable action time, from "HOT STANDBY" to "less than or equal to 20% of Rated Thermal Power (RTP). This administrative change provides consistency with the existing TS applicability statements. The increased power level allows in-core and ex-core neutron detectors to provide meaningful data for COLSS trouble shooting and operability determination without decreasing any safety margin.

Therefore, this change will not result in a significant increase in the probability or consequences of an accident previously evaluated.

2. Will operation of the facility in accordance with this proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

This proposed change is limited to administrative limits, does not involve any physical change to plant systems, and the COLSS and CPC software is not altered. This change will not affect any safety-related equipment used in the mitigation of anticipated operational occurrences or design basis accidents. The only significant change resulting from this amendment will be to the [Operating Instructions] OIs used when COLSS is out of service. These OI changes will be reviewed and implemented in accordance with 10 CFR 50.59 and TS Administrative Controls. The DNBR and LHR LCOs are not affected by these changes. Therefore, this change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Will operation of the facility in accordance with this proposed amendment involve a significant reduction in a margin of safety?

Response: No.

TS LCOs 3.2.1 and 3.2.4 ensure that operation of the reactor is within the range of conditions assumed in the Safety Analysis. When COLSS is unavailable, the new SR will monitor DNBR margin and LHR using the CPCs to ensure that the DNBR margin and LHR have not degraded and no anticipated operational occurrence or postulated accident will result in core conditions exceeding Specified Acceptable Fuel Design Limits or the maximum peak cladding temperature of 2200°F specified by 10 CFR 50.46. Therefore, the analysis as described in Chapter 15 of the UFSAR remains bounding. For these reasons, this 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 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: Main Library, University of California, P.O. Box 19557, Irvine, California 92713

Attorney for licensee: James A. Beoletto, Esquire, Southern California Edison Company, P. O. Box 800, Rosemead, California 91770

NRC Project Director: Theodore R. Quay

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 amendment request: November 24, 1992

Description of amendment request: The proposed amendment would revised Technical Specification Section 15.3.10, "Control Rod and Power Distribution Limits." The first sentence of Specification 15.3.10.A.5 currently reads: "When the reactor is in the hot shutdown condition or during any approach to criticality, except for physics tests, the critical rod position shall not be lower than the inserton limit for zero power." The proposed amendment would change this sentence to read: "During any approach to criticality, except for physics tests, the

critical rod position shall not be lower than the insertion limits for zero power."

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Operation of this facility under the proposed Technical Specification will not create a significant increase in the probability or consequences of an accident previously evaluated. This proposed change modifies Specification 15.3.10.A.5 by removing its applicability when the reactor is in hot shutdown. The intent of this section is to prevent the occurrence of a reactor criticality below the control rod insertion limits. Under the proposed amendments, the intent of this section will still be maintained because sufficient actions to ensure that a criticality only occurs above the control rod insertion limits are still required to be performed before a critical approach can be commenced. Additionally, the proposed changes will not minimize the existing controls for the hot shutdown mode of operation. Specification 15.3.10.A.3 adequately addresses the hot shutdown condition in its consideration of shutdown margin requirements. There is no physical change to the facility, its systems, or its operation. Thus, an increased probability or consequences of an accident previously evaluated cannot occur.

Operation of this facility under the proposed Technical Specification will not create the possibility of a new or different kind of accident from any accident previously evaluated. This proposed change modifies Specification 15.3.10.A.5 by removing its applicability when the reactor is in hot shutdown. The intent of this section is to prevent a reactor criticality below the control rod insertion limits. Under the proposed amendments, the intent of this section will be maintained. Sufficient actions to ensure that criticality only occurs above the control rod insertion limits are still required before a critical approach can be commenced. Additionally, the proposed changes will not minimize the existing controls for the hot shutdown mode operation. Specification 15.3.10.A.3 adequately addresses the hot shutdown condition in its consideration of shutdown margin requirements. There is no physical change to the facility, its systems, or its operation. Thus, a new or different kind of accident cannot occur.

Operation of this facility under the proposed Technical Specification will not create a significant reduction in a margin of safety. This proposed change modifies Specification 15.3.10.A.5 by removing its applicability when the reactor is in hot shutdown. The intent of this section is to prevent a reactor criticality below the control rod insertion limits. Under the proposed amendments, the intent of this section will be maintained. Sufficient actions to ensure that a criticality only occurs above the control rod insertion limits are still required to be performed before a critical approach can be commenced. Additionally, the proposed changes will not minimize the existing controls for the hot shutdown mode of operation. Specification 15.3.10.A.3 adequately addresses the hot shutdown condition in its consideration of shutdown margin requirements.

There is no physical change to the facility, its systems, or its operation. Thus, a significant reduction in a margin of safety cannot occur.

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: Joseph P. Mann Library, 1516 Sixteenth Street, Two Rivers, Wisconsin

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037

NRC Project Director: John N. Hannon

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 amendment request: January 14, 1993

Description of amendment request: The proposed amendment would revise Technical Specification 15.3.1.E, "Maximum Reactor Coolant Oxygen and Chloride and Fluoride Concentration for Power Operation." Item 2 under this specification limits the concentration of chloride and fluoride each to 0.15 ppm. The amendment would separate this into two parts, one for chloride, the other for fluoride. The limits would not be changed.

The amendment would also revise the action statement by changing the times in which actions must be taken. The current action statement requires action only when oxygen and either chloride or fluoride exceed specified limits. As revised, action would be taken when any one of the three parameters exceeds its specified limit. Under the existing specification, if normal operation specifications are not achieved within 24 hours, the reactor is to be brought to a hot shutdown condition within an unspecified time period. The amendment would specify that this be done within 8 hours. The current specification continues with a requirement that, if the system is not brought to within specifications within an additional 24 hours, the system is to be brought to a cold shutdown condition in an unspecified time period. The amendment would specify that this period to achieve cold shutdown be 12 hours.

The specification is reworded to tie all actions to the time of discovery of the out-of-specification condition.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Criterion 1

Operation of the Point Beach Nuclear Plant in accordance with the proposed license amendment does not result in a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendment assures that timely corrective action is taken for an out-of-specification reactor coolant chemistry condition. Control of oxygen, chloride, and fluoride contaminants helps insure the long-term integrity of the reactor coolant pressure boundary, fuel clad, and reactor vessel internals. Degradation caused by an out-of-specification chemistry condition is time-dependent and therefore does not present an immediate safety concern. Any degradation will be detected by existing inspection programs and procedures. It is appropriate to allow a reasonable, though limited period of time, in which to correct the condition while maintaining the plant operating. Fuel damage and loss of coolant accidents, including a steam generator tube rupture, are the principal accidents involving reactor coolant system materials analyzed in the updated Final Safety Analysis Report (FSAR). Reactor coolant chemistry is not analyzed as a contributing factor to these events. Therefore, the probability or consequences of any accident previously evaluated will not significantly increase.

Criterion 2

The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed amendment does not result in or from a physical change to the facility or a significant change in its operation. Corrective action will be taken expeditiously to correct any out-of-specification chemistry condition. Therefore, operation of the facility in accordance with this amendment cannot result in a new or different type of accident than any presently analyzed.

Criterion 3

The proposed amendment does not involve a significant reduction in a margin of safety.

Controlling oxygen, chlorides, and fluorides within specified limits insures the functional integrity of the reactor coolant system material under all operating conditions. Degradation due to out-of-specification chemistry conditions is a slow, time-dependent process. The out-of-specification conditions do not present an immediate concern as to the integrity of the reactor coolant system materials and the fuel cladding. A limited period of time to correct the condition, 24 hours, will not cause 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: Joseph P. Mann Library, 1516 Sixteenth Street, Two Rivers, Wisconsin

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037

NRC Project Director: John N. Hannon

Previously Published Notices of Consideration of Issuance of Amendments to 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.

Northeast Nuclear Energy Company, et al., Docket No. 50-423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

Date of amendment request: January 15, 1993, as supplemented January 21, 1993

Description of amendment request: The amendment would revise the Technical Specifications, Section 4.7.10.e, by extending the surveillance requirement frequency for the snubber functional tests by allowing a one-time extension to the current 18-month surveillance, plus the additional 25 percent allowed by Technical Specification 4.0.2.

Date of publication of individual notice in **Federal Register:** February 5, 1993 (58 FR 7265).

Expiration date of individual notice: March 8, 1993

Local Public Document Room location: Learning Resources Center, Thames Valley State Technical College, 574 New London Turnpike, Norwich, Connecticut 06360.

Georgia Power Company, et al., Docket Nos. 50-424 and 50-425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia

Date of amendment request: February 2, 1993 (This amendment request supersedes previous August 31, 1992, request as noticed in the **Federal Register** September 30, 1992, 57 FR 45084)

Description of amendment request: The proposed amendment would revise Technical Specification (TS) 4.8.1.1.2.h.7 and its associated footnote to remove the requirement to have the diesel generators perform the LOOP/ESFAS test within 5 minutes after completing the 24-hour test and substitute the requirement to start the diesel generator in accordance with TS 4.8.1.1.2.a.4 within 5 minutes after the 24-hour test.

Date of publication of individual notice in **Federal Register:** February 18, 1993 (58 FR 8999)

Expiration date of individual notice: March 22, 1993

Local Public Document Room location: Burke County Public Library, 412 Fourth Street, Waynesboro, Georgia 30830

Notice of Issuance of Amendment to Facility Operating License

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 Hearing in connection with these actions was published in the **Federal Register** as indicated. No request for a hearing or petition for leave to intervene was filed following this notice.

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 amendments, (2) the amendments, and (3) the Commission's related letters, Safety Evaluations and/or Environmental Assessments 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, D.C., and at the local public document rooms for the particular facilities involved. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects.

The Cleveland Electric Illuminating Company, Centerior Service Company, Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company, Toledo Edison Company, Docket No. 50-440, Perry Nuclear Power Plant, Unit No. 1, Lake County, Ohio

Date of application for amendment: October 30, 1991

Brief description of amendment: The amendment revised Technical Specification 3.3.2-2 by adding new isolation signals for the Reactor Water Cleanup (RWCU) system and by revising the existing setpoint for the delta-flow timer isolation signal. The new signals will initiate an RWCU system isolation based on high temperature or high delta-temperature in containment rooms where the "cold" portion of the RWCU piping is located. The RWCU delta-flow timer setpoint was extended from 45 seconds to 10 minutes.

Date of issuance: February 8, 1993

Effective date: February 8, 1993

Amendment No. 46

Facility Operating License No. NPF-58. This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 11, 1991 (56 FR 64649). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 8, 1993. No significant hazards consideration comments received: No

Local Public Document Room location: Perry Public Library, 3753 Main Street, Perry, Ohio 44081

GPU Nuclear Corporation, et al., Docket No. 50-219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Date of application for amendment: April 20, 1992

Brief description of amendment: The amendment removes certain fire protection related items from Oyster Creek Nuclear Generating Station Technical Specifications and relocates them in the Fire Protection Program to the Updated Final Safety Analysis Report. This amendment was requested in accordance with the guidance provided in Generic Letter 86-10 and 88-12.

Date of issuance: February 18, 1993

Effective date: February 18, 1993

Amendment No.: 161

Facility Operating License No. DPR-16. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 13, 1992 (57 FR 20511) The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated February 18, 1993. No significant hazards consideration comments received: No.

Local Public Document Room location: Ocean County Library, Reference Department, 101 Washington Street, Toms River, New Jersey 08753.

GPU Nuclear Corporation, et al., Docket No. 50-289, Three Mile Island Nuclear Station, Unit No. 1, Dauphin County, Pennsylvania

Date of applications for amendment: August 9, 1991, and October 29, 1991

Brief description of amendment: The amendment revises the Technical Specifications Bases addressing the minimum borated water storage volumes to ensure adequate shutdown margin exist with respect to the loss of coolant accident (LOCA) linear heat rate allowable limits. Technical Specifications Figure 3.5-2M, "LOCA Limited Maximum Allowable Linear Heat Rate," is revised to reflect the Babcock & Wilcox reevaluations of generic linear heat rate limits. In accordance with the intent of NRC Generic Letter 88-16, this figure is removed from the TMI-1 Technical Specifications and incorporated into the TMI-1 Core Operating Limits Report.

Date of issuance: February 11, 1993

Effective date: February 11, 1993

Amendment No.: 168

Facility Operating License No. DPR-50. Amendment revised the Technical Specifications.

Date of initial notices in **Federal Register:** August 5, 1992 (57 FR 34583) and December 9, 1992 (57 FR 58246) The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated February 11, 1993. No significant hazards consideration comments received: No.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

GPU Nuclear Corporation, et al., Docket No. 50-289, Three Mile Island Nuclear Station, Unit 1, Dauphin County, Pennsylvania

Date of application for amendment: June 24, 1992

Brief description of amendment: The amendment revises the requirements for the number of licensed Senior Reactor Operators required to be stationed for Refueling Operations, in accordance with 10 CFR 50.54.

Date of issuance: February 11, 1993

Effective date: February 11, 1993

Amendment No.: 169

Facility Operating License No. DPR-50. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** October 14, 1992 (57 FR 47138) The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated February 11, 1993. No significant hazards consideration comments received: No.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

GPU Nuclear Corporation, et al., Docket No. 50-289, Three Mile Island Nuclear Station, Unit 1, Dauphin County, Pennsylvania

Date of application for amendment: August 25, 1992

Brief description of amendment: The amendment change revises the Technical Specifications to allow receipt, storage, and transfer of reactor fuel enriched to as high as 5.0 weight percent with U-235.

Date of issuance: February 17, 1993

Effective date: February 17, 1993

Amendment No.: 170

Facility Operating License No. DPR-50. Amendment revised Technical Specifications.

Date of initial notice in **Federal Register:** October 14, 1993 (57 FR 47139) The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated February 17, 1993. No significant hazards consideration comments received: No.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

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: July 27, 1992

Brief description of amendment: The amendment revises the Technical Specifications for reactor vessel water level as follows:

- Provides in Section 3.3.3.6 separate actions when either one or two channels of reactor vessel water level monitoring are not operable.
- Adds a definition to Table 3.3-10 of an operable channel.
- Clarifies Table 4.3-7 that an electronic calibration from the Inadequate Core Cooling cabinets is the appropriate surveillance for the reactor vessel water level instrumentation.

Date of issuance: February 18, 1993

Effective date: February 18, 1993

Amendment No.: 76

Facility Operating License No. NPF-49. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** September 2, 1992 (57 FR 40217) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 18, 1993. No significant hazards consideration comments received: No.

Local Public Document Room location: Learning Resources Center, Thames Valley State Technical College, 574 New London Turnpike, Norwich, Connecticut 06360.

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 amendments request: January 21, 1992

Description of amendments request: The amendments revise surveillance tests intervals for engineered safety feature systems pumps and valves to be consistent with the Standard Technical Specifications.

Date of issuance: February 5, 1993

Effective date: February 5, 1993

Amendment Nos.: 104 and 97

Facility Operating License Nos. DPR-42 and DPR-60. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 1, 1992 (57 FR 11112) and January 6, 1993 (58 FR 597) for clarification. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 5, 1993. 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.

Power Authority of The State of New York, Docket No. 50-286, Indian Point Nuclear Generating Unit No. 3, Westchester County, New York

Date of application for amendment: September 29, 1992

Brief description of amendment: The amendment revised the Technical Specifications to incorporate the following changes:

(1) The frequency of pressurizer safety valve set pressure checks (specified in Table 4.1-3) was changed to accommodate operation on a 24-month cycle.

(2) The frequency of pressurizer safety valve position indicator calibration and testing (specified in Table 4.1-1) was changed to accommodate operation on a 24-month cycle.

(3) The frequency of the PORV and PORV block valve operability testing (specified in Table 4.1-3) was changed to accommodate operation on a 24-month cycle.

(4) The frequency of the PORV position indicator testing for both the limit switch and acoustic monitor and the PORV position indicator calibration for the acoustic monitor (specified in Table 4.1-1) was changed to accommodate operation on a 24-month cycle. In addition, the limit switch calibration requirement was deleted.

(5) The frequency of the reactor vessel head vent operability check (specified in Table 4.1-3) was changed to accommodate operation on a 24-month cycle.

These changes followed the guidance provided in Generic Letter 91-04, "Changes in Technical Specification Surveillance Intervals to Accommodate a 24-Month Fuel Cycle."

Date of issuance: February 9, 1993

Effective date: February 9, 1993

Amendment No.: 127

Facility Operating License No. DPR-64: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** October 28, 1992 (57 FR 48825) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 9, 1993. No significant hazards consideration comments received: No

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

Texas Utilities Electric Company, Docket No. 50-445, Comanche Peak Steam Electric Station, Unit No. 1, Somervell County, Texas

Date of amendment requests: April 2, 1991, and August 31, 1992. The August 31, 1992 application was supplemented by letters dated October 29, 1992, and December 14, 1992.

Brief description of amendment: This amendment modifies the technical specifications by: (1) adding action requirements for the engineered safety features actuation system instrumentation loss of power function, (2) changing the Unit 1 TS to the Combined TS for Units 1 and 2, (3) revising the TS for the station service water system to reflect two operational units, (4) removing the option of performing a containment reduced pressure test in lieu of a containment peak pressure test during preoperational, periodic and supplemental tests, (5) revising the safety limits and limiting conditions for operation related to departure from nucleate boiling ratio to make them applicable to both Unit 1 and 2, (6) changing the pressure/temperature limits for both Unit 1 and 2 and making the new limits applicable for 16 effective full power years, (7) revising the heatup/cooldown curves and power operated relief valve setpoints for low temperature overpressure protection, and (8) adding a TS and associated bases for the feedwater isolation valve pressure/temperature limit.

Date of issuance: January 29, 1993

Effective date: January 29, 1993, to be implemented upon issuance of low power license for Unit 2.

Amendment No.: Amendment No. 14

Facility Operating License No. NPF-87: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 25, 1992, December 21, 1992, and December 23, 1992 (57 FR 555595, 57 FR 55596, 57 FR 55597, 57 FR 60544 and 57 FR 61121). No significant hazards consideration comments received: No

Local Public Document Room location: University of Texas at Arlington Library, Government Publications/Maps, 701 South Cooper, P.O. Box 19497, Arlington, Texas 76019.

Notice of Issuance of Amendment to Facility Operating License and Final Determination of No Significant Hazards Consideration and Opportunity for Hearing (Exigent 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 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 20555, and at the local public document room for the particular facility involved.

A copy of items (2) and (3) may be obtained upon request addressed to the U. S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendment. By April 2, 1993, 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 20555 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 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 fifteen (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 fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses. Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 248-5100 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to (Project Director): petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for 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).

Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Docket No. 50-277, Peach Bottom Atomic Power Station, Unit No. 2, York County, Pennsylvania

Date of application for amendment: February 2, 1993, as supplemented by letter dated February 8, 1993

Brief description of amendment: The amendment changed the Technical Specifications Section 3.6.D.2 to allow operation with the pressure relief function of safety relief valves inoperable. The amendment is to remain in effect until the next outage of sufficient duration requiring a drywell entry to allow the licensee to repair the valve. The amendment shall expire no later than February 28, 1994.

Date of issuance: February 12, 1993

Effective date: As of its date of issuance and is to remain in effect until the next outage of sufficient duration requiring a drywell entry. The amendment shall expire no later than February 28, 1994.

Amendment No.: 172

Facility Operating License No. DPR-44: This amendment revised the Technical Specifications. Public comments requested as to proposed no significant hazards consideration: Yes. The NRC published a public notice of the proposed amendment, issued a proposed finding of no significant hazards consideration and requested that any comments on the proposed no significant hazards consideration be provided to the staff by the close of business on February 12, 1993. The notice was published in the York Daily Record, York Dispatch, Lancaster New Era and the Lancaster Intelligencer-Journal on February 5, 1993. The notice was also published in the Cecil Whig on February 9, 1993, and in the Bel Air Aegis on February 10, 1993. No comments have been received.

The Commission's related evaluation of the amendment, finding of exigent circumstances, consultation with the State of Pennsylvania and final no significant hazards consideration determination are contained in a Safety Evaluation dated February 12, 1993.

Attorney for licensee: J. W. Durham, Sr., Esquire, Sr. V.P. and General Counsel, Philadelphia Electric Company, 2301 Market Street, Philadelphia, Pennsylvania 19101

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, (REGIONAL DEPOSITORY) Education Building, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Project Director: Charles L. Miller

Dated at Rockville, Maryland, this 24th day of February 1993.

For the Nuclear Regulatory Commission

Steven A. Varga,

Director, Division of Reactor Projects - I/II, Office of Nuclear Reactor Regulation

[Doc. 93-5973 Filed 3-16-93; 8:45 am]

BILLING CODE 7590-01-F

NUCLEAR WASTE TECHNICAL REVIEW BOARD

Environment & Public Health Panel Sponsors Tour of Yucca Mountain Area

Pursuant to its authority under section 5051 of Public Law 100-203, the Nuclear Waste Policy Amendments Act of 1987, the Nuclear Waste Technical Review Board's Panel on Environment & Public Health will sponsor a tour of Yucca Mountain, Nevada, on April 19, 1993. The tour will visit areas of interest and relevance to the Department of Energy's (DOE) Yucca Mountain environmental program. A site at Yucca Mountain currently is being characterized by the DOE for its suitability as the possible location of a permanent repository for civilian spent fuel and defense high-level waste.

The tour, which will begin at 7:30 a.m. at the Yucca Mountain Project Information Office in Las Vegas and last until approximately 4:30 p.m., is open to the public. Those wishing to participate must register in advance by calling Frank Randall at the Board's offices in Arlington, Virginia; telephone (703) 235-4473. When calling, please have the following information: full name, home address, social security number, date of birth, place of birth, and name of the company or organization you represent. Reservations must be made by April 1, 1993, for U.S. citizens, and by March 19, 1993, for non-U.S. citizens. Non-U.S. citizens must bring their passports and an alien registration card (if living in the United States) when attending the tour. All other participants must bring photo identification (driver's license, etc.).

Those attending from out of town may book rooms for Sunday night, April 18, at the Sunrise Suites, 4575, E. Boulder Highway, Las Vegas, Nevada 89121; telephone; telephone (702) 369-2451. Ask for the block reserved for the Nuclear Waste Technical Review Board.

Those attending from out of town may book rooms for Sunday night, April 18, at the Sunrise Suite, 4575 E. Boulder Highway, Las Vegas, Nevada 89121; telephone (702) 369-2451. Ask for the block reserved for the Nuclear Waste Technical Review Board.

For further information, contact Frank Randall, External Affairs, Nuclear Waste Technical Review Board, 1100 Wilson Boulevard, Suite 910, Arlington, Virginia 22209; telephone (703) 235-4473; FAX (703) 235-4495.

Dated: March 12, 1993.

William Barnard,

Executive Director, Nuclear Waste Technical Review Board.

[FR Doc. 93-6116 Filed 3-16-93; 8:45 am]

BILLING CODE 6820-AM-M

Meeting of Full Board in Reno, NV

Pursuant to the Nuclear Waste Technical Review Board's authority under section 5051 of the Nuclear Waste Policy Amendments Act (NWPAA) of 1987 (Pub. L. 100-203), the Board will hold its spring meeting April 21-22, 1993, in Reno, Nevada. The Board is interested in reviewing the *process* through which difficult technical issues bearing on site-suitability and licensing are resolved. Using the issues of groundwater infiltration and future climates, which are complex to evaluate and involve uncertainty, presentations will address four distinct areas: (1) Defining the process, (2) the status of current studies, (3) the use of models and quality assurance, and (4) issue resolution—a summary session. The meeting, which is open to the public, will be held at the Holiday Inn, 1000 East 6th Street, Reno, Nevada 89512; telephone (702) 786-5151.

The Board has invited representatives from the DOE's Office of Civilian Radioactive Waste Management (OCRWM), the U.S. Geological Survey, the Yucca Mountain Site Characterization Project Office, Lawrence Berkeley Laboratory, Sandia National Laboratories, and industry consultants to make presentations during the meeting.

The Nuclear Waste Technical Review Board was created by Congress in the Nuclear Waste Policy Amendments Act of 1987 (NWPAA) to evaluate the technical and scientific validity of activities undertaken by the DOE in its program to manage the disposal of the nation's spent nuclear fuel. In that same legislation, Congress directed the DOE to characterize a site at Yucca Mountain, Nevada, for its suitability as a potential location for a permanent repository for disposal of that spent fuel.

Transcripts of the meeting will be available on a library-loan basis from

Ms. Victoria Reich, Board Librarian, beginning June 7, 1993. For further information, contact Paula N. Alford, Director, Extermal Affairs, 1000 Wilson Boulevard, suite 910, Arlington, Virginia 22209; (703) 235–4473; (FAX) 703–235–4495.

Dated: March 11, 1993.

William D. Barnard,

Executive Director, Nuclear Waste Technical Review Board.

[FR Doc. 93–6032 Filed 3–16–93; 8:45 am]

BILLING CODE 6820–AM–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–31978; File No. SR–MSTC–93–04]

Self-Regulatory Organization; Midwest Securities Trust Company; Notice of Filing of Proposed Rule Change by Midwest Securities Trust Company Revising Its By-Laws With Respect to the Indemnification of Directors and Officers

March 10, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on February 8, 1993, the Midwest Securities Trust Company ("MSTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR–MSTC–93–04) as described in Items I, II, and III below, which Items have been prepared primarily by the self-regulatory organization. The Commission is publishing this notice to solicit comments from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

MSTC proposes to amend Article VI of its By-Laws regarding indemnification of directors and officers. The proposed rule change (1) ensures that directors and officers will be indemnified to the fullest extent permitted by Illinois law, (2) promotes recruitment and retention of such person, and (3) simplifies the wording of the existing rule.

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 an basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to revise the subject MSTC By-Law to indicate that indemnification will be available to MSTC directors and officers to the fullest extent permitted by Illinois law. The proposed rule change would facilitate MSTC's efforts to recruit and maintain competent directors, officers, and employees. The proposed rule change would also simplify the wording of the existing rule and eliminate awkward language in the existing rule which specifies particular situations where directors, officers, and employees may *not* be indemnified. The approach used in the proposed rule change is similar to the approach used in the comparable Midwest Stock Exchange, Inc. ("MSE") and Midwest Clearing Corporation ("MCC") By-Laws where indemnification of directors and officers is permitted to the fullest extent permitted by Delaware law.[2]

The proposed rule change is consistent with Section 17A(b)(3)(C)[3] of the Act in that it helps to assure the fair representation of shareholders and participants in the selection of directors and the administration of MSTC.

B. Self-Regulatory Organization's Statement on Burden on Competition

MSTC believes that no burdens will be placed on competition as a result of the proposed rule change.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No comments have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reason for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to File No. SR–MSTC–93–04 and should be submitted by April 7, 1993.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–6120 Filed 3–16–93; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–31977; File No. SR–CBOE–92–42]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to an Agreement With the Board of Trade of the City of Chicago

March 10, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on January 4, 1993 the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule

[1] 15 U.S.C. § 78s(b)(1) (1988).

[2] See Article X of the MSE Constitution and Article VI of the MCC By-Laws.

[3] 15 U.S.C. § 78q–1(b)(3)(C) (1988).

change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE requests approval of a revised version of CBOE Rule 3.16(c) and an agreement dated September 1, 1992 ("Agreement") between the Board of Trade of the City of Chicago ("CBOT") and CBOE interpreting the right of full members of the CBOT to become members of CBOE pursuant to paragraph (b) of Article Fifth of CBOE's Certificate of Incorporation ("Article Fifth(b)").

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 those statements may be examined at the places specified in Item IV below and is set forth in sections (A), (B), and (C) below.

(A) Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

Article Fifth(b) provides, in part, that CBOT members shall be entitled to become members of CBOE upon application therefore, notwithstanding any limitations on the number of CBOE members and without the necessity of acquiring that membership for consideration or value from CBOE, its members, or otherwise. The appropriate interpretation of Article Fifth(b) has been the subject of some disagreement between the CBOE and the CBOT and their respective members, however. In view of these disagreements, the CBOE and the CBOT considered it appropriate to resolve these matters and thereby avoid the costs, delays and uncertainties of legal proceedings that might otherwise ensue. To that end, the CBOE and the CBOT have entered into the Agreement, interpreting the right of certain CBOT members to exercise the right to become members of CBOE pursuant to Article Fifth(b). The principal terms of the Agreement are summarized below.

The Agreement provides that only an individual who is an "Eligible CBOT Full Member" or an "Eligible CBOT Full Member Delegate" is a member of the CBOT within the meaning of Article Fifth(b). The Agreement defines the term "Eligible CBOT Full Member," in pertinent part, to mean an individual who is a holder of one of the 1,402 existing CBOT full memberships (and only those memberships) who is in possession of all trading rights and privileges appurtenant to such CBOT full membership. The term "Eligible CBOT Full Member Delegate," in turn, is defined to mean the individual to whom a CBOT full membership is delegated (leased) and is who is in possession of all trading rights and privileges appurtenant to such CBOT full membership. For purposes of the Agreement, a trading right and privilege appurtenant to a CBOT full membership is the right and privilege of a CBOT full membership which entitles a holder or a delegate (*i.e.*, a lessee of a CBOT membership) to trade as principal and broker for others in all contracts traded on the CBOT, whether by open outcry, by electronic means, or otherwise, during any segment of a trading day when trading is authorized, as well as every other right or privilege granted, assigned or issued by the CBOT after September 1, 1992 to holders of CBOT full memberships as a class (but excluding any right or privilege which is the subject of an option that is granted, assigned or issued by the CBOT to a CBOT full member and which is not exercised by that CBOT full member).

The CBOT has agreed that it will maintain an effective record of every trading right and privilege granted, assigned or issued in respect of each CBOT full membership and every delegation or lease of any CBOT full membership (or of any trading right or privilege appurtenant thereto) to make such records available to CBOE promptly upon reasonable request therefor. In furtherance of these and other provisions of the Agreement, the CBOT has agreed to amend its rules and regulations to reflect these terms. The text of the proposed CBOT rule change is set forth as an exhibit to the Agreement, as is the text of the proposed revision to CBOE Rule 3.16(c), as further discussed below.

For its part, the CBOE has agreed that all "Exerciser Members"—*i.e.*, "Eligible CBOT Full Members" or "Eligible CBOT Full Member Delegates" who have exercised their right to become CBOE members pursuant to Article Fifth(b)—have the same rights and privileges of CBOE regular membership as do other "CBOE Regular Members," with the qualification that an "Exerciser Member" does not have the right to transfer (whether by sale, lease, gift, bequest or otherwise) his or her CBOE regular membership or any of the trading rights and privileges appurtenant thereto.

An "Exerciser Member" has the right to purchase or participate in the offer or distribution of any optional or additional CBOE membership or trading right or privilege offered or distributed by the CBOE after September 1, 1992 to other CBOE "Regular Members," as a class, on the same terms and conditions as other "CBOE Regular Members." In such a case, the Agreement expressly provides that any such additional membership, trading right, or privilege would be separately transferable by the "Exerciser Member" on the same basis as it may be separately transferable by other "CBOE Regular Members." Similarly, in the event that CBOE were to make a cash or property distribution to "CBOE Regular Members" as a class which has the effect of diluting the value of a CBOE membership, the Agreement stipulates that any such distribution is to be made on the same terms and conditions to "Exerciser Members."

CBOE has further agreed to establish a reasonable record date for any such offer, distribution or redemption and, solely for such purpose, to waive all membership dues, fees and other charges and all qualification requirements, other than those that may be imposed by law, that may be applicable to the application for CBOE membership of each "Eligible CBOT Full Member" and "Eligible CBOT Full Member Delegate" who wishes to exercise the rights conferred by Article Fifth(b). (Any such waiver would be effective only during the period commencing on the date on which CBOE, acting pursuant to the Agreement, gives notice to CBOT of such offer, distribution, or redemption and ending on the date that individual participates in such offer, distribution, or redemption.) In such circumstances, an "Exerciser Member" for whom dues, fees and other charges and qualification requirements have been waived will not have any rights as a CBOE member other than to participate in that offer, distribution or redemption. Further, the CBOE membership of each such "Exerciser Member" will terminate immediately following the time that individual participates in that offer, distribution or redemption.

As noted, CBOE has agreed to revise its Rule 3.16(c) in the form and manner set forth in an exhibit to the Agreement. Revised Rule 3.16(c) gives effect to the Agreement by declaring that for purposes of Article Fifth (b), the term

"member of the Board of Trade of the City of Chicago" is interpreted to mean an individual who is either an "Eligible CBOT Full Member" or an "Eligible CBOT Full Member Delegate," as those terms are defined in the Agreement, and shall not mean any other person. In addition, revised Rule 3.16(c) implements the anti-dilution provisions, the notice requirements, and the fee and qualification waivers of the Agreement.

The CBOE previously has submitted to the Commission proposed versions of Rule 3.16(c) intended to address this same subject matter in File Nos. SR–CBOE–90–11 and SR–CBOE–90–21. File No. SR–CBOE–90–11 was withdrawn on June 27, 1990. File No. SR–CBOE–21 will be withdrawn effective upon both the approval of the Agreement and revised Rule 3.16(c) as submitted herein.

The proposed rule change is consistent with section 6 of the Securities Exchange Act of 1934, in general, and provides a fair and reasonable means of interpreting Article Fifth (b) that is not designed to permit unfair discrimination between brokers or dealers.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The proposed amendments will not impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five 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 Exchange consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to File No. SR–CBOE–92–42 and should be submitted by April 7, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[1]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–6120 Filed 3–16–93; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–31982; File No. SR–MSTC–93–01]

Self-Regulatory Organizations; Midwest Securities Trust Company; Notice of Proposed Rule Change Relating to the Processing of Trade in Uniquely Denominated Securities

March 11, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on January 27, 1993, Midwest Securities Trust Company ("MSTC") 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 MSTC. 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

MSTC proposes to apply the computer logic of its existing call bond system to permit the processing of partial calls of uniquely denominated securities.

[1] 17 CFR 200.30–3(a)(12) (1992).

[1] 15 U.S.C. 78s(b)(1) (1988).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, MSTC 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. MSTC 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

The purpose of the proposed rule change is to allow MSTC to make eligible for its services uniquely denominated callable securities. A uniquely denominated security is one which has a trading denomination in an increment that is not an integral multiple of its minimum denomination. Uniquely denominated securities occur when the issuer has authorized the issuance of certificates and/or trading in a minimum, base denomination (such as $100,000) and larger denominations that are not integral multiples of the base denomination (such as $105,000, $110,000, and $115,000). Without the proposed rule change, application of MSTC's existing call lottery system to partial calls of uniquely denominated issues could reduce unintentionally participants' positions below the minimum base denomination.

Current MSTC procedures are unable to support the procedures necessary to process these partial calls and could reduce a participant's position below the minimum base denomination. The proposed rule change will permit MSTC's lottery procedures for the subject securities to allocate fairly and equitably the called quantity among participants while avoiding, where feasible, leaving participants with positions below the base denomination or converting participants' positions from an integral to a non-integral multiple of the base denomination. This change will give MSTC the ability to make these securities eligible for its services.

The proposed rule change is consistent with the requirements of section 17A(b)(3)(A) of the Act in that it promotes efficiency in the clearance and settlement of securities transactions.

B. Self-Regulatory Organization's Statement on Burden on Competition

MSTC does not believe that the proposed rule change will impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which 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 to foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of MSTC. All submissions should refer to File No. SR–MSTC–93–01 and should be submitted by April 7, 1993.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[2]

[2] 17 CFR 200.30–3(a)(12) (1992).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–6121 Filed 3–16–93; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–31983; File No. SR–NSCC–93–01]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing of Proposed Rule Change Relating to Clearing Fund Requirements

March 11, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934,[1] notice is hereby given that on January 6, 1993, National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule changes as described in Items I, II, and III below, which Items have been prepared by NSCC. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule changes would modify NSCC's rules by eliminating the right of Clearing Members to use municipal securities to collateralize their clearing fund indebtedness and to impose more specific standards for NSCC's retention of clearing funds deposits upon the retirement of a Member.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

In its filing with the Commission, NSCC 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. NSCC has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Termination of Using Municipal Securities to Collateralize Clearing Fund Indebtedness

NSCC currently permits Members to collateralize their clearing fund indebtedness with Treasury securities, municipal securities and letters of credit. Municipal securities are generally less marketable than Treasury securities and carry a higher haircut when pledged to a bank. NSCC's rules permit NSCC to pledge clearing fund collateral for liquidity purposes. By permitting Members to collateralize their clearing fund indebtedness with municipal securities, NSCC is unnecessarily restricting its liquidity resources. In order to maximize NSCC's resources, NSCC's management has determined that Members should no longer be permitted to pledge municipal securities to meet their clearing fund indebtedness. Accordingly, NSCC proposes to amend NSCC Rule 4 (Clearing Fund) to eliminate the capability of Members to use municipal securities as clearing fund collateral. Upon approval of this change, NSCC will give Members who currently use this form of collateral six months to substitute the municipal securities with other acceptable forms of collateral.

2. Retention of Clearing Fund Deposits of a Retired Member

NSCC also proposes to amend NSCC Rule 4 to impose more definitive standards for the retention of clearing fund deposits upon the retirement of a Member. Members with short positions in the continuous net settlement system are debited for dividend amounts (both cash and shares) on payable date. (Members with long positions are credited with corresponding amounts.)

NSCC states that on occasion, an issuer may fail to timely disseminate dividend information in a timely manner. Consequently, when these announcements are ultimately made, the appropriate debits are charged back to the Members who had short positions on the date the dividend amount should have been debited. If a Member has retired, NSCC has the right to collect the dividend from the Market since it was an obligation for which it was responsible while it was a Member. If NSCC retains clearing fund deposits or obtains a guarantee, NSCC faces minimal or no risk from these late dividend obligations.

Currently, NSCC Members who retire are obligated to provide an acceptable guarantee or their clearing fund deposit is retained for ninety days. However, there is no time limit within which issuers may make late dividend announcements. Based on recent experience with aged dividend claims, NSCC believes that, in the absence of a guarantee, it is appropriate to retain Clearing Fund deposits for a period of two years for Members with direct

[1] 15 U.S.C. 78s(b)(1) (1988).

accounts at The Depository Trust Company ("DTC"). For sponsored account Members, NSCC faces an additional exposure from claims due to bad deposits made at DTC prior to retirement. To protect itself from risks of this type, as well as late dividend announcements, DTC has the right to retain a retired DTC participant's deposit for a period of four years. Accordingly, NSCC will retain clearing fund deposits of sponsored account Members for the same period of time, in the absence of a guarantee.

The rule change will codify NSCC's practice of requiring a guarantee upon retirement. In the absence thereof, the rule will provide that NSCC will retain the greater of: (i) 25% of the Member's average deposit over the previous 12 months, or (ii) $100,000; or, for Members with deposits of less than $100,000, their entire deposit.

NSCC believes that the proposed rule changes will provide NSCC with better control over its clearing fund assets both during membership and after retirement. Thus, these changes are consistent with the requirements of the Act and the rules and regulations thereunder.

B. Self-Regulatory Organization's Statement on Burden on Competition

NSCC does not believe that the proposed rule changes will have an impact or impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

NSCC has notified its Members of the proposed changes to its Procedures and to date has received no written comments. NSCC will notify the Commission of any written comments received by NSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designated up to 90 days of such date if it finds such longer period to be appropriate and publishes its reason for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be approved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of NSCC. All submissions should refer to File No. SR–NSCC–93–01 and should be submitted by April 7, 1993.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[2]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–6122 Filed 3–16–93; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–31980; File No. SR–OCC–93–02]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of Proposed Rule Change Relating to the Processing of Late Exercise Requests

March 11, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on February 17, 1993, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR–OCC–93–02) as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[2] 17 C.F.R. § 200.30–3(a)(12) (1992).

[1] 15 U.S.C. § 78s(b)(1) (1988).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would amend OCC's late exercise fee schedule cut-off times to reduce the trade submission deadline from 10 p.m. to 9 p.m. on trading days when combined reported trade volume for all participant exchanges is 850,000 contracts or fewer.[2]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

In its filing with the Commission, OCC 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. OCC 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

The purpose of the proposed rule change is to amend OCC late exercise fee schedule cut-off times to advance the deadline from 10 p.m. to 9 p.m. when combined reported trade volume for all participant exchanges is 850,000 contracts or fewer. The late exercise processing deadline will remain at 10 p.m. on any day when combined reported trade volume for all participant exchanges exceeds 850,000 contracts.

1. Current Late Exercise Processing Standards

On July 1, 1991, the Commission approved OCC's proposal to amend Section (e) of OCC rule 801 [Exercise of Options].[3] As amended, rule 801(e) provides OCC with the authority to permit Clearing Members to file, revoke, or modify exercise notices after 7 p.m. for the purpose of correcting *bona fide* errors. Authority to accept or reject such "late instructions" is vested in the OCC's Chairman or the President or any delegatee of the Chairman or President.

Once a late instruction is accepted, rule 801(e) requires the Clearing Member that submits such an instruction to pay a late filing fee[4] and

[2] All times in this proposal are Central Time.

[3] Securities Exchange Act Release No. 29390 (July 1, 1991), 56 FR 31454 [File No. SR–OCC–90–03] (order approving late exercise notices).

[4] The current fees for filing late exercise notices are: $500 between 7 p.m. and 10 p.m., $2,000

Continued

to explain in writing within two business days the circumstances which led to the submission of the late instruction. The fees for late instructions are currently imposed on a schedule that increases the further into the processing cycle the instruction is received.

The purpose of the July 1, 1991, amendment of Rule 801(e) was to provide an incentive for Clearing Members to reduce the number of Clearing Member errors relating to the processing of exercise notices. This objective was achieved via the graduated fee schedule currently reflected in rule 801(e). The earlier that late exercises are submitted, the easier and less costly it is for OCC to process these exercises. Late exercises submitted prior to the start of OCC's critical processing [5] can be accommodated through standard processing or through restore and recovery mechanisms. Late exercises submitted after the start of critical processing, however, require use of supplemental assignment procedures, a process that is manually intensive and costly, requiring special handling by both OCC and the assigned Clearing Member. As post-critical processing is not automated, settlement must be effected in a broker to broker mode with the assigned member incurring additional costs. As a result of this disparity in cost and effort relating to late exercise requests, OCC's July 1, 1991, amendment proposed that the fee schedule in rule 801(e) be modified to differentiate between corrections received prior to the start of critical processing and those received afterwards thereby providing a financial incentive for Clearing Members to identify errors earlier in OCC's processing cycle.

From the time the Commission approved that amendment, OCC has processed only three requests for late exercises, and all three were received prior to 10 p.m. This represents significant improvement when compared to results for years prior to the amendment.[6] The virtual elimination of submissions after the start of critical processing prompted OCC to further analyze its late exercise rules. OCC has concluded that the reduction in Clearing Member late submission requests has been the result of three factors: (1) Clearing Member implementation of exercise notice versus trade input reconciliations; (2) the implementation of intraday trade comparison systems by participant exchanges; and (3) reduced trading volumes.

2. Proposal To Amend Late Exercise Processing Schedule

OCC now faces a problem in that it is typically ready to process exercises by 9 p.m., but it is required to wait until 10 p.m. due to the possibility of receiving a late exercise request. On most processing days when trading volume is not particularly heavy, this unnecessarily inconveniences OCC staff. Based on a review of participant exchange cut-off-time procedures for submission of trade data and distribution times for first pass reports, OCC has determined that the trend of participant exchanges to distribute trade comparison reports earlier is generally a function of reduced trading volume. On those days when transaction volume is exceptionally heavy, OCC has found that the participant exchanges have informal procedures in place that afford such exchanges additional time to process transactions.

Further, based on this review OCC has concluded that moving the late exercise cut-off time associated with a $2,000 fee from 10 p.m. to 9 p.m. is feasible except under the most extreme, high volume conditions. The participant exchange that takes the most amount of time to process trade data normally distributes first pass reports by 8 p.m. even under high volume conditions. This would leave members adequate time to reconcile the output prior to 9 p.m. on most business days.

The proposed rule change would amend OCC's late exercise fee schedule cut-off times to advance the deadline from 10 p.m. to 9 p.m. when combined reported trading volume for all participant exchanges is 850,000 contracts or fewer. As the participant exchanges may require additional time to submit trade reports to OCC when volume is particularly heavy, the late exercise processing deadline will remain 10 p.m. on any day when combined reported trade volume for all participant exchanges exceeds 850,000 contracts.

OCC believes that the proposed rule change is consistent with the purposes and requirements of section 17A of the Act,[7] as amended, because it promotes the protection of public investors and the public interest by providing an incentive for Clearing Members to identify exercise errors early in OCC's processing cycle.

B. Self-Regulatory Organization's Statement on Burden on Competition

OCC believes that the proposed rule change would not impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

OCC has not solicited or received any comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to such period that the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of OCC. All submissions should

between 10 p.m. and the start of critical processing, and $10,000 per line item listed on the exercise notice after the start of critical processing.

The term "critical processing" means that main portion of OCC processing that follows the preliminary processing and that once started cannot be shut down. OCC's critical processing typically begins between 10 p.m. and midnight.

[5] See, *supra*, note 4.

[6] In the two years prior to the July 1, 1991, amendment to OCC Rule 801(e), *supra* note 2, OCC processed twenty-one requests, seven of which were received after the completion of critical processing.

[7] 15 U.S.C. 78q–1 (1988).

refer to File No. SR–OCC–93–02 and should be submitted by April 7, 1993.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–6123 Filed 3–16–93; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–31981; File No. SR–OCC–93–01]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of a Proposed Rule Change Relating to Scheduling of Board Meetings

March 11, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on February 8, 1993, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by OCC. 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 proposed rule change would provide OCC's Board of Directors (sometimes referred to as the "Board") with greater flexibility with respect to the scheduling of regular meetings.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC 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. OCC 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

OCC's current By-Laws require the Board of Directors to hold regular meetings on a monthly basis. The By-laws further require that regular meetings in even-numbered months be held at OCC's offices in Chicago, Illinois, and regular meetings in odd-numbered months be held at OCC's offices in New York, New York, unless the Board shall provide otherwise by resolution with respect to a particular meeting.

Over time, OCC has found that it is difficult to convene all of the Directors on a monthly basis. Moreover, it is costly and time consuming for OCC to prepare an agenda and staff for such frequent meetings of the Board. Furthermore, OCC has determined that less frequent meetings of the Board are sufficient to accomplish the business of OCC. Accordingly, the proposed By-law change eliminates the monthly meeting requirement and allows the Board of Directors to schedule regular meetings at such times as the Board shall from time to time provide by resolution.

The proposed By-Law change also would allow for more flexibility with respect to the site of the Board's regular meetings. OCC no longer believes that it is necessary for the Board to alternate meeting sites between Chicago and New York. The practice was originally adopted in order to make it more convenient for the Member Directors who resided in New York to attend the meetings. However, OCC's Member Directors now reside in all parts of the country. Accordingly, OCC believes that the Board of Directors should have the authority to select an appropriate site for each meeting. The proposed By-Law change grants that authority by allowing the Board to meet at such places as it shall from time to time provide by resolution.

OCC believes that the proposed By-Law change is consistent with section 17A of the Act, as amended, because it assures fair participation in the administration of the clearing organization's affairs.

B. Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change would impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were not and are not intended to be solicited with respect to the proposed rule change, and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of OCC. All submissions should refer to the File No. SR–OCC–93–1 and should be submitted by April 7, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[2]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–6124 Filed 3–16–93; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–19328; 812–8296]

The Alliance Fund, Inc., et. al.; Notice of Application

March 11, 1993.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

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[8] 17 CFR 200.30–2(a)(12) (1991).

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 200.30–3(a)(12) (1991).

APPLICANTS: The Alliance Fund, Inc., Alliance Balanced Fund, Inc., Alliance Bond Fund, Inc., Alliance Global Small Cap Fund, Inc., Alliance Growth and Income Fund, Inc., Alliance International Fund, Inc., Alliance Mortgage Securities Income Fund, Inc., Alliance Mortgage Strategy Trust, Inc., Alliance Multi-Market Strategy Trust, Inc., Alliance Municipal Income Fund, Inc., Alliance New Europe Fund, Inc., Alliance North American Government Income Trust, Inc., Alliance Premier Fund, Inc., Alliance Quasar Fund, Inc., Alliance Short-Term Multi-Market Trust, Inc., and other registered open-end investment companies that are part of the same group of investment companies, and (a) whose investment adviser is the Adviser (as defined below) or an investment adviser that is under common control with the Adviser, (b) whose principal underwriter is the Distributor (as defined below) or a principal underwriter that is under common control with the Distributor, (c) which hold themselves out to investors as being related for purposes of investment and investor service, and (d) whose shares are divided into up to three classes of securities whose sales load, contingent deferred sales charge ("CDSC"), rate of distribution services fees, exchange privileges, conversion feature and differences in voting rights are identical to those applicable to one or more of the Class A, Class B and/or Class C shares as described in the application (the "Funds");[1] Alliance Capital Management L.P. (the "Adviser"); and Alliance Fund Distributors, Inc. (the "Distributor").

RELEVANT ACT SECTIONS: Order requested pursuant to section 6(c) of the Act to amend previous orders which granted applicants exemptive relief from the provisions of section 2(a)(32), 2(a)(35), 18(f), 18(g), 18(i), 22(c), and 22(d) of the Act and rule 22c-1 thereunder.

SUMMARY OF APPLICATION: Applicants seek to amend prior orders (the "Prior Orders") that permit the Funds to offer up to three classes of shares and to impose a CDSC on certain redemptions of one class of shares and to waive that CDSC in certain circumstances. The amendment would permit the Funds to assess a CDSC on certain redemptions of an additional class of shares and to waive that CDSC is certain cases.

FILING DATE: The application was filed on March 4, 1993.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on April 5, 1993, and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of the date of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants, 1345 Avenue of the Americas, New York, New York 10105.

FOR FURTHER INFORMATION CONTACT: James E. Anderson, Staff Attorney, at (202) 272–7027, or C. David Messman, Branch Chief, at (202) 272–3018 (Division of Investment Management, Office of Investment Company Regulation.)

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee from the SEC's Public Reference Branch.

Applicants' Representations

1. Each Fund is an open-end management investment company registered under the Act. The Adviser serves as each Fund's investment adviser and the Distributor acts as principal underwriter of the Funds' shares. Each Fund presently is authorized to offer three classes of shares: A class of shares subject to a front-end sales load and a rule 12b–1 plan distribution fee at an annual rate of up to 0.75% of the average daily net asset value of such shares ("Class A Shares"); a class of shares subject to a CDSC and a rule 12b–1 plan distribution fee at an annual rate of up to 1% of the average daily net asset value of such shares ("Class B Shares"); and a class of shares subject to rule 12b–1 distribution fee at an annual rate of up to 1%, but without either a front-end sales load or CDSC ("Class C Shares").[2] None of the Funds currently offer Class C Shares.

2. Applicants propose to modify their present triple distribution system to enable the Funds to impose a CDSC on redemptions of Class C Shares (the "Class C CDSC") if such shares are redeemed within a specified period of time following their purchase (typically the length of such period will be one year, but it can be shorter or longer). The amount of the Class C CDSC will generally be limited to 1% (but can be higher or lower percentage) of the dollar amount of the shares subject to Class C CDSC.

3. The Class C CDSC will be assessed on an amount equal to the lesser of current market value or the cost of the shares being redeemed so that no sales charge will be imposed on increases in net asset value above the original purchase price. No Class C CDSC will be imposed on Class C shares derived from the reinvestment of dividends or capital gains distributions. In determining whether a Class C CDSC is applicable with respect to a redemption of shares, it will be assumed (unless the shareholder otherwise specifically directs) that the shares being redeemed are those that will result in the lowest possible charge to the investor.

4. The Class C CDSC will be waived on redemptions: (a) Following the death or disability, as defined in section 72(m)(7) of the Internal Revenue Code, as amended ("IRC"), of a shareholder; (b) in connection with certain distributions from an individual retirement account, a custodial account maintained pursuant to IRC section 403(b)(7), or a qualified pension or profit-sharing plan; (c) of shares purchased by present or former Directors/Trustees of the Fund, by the relatives of any such person, by any trust, individual retirement account or retirement plan account for the benefit of any such person or relative, or by the estate of any such person or relative; (d) in connection with the exercise of the exchange privilege among the Class C Shares of the Funds; and (e) in connection with the exchange of Class C Shares of a Fund held by a qualified plan for Class A shares (as described in the following paragraph). The Funds will waive the Class C CDSC upon redemption of Class C Shares under the same circumstances as they are currently permitted under the prior

[1] For purposes of this application, a registered investment company of the same group of investment companies as the Funds includes such a company organized in the future, and such a company that is currently registered whose board of directors or trustees in the future determine to establish a similar multi-class distribution system.

[2] Applicants originally obtained exemptive relief to offer two classes of shares and impose a CDSC, Investment Company Act Release Nos. 17295 (Jan. 8, 1990) (notice) and 17330 (Feb. 2, 1990) (order). Applicants original order was amended to delete certain conditions, Investment Company Act Release Nos. 18734 (May 27, 1992) (notice) and 18805 (June 23, 1992) (order), and to permit applicants to offer a third class of shares and to modify their rule 12b–1 service fees, Investment Company Act Release Nos. 19203 (Dec. 31, 1992) (notice) and 19235 (Jan. 26, 1993) (order).

orders to waive the CDSC upon redemptions of Class B Shares.[3]

5. Class C Shares of a Fund generally will be exchangeable at net asset value for Class C Shares of other Funds. If the aggregate net asset value of shares of all Funds held by a qualified plan reaches the minimum amount at which an investor in a Fund may purchase Class A Shares of the Fund at net asset value without a front-end sales load on or before December 15 in any year, all Class B and Class C Shares of the Fund held by such plan may be exchanged at net asset value, without any sales charge, for Class A Shares of the Fund shortly before the end of the calendar year.

6. At the time the Prior Order was issued, it was contemplated that the proceeds from the distribution fees attributable to the Class C Shares would be used by the Distributor to pay trail or maintenance commissions to financial intermediaries during the first year after sale and during subsequent years so long as the shares remain outstanding. It is now contemplated that financial intermediaries selling Class C Shares may be compensated by the Distributor with a commission at the time of sale, and with trail or maintenance commissions beginning with the first year after sale and so long thereafter as the shares remain outstanding.

Applicants' Legal Conclusion

Modification of the Prior Order to permit the assessment of a Class C CDSC upon certain redemptions of the Class C Shares and the waiver of the Class C CDSC on certain of those redemptions would be in the best interests of the shareholders of the Funds. Thus, granting the requested order would be appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants' Condition

Applicants agree that any order granting the requested relief shall be subject to the following condition:

Applicants will comply with the provisions of proposed Rule 6c–10 under the Act, Investment Company Act Release No. 16169 (Nov. 2, 1988), as such rule is currently proposed and as it may be reproposed, adopted, or amended.

[3] The Division of Investment Management notes that the circumstances under which the Funds may waive the CDSC are described more fully in the notice of the Funds' prior application, Investment Company Act Release No. 19203 (Dec. 23, 1992).

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–6125 Filed 3–16–93; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–19325; 811–6124]

Axe-Houghton Funds, Inc.; Notice of Application

March 11, 1993.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: Axe-Houghton Funds, Inc.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on December 17, 1992 and amended on March 5, 1993.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on April 6, 1993, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, c/o USF&G Investment Management Group, Inc., 100 Light Street, Baltimore, Maryland 21202.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Staff Attorney, at (202) 272–3026, or Barry D. Miller, Senior Special Counsel, at (202) 272–3018 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant, a Maryland corporation, is an open-end diversified management investment company that may issue more than one series of common stock with each series representing a separate investment portfolio. On June 26, 1990, applicant registered under the Act and filed a registration statement on Form N–1A pursuant to section 8(b) of the Act. A registration statement under the Securities Act of 1933 was filed on June 26, 1990 for the following series: Axe-Houghton Income Fund ("Axe Income"), Axe-Houghton Fund B ("Axe Fund B"), Axe-Houghton Insured Tax-Exempt Fund ("Insured"), Axe Core International ADR Fund ("ADR"), and Axe-Houghton Growth Fund ("Axe Growth"). The registration statement was declared effective and the initial public offering commenced on September 19, 1990.

2. As of July 31, 1991, Insured had approximately 25 public shareholders owning less than 1% of its net assets; its remaining assets were held by USF&G Corporation and its affiliates ("USF&G"). At a meeting held on September 5, 1991, applicant's board of directors determined that offers and sales of Insured's shares should cease and that public shareholders should be notified. Thereafter, all public shareholders of Insured were contacted by letter and were requested to redeem their shares. As of November 18, 1991, all shareholders of Insured other than USF&G had redeemed their shares. The aggregate amount paid to redeeming public shareholders of Insured was approximately $259,000.

3. As of April 30, 1992, ADR had approximately 30 public shareholders owning less than 1% of its net assets; its remaining assets were held by USF&G. At a meeting held on May 28, 1992 applicant's board of directors determined that offers and sales of ADR's shares should cease and that public shareholders should be notified. Thereafter, all public shareholders of ADR were contacted by letter and were requested to redeem their shares. As of July 31, 1992, all shareholders of ADR other than USF&G had redeemed their shares. The aggregate amount paid to redeeming public shareholders of ADR was approximately $155,000.

4. The redemption price paid to each redeeming shareholder of Insured and ADR was the net asset value per share next determined after receipt of the redemption request. Following the redemption of the public shareholders, portfolio investments of Insured and ADR were liquidated, all liabilities paid or provided for, and the net assets of each were distributed to USF&G upon redemption of its shares of Insured and ADR and in complete liquidation of each.

5. In connection with the liquidation of ADR and Insured, all securities were sold. Brokerage commissions were incurred after the redemption of all public shareholders and were therefore paid entirely by USF&G and not by the public shareholders.

6. On June 24, 1992, applicant's board of directors approved an agreement and plan of reorganization (the "Plan") with (a) T. Rowe Price New Income Inc. (the "Price Income"), on behalf of Axe Income, (b) T. Rowe Price Balanced Fund, Inc. ("Price Balanced"), on behalf of Axe Fund B, and (c) T. Rowe Price New America Growth Fund ("Price Growth"), on behalf of Axe Growth. (Collectively, Price Income, Price Balanced, and Price Growth are the "Price Funds.") On July 15, 1992, applicant mailed proxy materials to its shareholders. At a meeting held on August 26, 1992, applicant's shareholders approved the Plan.

7. On August 31, 1992, Axe Income, Axe Fund B, and Axe Growth transferred substantially all of their assets to the corresponding Price Fund in exchange for shares of the Price Funds having an aggregate net asset value equal to the aggregate value of the assets so transferred as of the close of regular trading on the New York Stock Exchange on August 28, 1992, the business day immediately preceding the closing date of the reorganization transaction (the "Valuation Date"). The Price Funds did not assume nor was it otherwise responsible for any liabilities of applicants. The number of Price Fund shares issued to applicant in the exchange was determined by dividing the aggregate value of applicant's assets transferred by the net asset value per share of the Price Funds as of the close of regular trading on the Valuation Date. Shareholders of Axe Income received 0.580 shares of Price Income for each of share held; shareholders of Axe Fund B received 0.904 shares of Price Balanced for each share held; and shareholders of Axe Growth received 0.310 shares of Price Growth for each share held. Immediately after the exchange applicant distributed to its shareholders of record as of the close of business on the Valuation Date the full and fractional shares of the Price Fund received in the exchange.

8. Unamortized organization expenses and all expenses incurred in connection with the liquidation of ADR and Insured and the reorganization, other than the meeting fees of the independent directors for the special joint meetings of the boards of directors of USF&G's family of mutual funds held in connection with the reorganization and other reorganizations, were borne by USF&G Corporation. The special meeting fees were allocated among six USF&G mutual funds (including Axe Income, Axe Fund B, and Axe Growth, but not including Insured and ADR) on the basis of their relative net assets.

9. There are no securityholders to whom distributions in complete liquidation of their interests have not been made. Applicant has no debts or other liabilities that remain outstanding. Applicant is not a party to any litigation or administrative proceeding.

10. On November 10, 1992, articles of dissolution of applicant were accepted for record by the State Department of Assessments and Taxation of Maryland, and applicant was dissolved as a Maryland corporation.

11. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding up of its affairs.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 93–6126 Filed 3–16–93; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–19324; 811–1487]

Capital Corporation of America; Application for Deregistration

March 11, 1993.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: Capital Corporation of America.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on June 8, 1992, and amended on August 28, 1992, and February 24, 1993.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on April 5, 1993 and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, 225 South 15th Street, Philadelphia, PA 19102.

FOR FURTHER INFORMATION CONTACT: Nicholas D. Thomas, Staff Attorney, at (202) 504–2263, or Elizabeth G. Osterman, Branch Chief, at (202) 272–3016 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is a Pennsylvania corporation and a closed-end management investment company registered under the Act. On June 28, 1967, applicant filed a registration statement pursuant to section 8(b) of the Act. On the same date, applicant filed a registration statement under the Securities Act of 1933 on Form N–5. That registration statement became effective on approximately September 17, 1970, and on such date the public offering of applicant's shares commenced. Applicant has engaged in no other public offering of its shares.

2. Applicant was engaged in business as a licensed small business investment company ("SBIC") and was primarily engaged in making loans to small business organizations in accordance with the Small Business Investment Act of 1958. Applicant ceased making new investments in small business concerns in June 1990 and has since been engaged in winding up its affairs in an orderly manner. Applicant relinquished its license to operate as an SBIC on February 10, 1992, when it repaid its outstanding obligations to the Small Business Administration.

3. Applicant has not held itself out to the public as being engaged in the business of investing in securities since June 1990. Applicant is not engaged in the business of investing, reinvesting, owning, holding, or trading in securities, and does not own investment securities having a value exceeding forty percent of the value of applicant's total assets. Further, applicant does not propose to engage in such activities or to acquire any securities.

4. As of January 31, 1993, applicant had $104,700 in assets, consisting of cash and direct interest in real estate. As

of the same date, applicant had total liabilities of $1,000.

5. As of March 31, 1992, applicant had net operating loss carryovers of approximately $780,000, expiring in various amounts through the year 2005. Applicant's board of directors intends to dissolve applicant unless prior to dissolution applicant's board of directors is able to sell applicant or a majority of its shares to a company that can utilize applicant's net operating loss carryovers, or otherwise acquire applicant or a controlling interest therein, in which case they will do so. Otherwise, the board of directors will proceed to solicit a vote of stockholders to dissolve applicant and distribute its net assets to its stockholders in accordance with the Pennsylvania law, which provides that all shareholders will share ratably in all net assets available for distribution.

6. As conditions to any order of deregistration, applicant undertakes (a) to limit its expenses to those necessary to conduct its business and those attendant to a reorganization or acquisition of applicant, including a sale, merger, consolidation, or other reorganization, and (b) in the event it is unable to consummate any reorganization or sale by not later than December 31, 1996, applicant's board of directors will take the actions necessary to solicit a vote of applicant's shareholders to dissolve applicant and distribute its net assets to shareholders as described above.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93-6127 Filed 3-16-93; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-19326; 811-6163]

Chancellor Funds, Inc.; Notice of Application

March 11, 1993.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: Chancellor Funds, Inc.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The Application was filed on December 29, 1992 and amended on March 5, 1993.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on April 6, 1993, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, c/o USF&G Investment Management Group, Inc., 100 Light Street, Baltimore, MD 21202.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Staff Attorney, at (202) 272-3026, or Barry D. Miller, Senior Special Counsel, at (202) 272-3018 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end diversified investment company that was organized as a corporation under the laws of the State of Maryland. On August 31, 1990, applicant registered under the Act and filed a registration statement pursuant to section 8(b) of the Act. Also on August 31, 1990, a registration statement under the Securities Act of 1933 was filed relating to shares of applicant's Chancellor Growth and Income Fund series and Chancellor Fixed Income Reserve series. (Collectively, the Chancellor Growth and Income Fund and the Chancellor Fixed Income Reserve Fund series are referred to as the "funds.") The registration statement was declared effective and the initial public offering commenced on November 20, 1990.

2. As of April 30, 1992, USF&G Corporation and its affiliates ("USF&G") owned in excess of 99% of the net assets of applicant. At a meeting held on May 28, 1992, applicant's board of directors determined that continued operation of applicant would not be viable and that further offers and sales of shares of the funds should cease. It was further determined by the board of directors that public shareholders should be advised of the events and given the opportunity to redeem their shares at net asset value. Thereafter, all public shareholders were contacted by letter and requested to redeem their shares.

3. As of July 31, 1992, all shareholders of the funds, other than USF&G, had redeemed their shares. The redemption price paid to each redeeming shareholder was the net asset value per share next determined after receipt of his or her redemption request, computed as provided in the current prospectuses of the funds. The aggregate amount paid to redeeming public shareholders of the Chancellor Growth and Income Fund was approximately $194,000 and the aggregate amount paid to redeeming public shareholders of the Chancellor Fixed Income Reserve Fund was approximately $51,500. Following the redemption of all public shareholders, USF&G redeemed its share of the funds, the remaining portfolio investments of applicant were liquidated, all liabilities were paid or provided for, and the net assets were distributed to USF&G upon redemption of its shares in complete liquidation of applicant.

4. All unamortized organization expenses were borne by USF&G. All expenses, including legal, accounting, and other general and administrative expenses, relating to the liquidation of the funds and the winding-up of the affairs of applicant were borne by USF&G.

5. The liquidation of the portfolios did not occur until all public shareholders had redeemed their shares. Thereafter, all securities were sold. All brokerage commissions in connection with the sale of securities were incurred after the redemption of all public shareholders, and were therefore paid entirely by USF&G and not by the public shareholders.

6. At April 30, 1992, applicant had the following securities outstanding: 2,534,628 shares of the Chancellor Growth and Income fund having an aggregate net asset value of $32,441,003 and a per share net asset value of $12.80; and 2,503,502 shares of the Chancellor Fixed Income Reserve Fund having an aggregate net asset value of $25,745,900 and a per share net asset value of $10.28. At April 30, 1992, USF&G held shares of Chancellor Growth and Income Fund and Chancellor Fixed Income Reserve Fund with a value of approximately $32.3 million and $25.7 million, respectively, or 99.4% and 99.8% of the net assets of the funds, respectively.

7. There are no securityholders to whom distributions in complete

liquidation of their interests have not been made. Applicant has no debts or other liabilities that remain outstanding. Applicant is not a party to any litigation or administrative proceeding. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding up of its affairs.

8. On November 10, 1992, articles of dissolution of applicant were accepted for record by the State Department of Assessments and Taxation of Maryland, and applicant was dissolved as a Maryland corporation.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–6128 Filed 3–16–93; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–19327; 811–6164]

USF&G Tax-Exempt Money Market Funds, Inc.; Notice of Application

March 11, 1993.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: USF&G Tax-Exempt Money Market Funds, Inc.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on December 29, 1992 and amended on March 5, 1993.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on April 6, 1993, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, c/o USF&G Investment Management Group, Inc., 100 Light Street, Baltimore, MD 21202.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Staff Attorney, at (202) 272–3026, or Barry D. Miller, Senior Special Counsel, at (202) 272–3018 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end diversified investment company that was organized as a corporation under the laws of the State of Maryland. On August 31, 1990, applicant registered under the Act and filed a registration statement pursuant to section 8(b) of the Act. Also on August 31, 1990, a registration statement under the Securities Act of 1933 was filed. The registration statement was declared effective and the initial public offering commenced on November 20, 1990.

2. As of August 31, 1991, USF&G Corporation and its affiliates ("USF&G") owned 99% of the net assets of applicant. At a meeting held on September 5, 1991, applicant's board of directors determined that continued operation of applicant would not be viable and that further offers and sales of shares of applicant should cease. It was further determined by the board of directors that public shareholders should be advised of the events and given the opportunity to redeem their shares at net asset value. Thereafter, all public shareholders were contacted by letter and requested to redeem their shares.

3. As of October 31, 1991, all shareholders of applicant, other than USF&G had redeemed their shares. The redemption price paid to each redeeming shareholder was the net asset value per share next determined after receipt of his or her redemption request, computed as provided in the current prospectus of applicant. The aggregate amount paid to redeeming public shareholders was approximately $100,000. Following the redemption of all public shareholders, USF&G redeemed its shares of applicant, the remaining portfolio investments of applicant matured or were liquidated, all liabilities were paid or provided for, and the net assets were distributed to USF&G upon redemption of its shares and in complete liquidation of applicant.

4. All unamortized organization expenses were borne by USF&G. All expenses, including legal, accounting, and other general and administrative expenses, relating to the liquidation of the fund and the winding-up of the affairs of applicant were borne by USF&G.

5. The liquidation of the portfolios did not occur until all public shareholders had redeemed their shares. Thereafter, all securities matured or were sold. No brokerage commissions were incurred in connection with the sale of the securities.

6. At August 31, 1991, applicant had 10,099,197 shares of the fund outstanding with an aggregate net asset value of $10,099,197 and a per share net asset value of $1.00. As of the same date, USF&G held shares of applicant with a value of approximately $10.0 million or 99.0% of the net assets of the fund.

7. There are no securityholders to whom distributions in complete liquidation of their interests have not been made. Applicant has no debts or other liabilities that remain outstanding. Applicant is not a party to any litigation or administrative proceeding. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding up of its affairs.

8. On November 10, 1992, articles of dissolution of applicant were accepted for record by the State Department of Assessments and Taxation of Maryland, and applicant was dissolved as a Maryland corporation.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–6129 Filed 3–16–93; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Receipt of Noise Compatibility Program and Request for Review; Reno Cannon International Airport, Reno, NV

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces that it is reviewing a proposed noise compatibility program that was submitted for Reno Cannon International Airport, Reno, Nevada, under the provisions of title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96–193) (hereinafter referred to as "the Act") and 14 CFR

part 150 by Reno Cannon International Airport District. This Program was submitted subsequent to a determination by FAA that associated noise exposure maps submitted under 14 CFR part 150 for Reno Cannon International Airport were in compliance with applicable requirements effective February 22, 1993. The proposed noise compatibility program will be approved or disapproved on or before September 1, 1993.

EFFECTIVE DATE: The effective date of the start of FAA's review of the noise compatibility program is March 5, 1993. The public comment period ends May 4, 1993.

FOR FURTHER INFORMATION CONTACT: Joseph R. Rodriguez, Planning/Programming Section Supervisor, Federal Aviation Administration, San Francisco Airports District Office, 831 Mitten Road, Burlingame, California 94010–1303, Telephone (415) 876–2805. Comments on the proposed noise compatibility program should also be submitted to the above office.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA is reviewing a proposed noise compatibility program for Reno Cannon International Airport that will be approved or disapproved on or before September 1, 1993. This notice also announces the availability of this program for public review and comment.

An airport operator who has submitted noise exposure maps that are found by FAA to be in compliance with the requirements of Federal Aviation Regulations (FAR) part 150, promulgated pursuant to title I of the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

The FAA has formally received the noise compatibility program for Reno Cannon International Airport, effective on August 3, 1990. It was requested that the FAA review this material and that the noise mitigation measures, to be implemented jointly by the airport and surrounding communities, be approved as a noise compatibility program under section 104(b) of the Act. Preliminary review of the submitted material indicates that it conforms to the requirements for the submittal of noise compatibility programs, but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before September 1, 1993.

The FAA's detailed evaluation will be conducted under the provisions of 14 CFR part 150, § 150.33. The primary considerations in the evaluation process are whether the proposed measures may reduce the level of aviation safety, create an undue burden on interstate or foreign commerce, or be reasonably consistent with obtaining the goal of reducing existing noncompatible land uses and preventing the introduction of additional noncompatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments, other than those properly addressed to local land use authorities, will be considered by the FAA to the extent practicable. Copies of the noise exposure maps, the FAA's evaluation of the maps, and the proposed noise compatibility program are available for examination at the following locations:

Federal Aviation Administration, 800 Independence Avenue, SW., room 617, Washington, DC 20591

Federal Aviation Administration, San Francisco Airports District Office, 831 Mitten Road, Burlingame, California 94010–1303

Mr. Robert C. White, Executive Director, Airport Authority of Washoe County, Box 12490, Reno, Nevada 89510.

Questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT.**

Issued in Hawthorne, California on March 5, 1993.

Herman C. Bliss,

Manager, Airports Division, Western-Pacific Region.

[FR Doc. 93–6098 Filed 3–16–93; 8:45 am]

BILLING CODE 4910–13–M

[Summary Notice No. PE–93–14]

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.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before April 6, 1993.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–10), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, DC 20591.

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–10), room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Mrs. Jeanne Trapani, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–7624.

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, DC, on March 11, 1993.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: 25776
Petitioner: Lynch Flying Service, Inc.
Sections of the FAR Affected: 14 CFR 43.3(g)
Description of Relief Sought: To allow appropriately trained and certificated pilots employed by Lynch Flying Service, Inc., to remove and replace passenger seats, ambulatory stretchers, and base assemblies in its Cessna 400 Series aircraft when such are being used in air ambulance service.

Docket No.: 25974
Petitioner: Air Transport Association
Sections of the FAR Affected: 14 CFR 47.49 and 91.27
Description of Relief Sought: To extend the termination date of Exemption No. 5318, which expires July 30, 1993, and which allows Air Transport Association to temporarily operate

registered, airworthy aircraft within the United States without the actual registration or airworthiness certificates on board.

Docket No.: 26990
Petitioner: Mr. Tim Meidinger
Sections of the FAR Affected: 14 CFR 45.29(b)(1)
Description of Relief Sought: To allow Mr. Meidinger to refurbish a Champion Model 7GCAA, N6726N airplane to include 3-inch registration marks in lieu of the required 12-inch marks.

Docket No.: 27126
Petitioner: Columbia Helicopters, Inc.
Sections of the FAR Affected: 14 CFR 29.1459, 91.609(a), and 135.152(b)
Description of Relief Sought: To allow Columbia Helicopters, Inc., to operate their Boeing Vertol 234 helicopters configured for a maximum of 20 seats without a flight recorder installed while contracted to the U.S. Government or State agencies in support of fire suppression operations.

Docket No.: 27161
Petitioner: Air Transport Association
Sections of the FAR Affected: 14 CFR 121.417(c)(2)(ii)(B)
Description of Relief Sought: To relieve Air Transport Association member airlines from the requirement to train crewmembers, initially and every 24 calendar months, on the transfer of aircraft slide/raft packs from one door to another.

Docket No.: 27184
Petitioner: AOPA Air Safety Foundation
Sections of the FAR Affected: 14 CFR 61.197(c)
Description of Relief Sought: To allow AOPA Air Safety Foundation to conduct a 16-hour flight instructor refresher clinic instead of the required minimum 24 hours of ground or flight instruction, or both.

Dispositions of Petitions

Docket No.: 23147
Petitioner: Boeing Commercial Airplane Group
Sections of the FAR Affected: 14 CFR 91.515(a)(1)
Description of Relief Sought/ Disposition: To extend the termination date of Exemption No. 4783 to allow Boeing Commercial Airplane Group to permit noise measurement tests, Ground Proximity Warning System research and development, and FAA certification flight tests at altitudes lower than 1,000 feet above the surface.
Grant, March 4, 1993, Exemption No. 4783C

Docket No.: 25620
Petitioner: Hamilton Aviation
Sections of the FAR Affected: 14 CFR 145.37(b)
Description of Relief Sought/ Disposition: To allow Hamilton Aviation to apply for a Class IV airframe rating without complying with the permanent housing requirements of the FAR.
Denial, March 5, 1993, Exemption No. 5611

Docket No.: 26976
Petitioner: U.S. Coast Guard and Dept. of Transportation
Sections of the FAR Affected: 14 CFR 91.119(c)
Description of Relief Sought/ Disposition: To allow permanent relief for operations over other-than-congested areas at an altitude less than 500 feet, and in the case of operations over open water or sparsely populated areas, at a distance closer than 500 feet to any person, vessel, vehicle, or structure for the purpose of rescuing and aiding persons and protecting and saving property.
Partial Grant, March 4, 1993, Exemption No. 5614

Docket No.: 27029
Petitioner: Northern Crossings Aviation
Sections of the FAR Affected: 14 CFR 43.3(g)
Description of Relief Sought/ Disposition: To allow Mr. Tiberio DeSousa, owner and pilot for Northern Crossings Aviation, to remove and reinstall passenger seats in company aircraft used in part 135 operations whenever a certificated mechanic is not available.
Grant, March 4, 1993, Exemption No. 5612

[FR Doc. 93–6091 Filed 3–16–93; 8:45 am]
BILLING CODE 4910–13–M

Air Traffic Procedures Advisory Committee

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public that a meeting of the Federal Aviation Administration Air Traffic Procedures Advisory Committee (ATPAC) will be held to review present air traffic control procedures and practices for standardization, clarification, and upgrading of terminology and procedures.

DATES: The meeting will be held from April 19 through April 22, 1993, from 8:30 a.m. to 5 p.m. each day.

ADDRESSES: The meeting will be held in the MacCracken Room at the Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Timothy E. Halpin, Executive Director, ATPAC, Air Traffic Rules and Procedures Service, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–3725.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. app. 2), notice is hereby given of a meeting of the ATPAC to be held from April 19 through April 22, 1993, in the MacCracken Room at the Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC.

The agenda for this meeting will cover: a continuation of the Committee's review of present air traffic control procedures and practices for standardization, clarification, and upgrading of terminology and procedures. It will also include:

1. Approval of minutes.
2. Discussion of agenda times.
3. Discussion of urgent priority items.
4. Report from Executive Director.
5. Old Business.
6. New Business.
7. Discussion and agreement of location and dates for subsequent meetings.

Attendance is open to the interested public but limited to the space available. With the approval of the Chairperson, members of the public may present oral statements at the meeting. Persons desiring to attend and persons desiring to present oral statements should notify the person listed above not later than April 16, 1993. The next quarterly meeting of the FAA ATPAC is planned to be held from July 12–16, 1993, the Montreal, CN. Any member of the public may present a written statement to the Committee at any time at the address given above.

Issued in Washington, DC, on March 11, 1993.

Paul H. Strybing,

Manager, Procedures Division, ATP–100.

[FR Doc. 93–6093 Filed 3–16–93; 8:45 am]
BILLING CODE 4910–13–M

Passenger Facility Charge (PFC) Approvals and Disapprovals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Monthly Notice of PFC Approvals and Disapprovals. In February 1993, there were five applications approved.

SUMMARY: The FAA publishes a monthly notice, as appropriate, of PFC approvals and disapprovals 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). This notice is published pursuant to paragraph d of § 158.29.

PFC Applications Approved

Public Agency: Blair County Airport Authority, Altoona, Pennsylvania.
Application Type: Impose and Use PFC Revenue.
PFC Level: $3.00.
Total Approved Net PFC Revenue: $198,000.
Earliest Permissible Charge Effective Date: May 1, 1993.
Duration of Authority to Impose: February 1, 1996.
Class of Air Carriers Not Required to Collect PFC's: Part 135 non-scheduled operators.
Determination: Approved. The FAA has determined that the proposed class accounts for less than 1 percent of the airport's total annual enplanements.
Brief Description of Projects Approved to Impose and Use: Land acquisition for airport entrance road, construct airport entrance road, north apron rehabilitation, T-hangar access taxiways, terminal improvements-phone II.
Brief Description of Projects Approved to Impose Only: Land acquisition for approach protection, acquisition of aviation easements, design runway 2/20 improvements, design runway 12/30 improvements, environmental assessment for airfield improvements.
Decision Date: February 5, 1993.

FOR FURTHER INFORMATION CONTACT: Larry W. Walsh, Harrisburg Airports District Office, (717) 975–3423.

Public Agency: Jackson Municipal Airport Authority, Jackson, Mississippi.
Application Type: Impose and Use PFC Revenue.
PFC Level: $3.00.
Total Approved Net PFC Revenue: $1,918,855.
Earliest Permissible Charge Effective Date: May 1, 1993.
Duration of Authority to Impose: April 1, 1995.
Class of Air Carriers Not Required to Collect PFC's: None.
Brief Description of Projects Approved to Impose and Use at Jackson International Airport (JAN): Rehabilitate energy management system-terminal, matching share on Airport Improvement Program (AIP) project-east runway.
Brief Description of Projects Approved for Collection at JAN and Use at Hawkins Field Airport (HKS): Conduct HKS master plan update, environmental assessment for runway 16/34 extension.
Brief Description of Projects Disapproved at JAN: Fuel farm clean-up/restoration.
Determination: This project is not AIP eligible under appendix 2 of FAA Order 5100.38A. Therefore, this project is not PFC eligible. Environmental assessment for runway extension.
Determination: This project is not AIP eligible, at this time, under paragraph 521b(2) of FAA Order 5100.38A. Insufficient justification has been submitted to the FAA to support a runway extension. The FAA has determined an environmental assessment for the proposed extension is premature and not presently AIP eligible. Therefore, this project is not PFC eligible.
Decision Date: February 10, 1993

FOR FURTHER INFORMATION CONTACT: Elton E. Jay, Jackson Airports District Office, (601) 965–4628.

Public Agency: Sonoma County, Santa Rosa, California.
Application Type: Impose and Use PFC Revenue.
PFC Level: $3.00.
Total Approved Net PFC Revenue: $110,500.
Earliest Permissible Charge Effective Date: May 1, 1993.
Duration of Authority to Impose: April 1, 1995.
Class of Air Carriers Not Required to Collect PFC's: None.
Brief Description of Projects Approved to Impose and Use: Update airport master plan, airport security, drainage, taxiway, roadway, and ramp improvements.
Brief Description of Project Withdrawn: Approach zone resident relocation.
Determination: Sonoma County withdrew this project from its application by letter to the FAA dated July 30, 1992.
Decision Date: February 19, 1993.

FOR FURTHER INFORMATION CONTACT: Joseph R. Rodriguez, San Francisco Airports District Office, (415) 876–2778.

Public Agency: City of San Jose, San Jose, California.
Application Type: Use PFC Revenue.
PFC Level: $3.00.
Total Approved Net PFC Revenue: $25,728,826.
Charge Effective Date: September 1, 1992.
Duration of Authority to Impose: August 1, 1995.
Class of Air Carriers Not Required to Collect PFC's: Previously approved in June 11, 1992, decision.
Brief Description of Projects Approved to Use PFC Revenue: Runway 12R/30L extension, sign program.
Decision Date: February 22, 1993

FOR FURTHER INFORMATION CONTACT: Joseph R. Rodriguez, San Francisco Airports District Office, (415) 876–2778.

Public Agency: City of San Angelo, San Angelo, Texas.
Application Type: Impose and Use PFC Revenue.
PFC Level: $3.00.
Total Approved Net PFC Revenue: $873,716.
Earliest Permissible Charge Effective Date: May 1, 1993.
Duration of Authority to Impose: November 1, 1998.
Class of Air Carriers not Required to Collect PFC's: Part 135 air charters who operated aircraft with a seating capacity of less than 10 passengers.
Determination: Approved. The FAA has determined that the proposed class accounts for less than 1 percent of the airport's total annual enplanements.
Brief Description of Projects Approved to Impose and Use: Overlay and groove runaway 3–21, south general aviation area pavement, groove, runway 18–36, and signage improvements including distance remaining signs, environmental assessment for runway extensions, master plan update, upgrade existing runway 18–36 and taxiway P lighting, overlay taxiway C.
Brief Description of Projects Approved to Impose Only: Perimeter/emergency road, extend runway 36 and parallel taxiway (phase 1) and runway 3–21, relocate instrument landing system/approach light system for runway 3, security upgrade, land acquisition, extend taxiways, access roads, and fencing for general aviation development (phase 1).
Decision Date: February 24, 1993.

FOR FURTHER INFORMATION CONTACT: William Perkins, Southwest Region Airports Division, (817) 624–5979.

Issued in Washington, DC on March 11, 1993.

Lowell Johnson,

Manager, Airports Financial Assistance Division.

CUMULATIVE LIST OF PFC APPLICATIONS PREVIOUSLY APPROVED

State, airport, city	Date approved	Level of PFC	Total approved net PFC revenue	Earliest charge effective date	Estimated charge expiration date[1]
Alabama:					
Huntsville Intl—Carl T. Jones Field, Huntsville	03/06/1992	$3	$20,831,051	06/01/1992	11/01/2008
Muscle Shoals Regional, Muscle Shoals	02/18/1992	3	104,100	06/01/1992	02/01/1995
Arizona:					
Flagstaff Pulliam, Flagstaff	09/29/1992	3	2,463,581	12/01/1992	01/01/2015
California:					
Arcata, Arcata	11/24/1992	3	188,500	02/01/1993	05/01/1994
Inyokern, Inyokern	12/10/1992	3	127,500	03/01/1993	09/01/1995
Metropolitan Oakland International, Oakland	06/26/1992	3	8,736,000	09/01/1992	09/01/1993
Palm Springs Regional, Palm Springs	06/25/1992	3	44,612,350	10/01/1992	06/01/2019
Sacramento Metropolitan, Sacramento	01/26/1992	3	24,045,000	04/01/1993	03/01/1996
San Jose International, San Jose	06/11/1992	3	25,728,826	09/01/1992	08/01/1995
San Luis Obispo County—McChesney Fie, San Luis Obispo	11/24/1992	3	502,437	03/01/1993	02/01/1995
Lake Tahoe, South Lake Tahoe	05/01/1992	3	928,747	08/01/1992	03/01/1997
Colorado:					
Colorado Springs Municipal, Colorado Springs	12/22/1992	3	5,622,000	03/01/1993	02/01/1996
Denver International (New), Denver	04/28/1992	3	2,330,734,321	07/01/1992	01/01/2026
Walker Field, Grand Junction	01/15/1993	3	1,812,000	04/01/1993	03/01/1998
Steamboat Springs/Bob Adams Field, Steamboat Springs	01/15/1993	3	1,887,337	04/01/1993	04/01/2012
Telluride Regional, Telluride	11/23/1992	3	200,000	.....	11/01/1997
Florida:					
Southwest Florida Regional, Fort Myers	08/31/1992	3	257,673,262	11/01/1992	06/01/2015
Key West International, Key West	12/17/1992	3	945,937	03/01/1993	12/01/1995
Marathon, Marathon	12/17/1992	3	153,556	03/01/1993	06/01/1995
Orlando International, Orlando	11/27/1992	3	167,574,527	02/01/1993	02/01/1998
Pensacola Regional, Pensacola	11/23/1992	3	4,715,000	02/01/1993	04/01/1996
Sarasota-Bradenton, Sarasota	06/29/1992	3	38,175,000	09/01/1992	09/01/2005
Tallahassee Regional, Tallahassee	11/13/1992	3	8,617,154	02/01/1993	12/01/1998
Georgia:					
Savannah International, Savannah	01/23/1992	3	39,501,502	07/01/1992	03/01/2004
Valdosta Regional, Valdosta	12/23/1992	3	260,526	03/01/1993	10/01/1997
Idaho:					
Idaho Falls Municipal, Idaho Falls	10/30/1992	3	1,500,000	01/01/1993	01/01/1998
Twin Falls-Sun Valley Regional, Twin Falls	08/12/1992	3	270,000	11/01/1992	05/01/1998
Illinois:					
Greater Rockford, Rockford	07/24/1992	3	1,177,348	10/01/1992	10/01/1996
Capital, Springfield	03/27/1992	3	682,306	06/01/1992	05/01/1994
Iowa:					
Dubuque Regional, Dubuque	10/06/1992	3	108,500	01/01/1993	05/01/1994
Louisiana:					
Baton Rouge Metropolitan, Ryan Field, Baton Rouge	09/28/1992	3	9,823,159	12/01/1992	12/01/1998
Maryland:					
Baltimore-Washington International, Baltimore	07/27/1992	3	141,866,000	10/01/1992	09/01/2002
Massachusetts:					
Worcester Municipal, Worcester	07/28/1992	3	2,301,382	10/01/1992	10/01/1997
Michigan:					
Detroit Metropolitan-Wayne County, Detroit	09/21/1992	3	640,707,000	12/01/1992	06/01/2009
Delta County, Escanaba	11/17/1992	3	158,325	02/01/1993	08/01/1996
Kent County International, Grand Rapids	09/09/1992	3	12,450,000	12/01/1992	05/01/1998
Marquette County, Marquette	10/01/1992	3	459,700	12/01/1992	04/01/1996
Pellston Regional Airport of Emmet C, Pellston,	12/22/1992	3	440,875	03/01/1993	06/01/1995
Minnesota:					
Minneapolis-St. Paul International, Minneapolis	03/31/1992	3	66,355,682	06/01/1992	08/01/1994
Mississippi:					
Golden Triangle Regional, Columbus	05/08/1992	3	1,693,211	08/01/1992	09/01/2006
Gulfport-Biloxi Regional, Gulfport-Biloxi	04/03/1992	3	384,028	07/01/1992	12/01/1993
Hattiesburg-Laurel Regional, Hattiesburg-Laurel	04/15/1992	3	119,153	07/01/1992	01/01/1998
Key Field Meridian	08/21/1992	3	122,500	11/01/1992	06/01/1994
Missouri:					
Lambert-St. Louis International, St. Louis	09/30/1992	3	84,607,850	12/01/1992	03/01/1996
Montana:					
Great Falls International, Great Falls	08/28/1992	3	3,010,900	11/01/1992	07/01/2002
Helena Regional, Helena	01/15/1993	3	1,056,190	04/01/1993	12/01/1999
Missoula International, Missoula	06/12/1992	3	1,900,000	09/01/1992	08/01/1997
Nevada:					
McCarran International, Las Vegas	02/24/1992	3	944,028,500	06/01/1992	02/01/2014
New Hampshire:					
Manchester, Manchester	10/13/1992	3	5,461,000	10/01/1993	03/01/1997

CUMULATIVE LIST OF PFC APPLICATIONS PREVIOUSLY APPROVED—Continued

State, airport, city	Date approved	Level of PFC	Total approved net PFC revenue	Earliest charge effective date	Estimated charge expiration date[1]
New Jersey:					
Newark International, Newark	07/23/1992	3	84,600,000	10/01/1992	08/01/1995
New York:					
Greater Buffalo International, Buffalo	05/29/1992	3	189,873,000	08/01/1992	03/01/2026
Tompkins County, Ithaca	09/28/1992	3	1,900,000	01/01/1993	01/01/1999
John F. Kennedy International, New York	07/23/1992	3	109,980,000	10/01/1992	08/01/1995
Laguardia, New York	07/23/1992	3	87,420,000	10/01/1992	08/01/1995
Westchester County, White Plains	11/09/1992	3	27,883,000	02/01/1993	06/01/2022
North Dakota:					
Grand Forks International, Grand Forks	11/16/1992	3	1,016,509	02/01/1993	02/01/1997
Ohio:					
Akron-Canton Regional, Akron	06/30/1992	3	3,594,000	09/01/1992	08/01/1996
Cleveland-Hopkins International, Cleveland	09/01/1992	3	34,000,000	11/01/1992	11/01/1995
Port Columbus International, Columbus	07/14/1992	3	7,341,707	10/01/1992	03/01/1994
Oklahoma:					
Lawton Municipal, Lawton	05/08/1992	2	334,078	08/01/1992	01/01/1996
Tulsa International, Tulsa	05/11/1992	3	8,450,000	08/01/1992	08/01/1994
Oregon:					
Portland International, Portland	04/08/1992	3	17,961,850	07/01/1992	07/01/1994
Pennsylvania:					
Allentown-Bethlehem-Easton, Allentown	08/28/1992	3	3,778,111	11/01/1992	04/01/1995
Erie International, Erie	07/21/1992	3	1,997,885	10/01/1992	06/01/1997
Philadelphia International, Philadelphia	06/29/1992	3	76,169,000	09/01/1992	07/01/1995
University Park, State College	08/28/1992	3	1,495,974	11/01/1992	07/01/1997
Tennessee:					
Memphis International, Memphis	05/28/1992	3	26,000,000	08/01/1992	12/01/1994
Nashville International, Nashville	10/09/1992	3	143,358,000	01/01/1993	02/01/2004
Texas:					
Killeen Municipal, Killeen	10/20/1992	3	243,339	01/01/1993	11/01/1994
Midland International, Midland	10/16/1992	3	35,529,521	01/01/1993	01/01/2013
Virginia:					
Charlottesville-Albemarle, Charlottesville	06/11/1992	2	255,559	909/01/1992	11/01/1993
Charlottesville-Albemarle, Charlottesville	12/21/1992	2	255,559	09/01/1992	11/01/1993
Washington:					
Seattle-Tacoma International, Seattle	08/13/1992	3	28,847,488	11/01/1992	01/01/1994
Yakima Air Terminal, Yakima	11/10/1992	3	416,256	02/01/1993	04/01/1995
West Virginia:					
Morgantown Muni-Walter L. Bill Hart, Morgantown	09/03/1992	3	55,500	12/01/1992	01/01./1994
Wisconsin:					
Austin Straubel International, Green Bay	12/28/1992	3	8,140,000	03/01/1993	03/01/2003
Guam:					
Guam International Air Terminal, Agana	11/10/1992	3	5,632,000	02/01/1993	06/01/1994
Puerto Rico:					
Rafael Hernandez, Aguadilla	12/29/1992	3	1,053,000	03/01/1993	01/01/1999
Mercedita, Ponce	12/29/1992	3	866,000	03/01/1993	01/01/1999
Luis Munoz Marin International, San Juan	12/29/1992	3	49,768,000	03/01/1993	02/01/1997
Virgin Islands:					
Cyril E. King, Charlotte Amalie	12/08/1992	3	3,871,005	03/01/1993	02/01/1995
Alexander Hamilton, Christiansted St. Croix	12/08/1992	3	2,280,465	03/01/1993	05/01/1995

[1]The estimated charge expiration date is subject to change due to the rate of collection and actual allowable project costs.

[FR Doc. 93–6100 Filed 3–16–93; 8:45 am]
BILLING CODE 4910–13–M

Notice of Intent to Rule on Application to Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Bishop International Airport, Flint, MI

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 Bishop 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 April 16, 1993.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address:

Federal Aviation Administration, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. James L. Rice II, A.A.E., Airport Director of the Bishop International Airport Authority at the following address: Bishop International Airport, G–3425 West Bristol Road, Flint, Michigan 48507.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Bishop

International Airport Authority under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Dean C. Nitz, Manager, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111, (313) 487–7300. 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 Bishop 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 March 4, 1993, the FAA determined that the application to impose and use the revenue from a PFC submitted by Bishop International Airport Authority was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than June 24, 1993.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00

Proposed charge effective date: August 1, 1993

Proposed charge expiration date: July 30, 2030

Total estimated PFC revenue: $32,296,450

Brief description of proposed project(s):

1. Terminal Construction
2. East Air Carrier Apron
3. Terminal Access Roadway Phase I and Phase II
4. West Ramp and Demolition Terminal Building
5. Terminal Security System
6. Land Acquisition Bristol Road Right-Of-Way Class or classes of air carriers which the public agency has requested not be required to collect PFCs: All Air-Taxi and other non-scheduled part 135 Carriers.

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 Bishop International Airport Authority.

Issued in Chicago, Illinois, on March 9, 1993.

W. Robert Billingsley,

Manager, Airports Division, Great Lakes Region.

[FR Doc. 93–6102 Filed 3–16–93; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent to Rule on Application to Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Dane County Regional Airport, Madison, WI

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 the Dane County 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 April 16, 1993.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address:

Federal Aviation Administration, Minneapolis Airports District Office, 6020 28th Avenue South, room 102, Minneapolis, Minnesota 55450.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Peter Drahn, Director of the Dane County Regional Airport at the following address: 4000 International Lane, Madison, Wisconsin 53704.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the County of Dane under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Franklin D. Benson, Manager, Minneapolis Airports District Office, 6020 28th Avenue South, room 102, Minneapolis, Minnesota 55450, (612) 725–4221. 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 Dane County 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 March 4, 1993, the FAA determined that the application to impose and use the revenue from a PFC submitted by Dane County Regional Airport was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than June 25, 1993.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00

Proposed charge effective date: July 1, 1993

Proposed charge expiration date: December 31, 1997

Total estimated PFC revenue: $6,746,000

Brief description of proposed project(s):

Project to Impose and Use PFC

Expansion of the terminal building

Projects Only to Impose a PFC

Expansion of terminal roadway;

Construction of Runway 3/21;

Expansion of west air carrier ramp;

Rehabilitation of airfield pavement.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: On-demand FAR 135 Air Taxi operators operating aircraft with less than fifteen seats.

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 Dane County Regional Airport.

Issued in Des Plaines, Illinois on March 9, 1993.

W. Robert Billingsley,

Manager, Airports Division, Great Lakes Region.

[FR Doc. 93–6101 Filed 3–16–93; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Gogebic County Airport, Ironwood, MI

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 Gogebic County 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 April 16, 1993.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Joseph Braspenick, Airport Manager, of the Gogebic, Michigan, at the following address: Gogebic-Iron Airport Board, E–5560 Airport Road, Ironwood, Michigan 44938.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the County of Gogebic under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Dean C. Nitz, Manager, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111, (313) 487–7300. 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 Gogebic County 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 February 24, 1993, the FAA determined that the application to impose and use the revenue from a PFC submitted by County of Gogebic, Michigan was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than May 25, 1993.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: August 1, 1993.

Proposed charge expiration date: November 30, 1998.

Total estimated PFC revenue: $77,976.00.

Brief description of proposed projects: Rehabilitate Runway 9/27; Reconstruct Runway 9/27 surface treatment; Rehabilitate Runway 9/27 lighting (HIRL); Install airfield signs; Install MITL (Taxiways "A", "B" and "J").

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Part 135 operators who file 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 Gogebic County Airport, Ironwood, Michigan.

Issued in Des Plaines, Illinois, on March 9, 1993.

W. Robert Billingsley,

Manager, Airports Division, Great Lakes Region.

[FR Doc. 93–6103 Filed 3–16–93; 8:45 am]

BILLING CODE 4910–13–M

McCarran International Airport, Las Vegas, NV; Intent of Rule on Application

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of Intent of Rule on Application to Impose a Passenger Facility Charge (PFC) at Las Vegas McCarren International Airport, Las Vegas Nevada.

SUMMARY: The Federal Aviation Administration (FAA) proposes to rule and invites public comment on the application to impose a PFC at Las Vegas McCarran International Airport, Las Vegas, Nevada, 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 April 16, 1993.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address:

Federal Aviation Administration, Western-Pacific Region, Airports Division, AWP–600, P.O. Box 92007, WWPC, Los Angeles, Ca 90009, or
San Francisco Airports District Office, 831 Mitten Road Rm. 210, Burlingame, CA 94010–1303.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Robert N. Broadbent, Director of Aviation, County of Clark, at the following address: P.O. Box 11005 Las Vegas, Nevada 89111.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the county of Clark under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph R. Rodriguez, Supervisor, Planning and Programming Section, Airports District Office, 831 Mitten Road, room 210, Burlingame, CA. 94010–1303, Telephone: (415) 876–2805. 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 a PFC at Las Vegas McCarren 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 March 9, 1993, the FAA determined that the application to impose and impose and use the revenue from a PFC submitted by the county of Clark was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than June 11, 1993.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: June 1, 1993 per existing authority.

Proposed charge expiration date: June 1, 2013 or upon collection of approved PFC revenue.

Total estimated PFC revenue: $944,028,500 per existing authority.

Brief description of proposed projects:

1. Use of revenue for projects previously approved for impose only: Project 1003, Land Acquisition—Topaz Subdivision; Project 1005, Land Acquisition—LDN 70 Enterprise; Project 1009, Land Acquisition—LDN 70 Pecos/Sunset Area; Project 931, Flood Control Projects.

2. Impose and use PFC revenue: Project 2001—NEPA Environmental Assessment—Extension of Runway 7L–25R.

3. Impose Only: Project 2001—Design and Construction—Extension of Runway 7L–25R.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Carriers who file Form 1800–31 AND carry less than 2500 passengers per year.

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 county of Clark.

Issued in Los Angeles, California on March 10, 1993.

Herman C. Bliss,

Manager, Airports Division, Western Pacific Region.

[FR Doc. 93–6099 Filed 3–16–93; 8:45 am]

BILLING CODE 4910–13–M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the item entitled Unfinished Dance Mural by Henri Matisse to be included in the exhibit, "Great French Paintings from the Barnes Foundation: Impressionist, Post-Impressionist, and Early Modern" imported from abroad for the temporary exhibition without profit within the United States is of cultural significance. This item is imported pursuant to a loan agreement with the foreign lender. I also determine that the temporary exhibition or display of the item at the National Gallery of Art, Washington, DC, beginning on or about May 2, 1993, to on or about September 26, 1993, is in the national interest.

Public notice of this determination is ordered to be published in the **Federal Register.**

Dated: March 12, 1993

R. Wallace Stuart,

Acting General Counsel.

[FR Doc. 93–6230 Filed 3–16–93; 8:45 am]

BILLING CODE 8230–01–M

Culturally Significant Objects Imported for Exhibition Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit "Teotihuacan: City of the Gods" (see list [1]), imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to loan agreements with foreign lenders. I also determine that the temporary exhibition or display of the listed exhibit objects at the M.H. de Young Memorial Museum, San Francisco, California, beginning on or about May 26, 1993, to on or about October 31, 1993, is in the national interest.

Public notice of this determination is ordered to be published in the **Federal Register.**

Dated: March 12, 1993.

R. Wallace Stuart,

Acting General Counsel.

[FR Doc. 93–6229 Filed 3–16–93; 8:45 am]

BILLING CODE 8230–01–M

DEPARTMENT OF VETERANS AFFAIRS

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information: (1) The title of the information collection, and the Department form number(s), if applicable; (2) a description of the need and its use; (3) who will be required or asked to respond; (4) an estimate of the total annual reporting hours, and recordkeeping burden, if applicable; (5) the estimated average burden hours per respondent; (6) the frequency of response; and (7) an estimated number of respondents.

[1] A copy of this list may be obtained by contacting Lorie J. Nierenberg of the Office of the General Counsel of USIA. The telephone number is 202/619–6975; the address is room 700, U.S. Information Agency, 301–4th Street, SW., Washington, DC 20547.

ADDRESSES: Copies of the proposed information collections and supporting documents may be obtained from Janet G. Byers, Veterans Benefits Administration (20A5), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 233–3021.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, NEOB, room 3002, Washington, DC 20503, (202) 395–7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before April 16, 1993.

Dated: March 10, 1993.

By direction of the Secretary:

Frank E. Lalley,

Associate Deputy Assistant Secretary for Information, Resources Policies and Oversight.

Extension

1. Claim Under Loan Guaranty, VA Form 26–1874
2. This form is used by lenders and holders of VA guaranteed home loans as the notification to VA of default on such loans. The information obtained is essential to VA determinations concerning the amount owed the holder under the guaranty.
3. Businesses or other for-profit—Small businesses or organizations
4. 31,284 hours
5. 1 hour
6. On occasion
7. 31,284 respondents

Reinstatement

1. VA MATIC Authorization, VA Form 29–0532 and 29–0532–1
2. This form is used by the insured to authorize VA to make automatic dedications from the insured's bank account to pay insurance premiums.
3. Individuals or households
4. 1,500 hours
5. 30 minutes
6. On occasion
7. 3,000 respondents

[FR Doc. 93–6163 Filed 3–16–93; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 58, No. 50
Wednesday, March 17, 1993

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL MARITIME COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 58 FR 13299.

PREVIOUSLY ANNOUNCED DATE AND TIME OF THE MEETING: March 15, 1993 at 10:00 a.m.

CHANGE IN THE MEETING: The meeting has been rescheduled for Wednesday, March 17, 1993 at 10:00 a.m.

CONTACT PERSON FOR MORE INFORMATION: Joseph C. Polking, Secretary, (202) 523–5725.

Joseph C. Polking,

Secretary.

[FR Doc. 93–6316 Filed 3–15–93; 2:26 pm]

BILLING CODE 6730–01–M

COMMITTEE ON EMPLOYEE BENEFITS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 2:30 p.m., Monday, March 22, 1993.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Review of a survey of Federal Reserve System benefits conducted by Hewitt and Wyatt.
2. Any items carried forward from a previously announced meeting.

Note: This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452–3684 or by writing to:

Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: March 15, 1993.

William W. Wiles,

Secretary of the Board.

[FR Doc. 93–6322 Filed 3–15–93; 3:17 pm]

BILLING CODE 6210–01–M

COMMITTEE ON EMPLOYEE BENEFITS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: Approximately 3:00 p.m., Monday, March 22, 1993, following a recess at the conclusion of the open meeting.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. The Committee's agenda will consist of matters relating to (a) the general administrative policies and procedures of the Retirement Plan, Thrift Plan, Long-Term Disability Income Plan, and Insurance Plan for Employees of the Federal Reserve System; (b) general supervision of the operations of the Plans; (c) the maintenance of proper accounts and accounting procedures in respect to the Plans; (d) the preparation and submission of an annual report on the operations of each of such Plans; and (e) the maintenance and staffing of the Office of the Federal Reserve Employee Benefits System; and (f) the arrangement for such legal, actuarial, accounting, administrative, and other services as the Committee deems necessary to carry out the provisions of the Plans. Specific items include: (1) Technical and administrative changes to the Thrift Plan; (2) Thrift Plan recordkeeping system; and (3) discussion of the Mission Statement for the Office of Employee Benefits.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: March 15, 1993.

William W. Wiles,

Secretary of the Board.

[FR Doc. 93–6323 Filed 3–15–93; 3:17 pm]

BILLING CODE 6210–01–M

NATIONAL CREDIT UNION ADMINISTRATION

Notice of Meeting

TIME AND DATE: 12:30 P.M., Thursday, March 25, 1993.

PLACE: John Fitzgerald Kennedy Library, Columbia Point, Boston, Massachusetts 02125, (617) 929–4523.

STATUS: Open.

BOARD BRIEFINGS:

1. Central Liquidity Facility Report and Report on CLF Lending Rate.
2. Insurance Fund Report.
3. Information System Vendor Review Program.
4. Legislative Update.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Open Meeting.
2. Proposed Rule: Amendment to Section 701.12, NCUA's Rules and Regulations, Supervisory Committee Audits and Verifications.
3. Final Rule: Amendment to Section 748.1(c), NCUA's Rules and Regulations, Requirement to File Criminal Referral Forms.
4. Final Rule: Amendment to Section 791.18(c), NCUA's Rules and Regulations, Public Availability of Meeting Records and Other Documents.

FOR MORE INFORMATION CONTACT: Becky Baker, Secretary of the Board, Telephone (202) 682–9600.

Becky Baker,

Secretary of the Board.

[FR Doc. 93–6331 Filed 3–15–93; 3:58 pm]

BILLING CODE 7535–01–M

NATIONAL CREDIT UNION ADMINISTRATION

Notice of Meeting

TIME AND DATE: 9:30 a.m., Tuesday, March 23, 1993.

PLACE: Filene Board Room, 7th Floor, 1776 G Street, N.W., Washington, D.C. 20456.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Closed Meeting.
2. Administrative Action under Section 208 of the Federal Credit Union Act. Closed pursuant to exemptions (8), (9)(A)(ii), and (9)(B).
3. Request from State for Exemption from Section 701.21(h), NCUA's Rules and Regulations. Closed pursuant to exemptions (9)(A)(ii) and (9)(B).
4. Requests from Credit Unions for Waivers from Part 704, NCUA's Rules and Regulations. Closed pursuant to exemption (8).
5. Administrative Actions under Section 206 of the Federal Credit Union Act. Closed pursuant to exemptions (8), (9)(A)(ii), and (9)(B).

FOR FURTHER INFORMATION CONTACT: Becky Baker, Secretary of the Board, Telephone (202) 682–9600.

Becky Baker,

Secretary of the Board.

[FR Doc. 93–6330 Filed 3–15–93; 3:58 pm]

BILLING CODE 7535–01–M

federal register

Wednesday
March 17, 1993

Part II

Environmental Protection Agency

40 CFR Part 80
Volatility Regulations for Gasoline and Alcohol Blends; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[FRL–4592–4]

RIN 2060–AC97

Volatility Regulations for Gasoline and Alcohol Blends

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action revises the gasoline and alcohol blend volatility regulations promulgated on March 22, 1989 and June 11, 1990. The revisions are based on the experience the Agency has gained enforcing these regulations, suggestions from the regulated industry and other interested parties received prior to the NPRM, and comments submitted in response to the NPRM. The revisions include changes to the liability provisions, including amendments to the defenses to liability, the addition of a test exemption section to allow the use of high volatility gasoline during the control period for research or emissions certification, and changes to the appendix D sampling procedures and the appendix E tests for determining Reid Vapor Pressure. Changes to EPA's volatility regulations due to the Clean Air Act Amendments of 1990 have been addressed in a separate rulemaking promulgated on December 12, 1991.

EFFECTIVE DATE: This regulation becomes effective April 16, 1993. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register April 16, 1993.

ADDRESSES: Materials relevant to this rulemaking were placed in the Public Docket No. A–85–21 by EPA until January 16, 1992. On January 16, 1992, a new docket number was established, Public Docket No. A–92–03, and all material relevant to this rulemaking have been transferred to this docket. The docket is located at the Air Docket, room M–1500, Waterside Mall, 401 M Street, SW., Washington, DC 20460. The docket may be inspected between 8:30 am and 12 noon and between 1:30 pm and 3:30 pm on weekdays. As provided by 40 CFR part 2, a reasonable fee may be charged for photocopying docket materials.

FOR FURTHER INFORMATION CONTACT: Joseph R. Sopata, Chemist, Fuels Section, Field Operations and Support Division (6406J), EPA, 401 M Street SW., Washington, DC 20460. Telephone: (202) 233–9034.

SUPPLEMENTARY INFORMATION:

I. Introduction

This final rule revises the volatility regulations for gasoline and alcohol blends found at 40 CFR 80.27 and 80.28. The volatility regulations set forth maximum summertime commercial gasoline volatility levels which provide that gasoline Reid Vapor Pressure (RVP) starting in 1989 [1] may not exceed 10.5 pounds per square inch (psi), 9.5 psi, or 9.0 psi, and beginning in 1992 [2], 9.0 psi or 7.8 psi, depending on the area of the country and the month.[3] The volatility regulations also set forth liability provisions, including defenses to liability, and sampling and test procedures for determining RVP.

EPA promulgated these volatility regulations after finding that increasing the volatility of gasoline would cause an increase in evaporative emissions, which are volatile organic compounds (VOC's), a precursor for the formation of ozone. These gasoline related emissions are currently a major contributor to the nation's serious ground level ozone problem, which harms public welfare and human health.

II. Public Participation

A Notice of Proposed Rulemaking; "Volatility Regulations for Gasoline and Alcohol Blends," (56 FR 52315) was published in the **Federal Register** on October 18, 1991. In this notice, EPA proposed revisions to its volatility regulations. The proposed revisions included changes to the liability provisions, including amendments to the defenses to liability, the addition of a test exemption section to allow the use of high volatility gasoline during the control period for research or emissions certification, and changes to the appendix D sampling procedures and the appendix E tests for determining Reid Vapor Pressure. EPA proposed these revisions because EPA believes that these revisions would improve the operation of the volatility program, based on EPA's experience in enforcing the volatility regulations and based on suggestions that EPA has received from the regulated industries and other interested parties. Comments were received from the American Petroleum Institute, UIC, Inc., General Motors Corporation, Unocal Refining and Marketing Division, Pennzoil Company, Amoco Oil Company, Conoco Incorporated, Shell Oil Company, CITGO Petroleum Corporation, Marathon Oil Company, Tropicana Energy Company, and the American Society for Testing and Materials (ASTM).

EPA has carefully reviewed all of the comments. In general, they were supportive, although many suggested modifications to the NPRM. The following sections review the substantive issues raised and provide EPA's response. Major issues addressed include: liability of more than one party, testing exemption, presumptively liable parties at carrier facilities, presumptively liable parties at unbranded facilities, refiner/importer test result defense, defenses to presumptive liability for carriers, distributors, and ethanol blenders, container closure specifications, sampling when a tank has recently been loaded or unloaded, size of sample containers, apparatus for beaker or bottle sampling, nozzle extension devices, spacer for nozzle sampling, sampling open tanks, sampling closed tanks, test method to be used to determine compliance with the volatility regulations, gauge method cleaning procedure, sampling method preference, analysis of ethanol content and the determination of compliance. Minor comments not addressed in the preamble are addressed in a memorandum to the Air Docket (Docket No. A–92–03).

III. Analysis of Comments

1. Liability of More than One Party

For the reasons set forth in the NPRM, EPA proposed to revise 40 CFR 80.27(c) to make it clear that more than one party of a particular type can be held liable for a violation. For example, if there is more than one distributor in the chain of distribution, all such distributors can be held liable. There were no comments directly on this issue.

One commenter, however, stated an objection to the basic principal in the volatility regulations that all persons in the chain of distribution are presumptively liable if non-conforming

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[1] 54 FR 11868 (March 22, 1989). A corrections notice concerning these regulations was published on June 27, 1989 (54 FR 27016). A revision of the New Mexico volatility standards was published on August 14, 1989 (54 FR 33218).

[2] A final rule, Volatility Regulations for Gasoline and Alcohol Blends Sold in Calendar Years 1992 and Beyond, was published on June 11, 1990 (55 FR 23658).

[3] A direct final rule making revisions to these regulations was published on June 25, 1990 (55 FR 25833). A final rule was published on May 6, 1991 (56 FR 20546) regarding a change in the RVP areas in Texas. A final rule was published on August 2, 1991 regarding a change in the RVP areas in Arizona (56 FR 37020). Based on the 1990 Clean Air Act Amendments, a final rule was published on December 12, 1991, regarding a change in volatility areas for certain areas in ozone attainment (56 FR 64704). Finally, a Temporary Direct Final Rule was published on May 12, 1992 (57 FR 20202) changing the standard for the Denver-Boulder area for 1992 from 7.8 psi to 9.0 psi.

gasoline is found. The commenter believes that most persons in the distribution chain have no control over the gasoline and, therefore, should not be held responsible for violations.

The presumption of liability for parties in the distribution chain was established in the original volatility rulemaking published on March 22, 1989. Comments, if any, were appropriately received and addressed at the time of that rulemaking. As this rulemaking does not address or amend EPA's basic policy regarding liability of persons in the chain of distribution, comments referring to such policy are beyond the scope of this rulemaking. We note, however, that parties in the distribution chain are only presumed liable for a violation. A party will not be deemed liable if it can establish a defense as provided in the regulations.

The revision to 40 CFR 80.27(c) is being promulgated as proposed.

2. Testing Exemption

For the reasons set forth in the NPRM, the Agency proposed a testing exemption to allow the use of high volatility gasoline for research or emissions certification during the volatility control season.

The proposal set forth regulations requiring that an applicant demonstrate that a proposed test program meet four specified requirements and included a detailed list of the information that would be required to be submitted with a request for a testing exemption. A testing exemption would be granted to the applicant upon a demonstration that all of the regulatory requirements had been met. It would be issued in the form of a memorandum of exemption signed by the applicant and the Administrator (or his delegate). Violation of a term or condition of the exemption would void the exemption *ab initio*. The violating party would thus be liable for violations of § 80.27(a), which are enforceable under section 211(d) of the Act. This is similar to the manner in which section 203(b)(1) testing exemptions are granted and enforced.

The Agency received four comments on the proposed list of information to be submitted, including comments regarding what information can reasonably be expected to be submitted from an applicant prior to the initiation of a test program. One commenter agreed with EPA's formalized proposal for granting testing exemptions. Another commenter realized the need for a formalized process, but stated that the proposal was too complex. One commenter opposed the proposal on the grounds that testing and research facilities already take the necessary precautions when using high RVP fuel in research and development, and thus that a testing exemption is unnecessary. Two commenters pointed out a typographical error in the preamble of the NPRM. An appropriate purpose for an exemption is limited to research or emissions certification, not research on emissions certification. The correct word, "or," was used in the proposed language for 40 CFR 80.27(e).

The Agency believes that the requirements for obtaining a testing exemption are not overly burdensome or complex. The Agency recognizes that some research and development organizations take special precautions when using high RVP fuels. However, this does not render a testing exemption program unnecessary. Without such a program, there is no lawful mechanism for dispensing high volatility fuel to motor vehicles during the control season.

One commenter stated it should be sufficient for a party to notify EPA of its intent to conduct such testing, with approval automatically granted unless EPA responds otherwise within 30 days. Based on EPA's experience with testing exemptions, additional information is often required to complete an application, so time limits on EPA's response to initial applications are not appropriate. EPA will be expeditious in its review of all testing exemption applications.

One commenter stated that it is unreasonable for EPA to request results of test programs affected by the rule (§ 80.27 (e)(1)(ii) and (e)(6)(iv)). As part of EPA's monitoring of the testing exemption program, EPA believes it is appropriate to have access to the results of the test program, because providing the results to EPA provides further assurance that the test program is, indeed, for legitimate test purposes. If such information is claimed to be confidential business information, EPA will treat it as confidential.

The testing exemption rule at 40 CFR 80.27(e) is being promulgated as proposed.

3. Presumptively Liable Parties at Carrier Facilities

For reasons set forth in the NPRM, the Agency proposed to extend presumptive liability to distributors and resellers for violations found at a carrier facility. No comments were received on this issue. Therefore, this new liability provision for violations found at carrier facilities at § 80.28(b)(4) is being promulgated as proposed, and, as proposed, referenced at 40 CFR 80.28(g)(3).

4. Presumptively Liable Parties at Unbranded Facilities

For reasons set forth in the NPRM, the Agency proposed to extend presumptive liability to refiners and importers for violations found at unbranded retail and wholesale purchaser-consumer facilities.

A few commenters opposed extending presumptive liability to refiners and importers for violations found at unbranded retail and wholesale purchaser-consumer facilities. These commenters argued that refiners and importers do not have the control over unbranded facilities that they do over branded facilities. They argued further that unbranded facilities generally sell gasoline from different suppliers and that a refiner or importer should not be liable for gasoline that has been physically commingled with gasoline produced or imported by another refiner or importer. They asserted that it would be almost impossible for a refiner to test and retain enough samples to provide a meaningful defense to the presumption of liability for violations found at unbranded retail or wholesale purchaser-consumer facilities.

The volatility regulations currently provide that, when a violation is found at an unbranded distributor or ethanol blender facility, the actual refiner(s) or importer(s) of the gasoline is presumptively liable for violations found at those facilities. The extension of the presumption of liability to refiners and importers for violations found at unbranded retail and wholesale purchaser-consumer facilities merely parallels the treatment of refiners and importers for violations found at unbranded distributor or ethanol blender facilities.

To defend against a violation found at an unbranded distributor or ethanol blending facility, a refiner or importer currently must demonstrate that the violation was not caused by him, his employee or agent, and provide test results showing that the gasoline determined to be in violation was in compliance when it was delivered to the next party in the distribution system. Under the final rule promulgated today, the same defense elements are required of refiners and importers for violations found at unbranded retail and wholesale purchaser-consumer facilities.

EPA does not believe that the new rule will be more burdensome for refiners than the existing rule providing for presumptive liability for violations found at unbranded distributor and ethanol blender facilities. Refiners and importers do not exercise any more control over unbranded distributor or

ethanol blender facilities than they do over unbranded retail or wholesale purchaser-consumer facilities, and distributors and ethanol blenders also commingle products before distribution to downstream parties. Under the existing regulations, the refiner or importer tests the gasoline before it is delivered to the next party in the distribution system to protect itself against liability for violations at other downstream facilities. Such test results may also be used to defend against a violation found at an unbranded retail or wholesale purchaser-consumer facility.

It should be noted, in recognition of the fact that refiners have greater control over branded facilities, that the regulations provide for more stringent defense elements for violations found at branded facilities than for violations found at unbranded facilities.

One commenter objected to the presumption of liability on the part of any supplier for gasoline sold at unbranded stations. This commenter asserted that unbranded retailers purchase gasoline from many suppliers and that all suppliers should not be held responsible for the actions of one supplier.

The presumption of liability for distributors and ethanol blenders for gasoline sold at unbranded retail stations was established in the original volatility rulemaking published on March 22, 1989, and is not affected by this rulemaking. Comments, if any, regarding the presumption of liability on the part of these parties for violations found at unbranded stations were appropriately received and addressed at the time of the original rulemaking and are beyond the scope of this rulemaking. However, in response to the commenter's concern, EPA notes that these suppliers are only presumed liable for a violation found downstream. The regulations provide that a distributor or ethanol blender can rebut the presumption if it can show that it did not cause the violation and that it had an effective oversight program in place.

The commenter also asked why EPA has provided no guidelines for an acceptable oversight program, and asserted that it is unreasonable to expect a transporter to sample each load and perform expensive tests to establish a defense against future violations.

The oversight program defense element for transporters also was established in the original volatility rulemaking published on March 22, 1989. Comments, if any, regarding this defense element were appropriately received and addressed at the time of that rulemaking and are beyond the scope of this rulemaking. We note, however, that distributors, carriers, and ethanol blenders are not required to test each load of gasoline. The defense for these parties for violations found downstream requires evidence of an oversight program, such as periodic sampling and testing of the gasoline, and not the testing of each load of gasoline. We also note that the volatility regulations provide general guidance as to what constitutes an acceptable oversight program (i.e., periodic sampling and testing of the gasoline). EPA believes, however, that each party's oversight program should be evaluated on an individual basis to allow parties flexibility in developing and conducting their programs.

The regulation at 40 CFR 80.28(f)(5) is being promulgated as proposed. The reference to 40 CFR 80.28(f)(5) at 40 CFR 80.28(g)(2) is being promulgated as proposed.

5. Refiner/Importer Test Results Defense

For the reasons set forth in the NPRM, the Agency proposed continuing its policy which stated that where a refiner or importer is presumed liable for a violation at downstream facilities, it could meet its burden of proving the test element of its defense [4] if it has a test result that is at least 0.5 psi below the applicable volatility standard, and the violation is not more than 0.5 psi above the standard, and there is no reason to believe that the party's results are invalid. The Agency believes that this policy has been helpful in encouraging prudent industry compliance assurance measures and, in light of the variability of the RVP test methods, provides a refiner or importer with the assurance that it will be able to meet the test element of its defense if it has a test result that is significantly below the standard, provided that EPA's test result is not significantly above the standard. EPA believes that, even with minor irregularities or problems in the facility testing program, the 0.5 psi threshold provides sufficient confidence that the gasoline's RVP did not exceed the applicable standard when it left the refinery or importer facility.

Several commenters opposed this enforcement policy because they believe it changes the enforcement policy contained in the Phase II volatility regulations published on June 11, 1990 (55 FR 23660), which provides that EPA will take enforcement action only when it measures the RVP of the gasoline at more than 0.3 psi RVP greater than the applicable standard, provided that the responsible party measured the RVP of the gasoline at or below the applicable standard.

The commenters' objections are misplaced. The policy contained in the Phase II volatility regulations sets an enforcement tolerance that EPA will apply in bringing an enforcement action against any party for an apparent violation. For example, if EPA measures a sample of gasoline at 9.3 psi or less in an area with a 9.0 psi standard, it will not bring an enforcement action for the violation, provided that the refiner measured the gasoline's RVP at or below 9.0 psi and no other party has test result(s) which, when averaged with the refiner's test results, indicates the gasoline is above 9.0 psi. If, however, EPA measures the gasoline above 9.3 psi, it will bring an enforcement action.

The enforcement policy contained in the proposed rulemaking, in contrast, pertains to the test evidence that a refiner or importer can present to defend against the presumption of liability for a violation found at a downstream facility. Under the current volatility regulations, in any case in which a refiner or importer is presumed liable for a violation detected at a carrier's facility, an unbranded distributor facility, or an unbranded ethanol plant, the refiner or importer can establish a defense by presenting (among other things) test results showing that the gasoline in question was in compliance with the applicable standard when it was delivered to the next party in the distribution system (see 40 CFR 80.28(g)(2)(ii)). Similarly, when a refiner is presumed liable for a violation detected at a branded distributor facility, reseller facility, ethanol blending plant, retail outlet, or wholesale purchaser-consumer facility, it can establish a defense by presenting (among other things) test results showing that the gasoline determined to be in violation was in compliance with the applicable standard when it was transported from the refinery (see 40 CFR 80.28(g)(4)(i)).

The 0.5 psi enforcement policy merely provides one way in which a refiner or importer may satisfy the test requirement of its defense. If, for example, EPA measures gasoline at a downstream facility to be above 9.3 psi (but not more than 9.5 psi) in an area with a 9.0 psi standard and brings an enforcement action, the refiner or importer will be deemed to have fulfilled the test requirement of its

[4] Depending on the downstream facility where the violation was found, the refiner or importer must show either that the gasoline in question was in compliance with the applicable standard when it was delivered to the next party in the distribution system or that the gasoline in question was in compliance with the applicable standard when it was transported from the facility.

defense if it has a test result that is 8.5 psi or below (provided there is no reason to believe that the party's test result is invalid). As indicated above, this policy assures the refiner or importer that it will be able to meet the test element of its defense if it has tested its fuel in good faith and with appropriate procedures and has obtained a test result that is significantly below the standard, even if EPA tests the gasoline to be above the standard (so long as EPA's test result is not significantly above the standard).

Some commenters indicated that they believe the 0.5 psi enforcement policy is overly restrictive. EPA does not agree that the policy is overly restrictive, since a refiner or importer is not precluded from satisfying the test requirement of its defense if it does not have a test result that is 0.5 psi or more below the standard. The party may satisfy this defense element by presenting other test results showing that the gasoline met the applicable standard. Whether such test results will satisfy the test requirement of the defense will be determined on a case-by-case basis. In evaluating a party's test evidence, the Agency will consider the quality of the party's testing program, such as whether multiple samples were tested and whether the party's laboratory ran correlation tests with EPA's or another laboratory.

As discussed above, however, if EPA's test results indicate that the gasoline is more than 0.5 psi above the standard, the refiner or importer will not be deemed to have fulfilled the test requirement of its defense based solely on a test result showing that the gasoline was 0.5 psi or more below the standard. The refiner or importer, nevertheless, may be able to fulfill the test requirement based on the totality of its testing evidence and the quality of its testing program.

The Agency also proposed that refiners and importers may use methods other than the method contained in appendix E for defense purposes, if adequate correlation is demonstrated to Method 3. No adverse comments were received on the proposal to allow the use of other methods. See section 16 of this document for comments concerning Method 3. 40 CFR 80.28(g) (2)(ii) and (4)(i) are being promulgated with some changes from the proposed language to emphasize the importance of correlating to Method 3.

One commenter questioned how "adequate correlation" would be determined, and noted that the industry is involved in a number of correlation activities. The Agency is prepared to provide guidance. See section 16 of this document. Obviously, any correlation determination must have a sound basis and be defensible.

6. Carrier, Distributor and Ethanol Blender Defenses to Presumptive Liability

For the reasons set forth in the NPRM, the Agency proposed to revoke the documentation requirement which was stricken by the court in *National Tank Truck Carriers* v. *EPA*, 907 F.2d 177 (D.C. Cir. 1990). The Agency proposed to rely on other elements of the affirmative defense required under the regulations, which were upheld by the court. The other elements of the defense are demonstration of an oversight program for monitoring gasoline volatility, and demonstration that the violation was not caused by the defendant, his employees or agents.

No comments were received on this issue. The liability provision concerning the defense for Carriers, Distributors and Ethanol Blenders at 40 CFR 80.28 (g) is being promulgated as proposed.

7. Container Closure Specifications

As stated in the NPRM, the Agency believes that the specification for container closure in section 4.2 of appendix D is incomplete because no performance specifications were set for container closures. The purpose of the container closure provision is to prevent the loss of vapors through the cap and container. Test data obtained on phenolic screw caps with a teflon coated liner on Boston Round Bottles have been placed in the docket, and show these caps to be satisfactory in preventing such loss of vapors.

However, EPA will allow other container closure caps to be used if such devices are shown to be satisfactory through testing. The Agency is requiring that testing, as described in the test data submitted to the docket, be performed on caps to be used for container closure. The advantage of using a performance specification on container closures is the flexibility it allows. The Agency and industry are able to evaluate and use better and less expensive materials as they are made available. The Agency proposed to revise section 4.2 in appendix D to require that a certain performance be shown through specified testing procedures before a new cap may be used under the sampling regulations.

One commenter interpreted the container specifications in the proposal as a burden on the industry and that a more workable approach would be for the manufacturer of the container closure to evaluate its product.

The intent of the proposal was to establish a more complete, but reasonable, performance specification for closures. No testing is mandatory, since an acceptable closure, a phenolic screw cap with a teflon coated liner, is identified in the regulation. However, the regulation affords the flexibility of using other closures if adequate testing shows them to be satisfactory. Manufacturers and users of other closures may wish to cooperate in having the test performed. As there were no other adverse comments, the regulation at 40 CFR part 80, appendix D, 4.2, is being promulgated as proposed.

8. Sampling When a Tank Has Recently Been Loaded or Unloaded

In the NPRM, the Agency commented that part of the note following section 6 of appendix D could be misleading. The note states that metal or conductive objects should not be lowered into a tank or suspended in a compartment or tank which is being filled or immediately after cessation of pumping. A waiting period of one minute is recommended to allow for the relaxation of any electrostatic charge. The Agency proposed to make two changes to the note. The first revision would provide that no object or material (not just metal or conductive) be lowered into a tank which is being filled or which has just recently been filled. The second revision would increase the waiting period to allow the electrostatic charge to relax enough to put objects safely into the tank from one to 5 minutes, to assure safety in extraordinary circumstances.

One commenter stated that tank sampling safety guidelines should be consistent with API Document 2003, which deals with static electricity. The document states that "if a flammable atmosphere is suspected, a 30-minute delay should be observed after loading of static-accumulating materials into large storage or ships' tanks before hand gauging or sampling is performed * * * In smaller volume vessels, such as tank trucks or tank cars, particle settling should not be a problem, and normal charge relaxation should occur. In loading smaller volume vessels where flammable vapor conditions can exist, some companies require delays of 1 minute or more before gauging or sampling of static accumulating fuels. Longer waiting periods may be appropriate for very low conductivity liquids, such as very clean solvents and chemical grade hydrocarbons. If completely nonconductive hand gauging or sampling devices are used, no waiting period is required."

In view of the information contained in the API Document 2003, EPA has further revised the note following section 6 of appendix D. For small volume vessels such as tank cars and tank trucks, a 5-minute delay time is recommended after loading of static-accumulating materials before hand gauging or sampling is performed. For large storage or ship tanks, a 30-minute delay time is recommended after loading of static-accumulating materials before hand gauging or sampling is performed. EPA has reviewed the delay time static electricity data for large and small volume vessels in the API Document 2003, and EPA is confident that the API data are reasonable.

9. Size of Sample Containers

For reasons presented in the NPRM, the Agency proposed to amend appendix D, section 12.2, to allow for a minimum sample container size of 4 ounces (oz), in lieu of one quart. Comments were also requested on an appropriate limit on the size of the sample container opening.

Two commenters favored the use of 4 oz sample containers as long as they do not preclude the use of larger sample containers. One commenter questioned whether a 4 oz sample container can obtain a sample that is representative of the full quantity of the tank. No comments were received on the size of the opening of the sample container.

The review of data developed by EPA (Docket #A–92–03, Category III–B, Number 1, Raw Data for Tank Sampling and Nozzle Sampling for 1 quart and 4 oz sample bottles) showed that there was a slight difference in results between tank sampling with 4 oz sample bottles when compared to tank sampling with 1 quart bottles. There was no difference in results when nozzle sampling was performed with 4 oz and 1 quart sample bottles. Therefore, appendix D, section 12.2 is revised to allow the use of containers of not less than 1 quart nor more than two gallons capacity when sampling tanks by the all-levels or running sampling methods, and to allow the use of containers of not less than 4 oz nor more than two gallons capacity for the nozzle sampling procedure.

10. Apparatus for Beaker or Bottle Sampling

For the reasons set forth in the NPRM, the Agency proposed to list recommended sample container opening diameters for smaller bottles. Only one comment was received on this issue, which is discussed in the next section. The Agency at this time recommends smaller diameters when sampling at greater sampling depths. One way to obtain a smaller diameter with a 1 quart bottle with a 0.75 inch diameter is with a restrictor cap, a "cap with a restricted orifice". At greater sampling depths, a sampling bottle with a 0.75 inch diameter fills at a fast rate, thus going over 70–85% full. A "cap with a restricted orifice" slows the rate of fill of the sample, thus making it easier to achieve a 70–85% full sample. The Agency has decided not to make any further recommendation, pending further investigation.

11. Nozzle Extension Devices

Since the Agency proposed to use smaller sample bottles in the NPRM, an additional nozzle extension device was needed. Therefore the Agency proposed to add Figure 7b to appendix D.

One commenter stated that it is unclear how sampling using the 4 oz bottles will be conducted with the nozzle extension shown. The nozzle extension has a minimum outside diameter (OD) of 0.75 inches, while the NPRM calls out the recommended sample container restrictor caps for 4 oz bottles as 0.28 inches. The commenter asked if modifications to the nozzle extension device would be allowed to accommodate the smaller containers.

EPA recognizes the fact that the 4 oz bottles with 0.28 inch openings will not fit on the nozzle extension device. The nozzle extension device proposed in the NPRM was designed to be used with a large diameter opening (38 mm) 4 oz bottle and not a 4 oz bottle with a 0.28 inch opening diameter. Section 11.5.1 allows modifications to Figure 7b that would allow the use of a 4 oz bottle with a 0.28 inch opening diameter. Figure 7b is being added as proposed.

12. Spacer for Nozzle Sampling

In the NPRM, for Figure 6 in appendix D, the Agency proposed for safety reasons that the spacer for the nozzle sampler be composed of non-ferrous (non-sparking) material instead of steel. No comments were received. Thus the changes to Figure 6 and section 11.5.1 in appendix D are being made as proposed.

13. Nozzle Sampling Procedure

For the reasons set forth in the NPRM, the Agency proposed to add an additional retail sampling procedure. With this additional procedure the old section 11.5.2 of appendix D would be changed to 11.5.2.1 and the new section would be 11.5.2.2. In both sections 11.5.2.1 and 11.5.2.2 the Agency proposed to allow the sample container to be filled from 70 to 85 percent.

Since no other comments were received for this issue, sections 11.5.2.1 and 11.5.2.2 of appendix D are being promulgated as proposed.

14. Sampling Open Tanks

For the reasons set forth in the NPRM, the Agency proposed to revise section 12.4 of appendix D such that the requirement to pour off the sample from 70–80 percent full will be changed to a requirement to pour off the sample to 70–85 percent full. No adverse comments were received and section 12.4 of appendix D is being promulgated as proposed, with the exception that a reference to section 11.2, inadvertently omitted in the proposal, has been reinstated.

According to one commenter, the regulations should state that all sampling must comply in all respects with local and state regulations, such as local fire codes. This comment pertains to sampling procedures that were established in the original volatility rulemaking published on March 22, 1989. Comments, if any, regarding these procedures were appropriately received and addressed at the time of that rulemaking and are beyond the scope of this rulemaking. However, in response to the commenters concern, EPA notes that safety factors were considered in formulating the sampling procedures set forth in the volatility regulations. We also note that the sampling procedures are in accordance with both the National Fire Protection Association Code (No. 30) and the Uniform Fire Code (section 104(a)), which permit a certain class of flammable liquids, which includes gasoline, to be dispensed into glass containers of up to one quart capacity. These codes also permit liquids in this class to be stored in glass containers of up to one gallon capacity if the required liquid purity would be affected by storage in metal containers, or if the liquid would cause excessive corrosion of the metal container. The Department of Transportation regulations also permit flammable liquids in this class to be transported in glass containers of up to one quart capacity (49 CFR 173.119(7)).

15. Sampling Closed Tanks

For the reasons set forth in the NPRM, Section 12.5, in appendix D, was proposed to be revised to make it consistent with the changes in the corrections notice on June 27, 1989 (54 FR 27016). No comments were received, and section 12.5, in appendix D, is being promulgated as proposed.

16. Test Method to be Used to Determine Compliance with the Volatility Regulations

For the reasons set forth in the NPRM, the Agency proposed a new test method to be used to determine compliance with the volatility regulations and asked for comment on four options involving the new test method and the two test methods currently contained in appendix E. For option 1, the Agency considered requiring the use of the new test method and removing Methods 1 and 2 from appendix E. Once promulgated, the Agency would use the new method for enforcement testing and would specifically be using the Grabner field unit. A correlation equation was proposed to convert the total vapor pressure measured by the Grabner instrument to RVP. The equation correlates the Grabner to the Digital Herzog. (The Agency has concluded that, based on the Mobil Round Robin monthly correlation study, the Digital Herzog is the most precise instrument of the instruments in the regulations. Data from the Mobil Round Robin monthly correlation and data from which the correlation equation was derived have been placed in the Air Docket (Docket No. A–92–03).) EPA would consider allowing the use of other methods that correlated with method 3 for defense testing.

With option 2, the Agency would continue to use the methods in appendix E for testing of samples for enforcement, but would allow the use of other test methods not in the regulations if adequate correlation were demonstrated for defense testing. For option 3, the regulations would continue to include Methods 1 and 2, and the new method would be added as Method 3, with correction factors for all but the Digital Herzog Method 2. With option 4, the Agency would adopt the California Air Resources Board (CARB) automated method and correlate all of the existing test methods to the CARB automated method.

The following is a summary of the comments received on the testing options. Four commenters preferred the use of option 3 because, according to the commenters, this option would not require refiners to make additional capital investments for new laboratory equipment. One of the four commenters stated that this preference was contingent on EPA's use of the 1988 ASTM correlation equation and recommended that EPA allow the use of the Southwest Research Institute (SwRI) instrument. One commenter preferred option 4 because this option would allow California refiners to test fuels using a single test method (CARB's test method). Three commenters preferred option 1, one commenter noting that options 3 and 4 would create inconsistent testing and would result in confusion. One of the three asked for the adoption of the 1988 ASTM correlation equation and another of the three asked for the use of the SwRI instrument because, according to the commenters, the SwRI instrument is in widespread use in the refining industry and it is demonstrated to have accuracy comparable to that of the Grabner methods. One commenter preferred options 1 through 3 with the preference contingent that EPA allow the use of the UIC, Inc./Herzog instrument. One commenter preferred either option 1 or option 2. According to the commenter, option 2 would facilitate a desirable improvement in the volatility testing methodology. Two of the above commenters believed that industry should be allowed the use of all of the current methods listed in addition to new technology in order to provide more flexibility to the regulated industry.

The Grabner method is viewed by EPA as the best method for enforcement because it is as precise as the best method currently in the regulations and will increase lab to lab precision. This conclusion is supported by data from the Mobil Round Robin monthly correlation which has been placed in the Air Docket (Air Docket A–92–03). Thus, EPA has chosen option 1 for its enforcement testing. (To avoid confusion, the new method has been designated "Method 3.") Furthermore, most of the industry is converting to the Grabner or similar instruments because of its ease of use, comparable instrumentation cost, and lower operating costs. Because the flexibility will exist for the regulated industry to use any test method for defense testing as long as it is demonstrated to EPA that adequate correlation to Method 3 exists, EPA believes that the adoption of option 1 will not impose any significant burden on the regulated industry.

Two commenters stated that EPA's use of the Grabner correlation equation correlated to the Digital Herzog method would impose a burden to those still using the Dry Manual method (Method 1). These commenters recommended a Grabner correlation equation correlated to the Dry Manual method which was generated from data from the 1988 ASTM study, instead of the proposed equation in the NPRM, relating the Grabner instrument to the Digital Herzog method. These commenters stated that a bias of 0.1–0.2 psi exists between these two correlation equations and that this bias would impose a burden. For the same reason, two other commenters stated that EPA's use of the Grabner correlation equation correlated to the Digital Herzog method, which was generated from the 1991 ASTM vapor pressure test correlation program, would impose a burden to the regulated industry. These commenters recommended a correlation equation for the Grabner correlated to the Dry Manual method that was generated from data from the 1991 ASTM study.

EPA agrees that those employing the Dry Manual method have enjoyed a slight advantage since the beginning of the program in 1989, because this method does result in a pressure measurement slightly lower than the other methods. However, the Agency does not believe it is reasonable or fair to continue to allow this bias when the more precise and easier to operate Grabner (and related) instruments are becoming the industry standard. While the Dry Manual method may still be employed, it now must be correlated to Method 3.

Several commenters recommended slightly different correlation equations based on different correlation programs, in order to convert the pressure value obtained by Method 3 to RVP as obtained by either the Digital Herzog method or the Dry Manual method. The correlation equation proposed in the NPRM was based only on data from the EPA Ann Arbor laboratory. The 1988 ASTM Round Robin Program and the 1991 ASTM Vapor Pressure Test Methods Round Robin Program (VPTMRRP) were based on larger sets of data from more than one laboratory. According to the 1991 ASTM VPTMRRP, several concerns were encountered in the balloting process for adopting ASTM ES–14 and ES–15 (Emergency Standards for new vapor pressure test methods) as official ASTM standards. These were primarily based upon concerns with inadequate fuels representation in the 1988 Round Robin Program from which the precision figures were calculated. The subcommittee D2.08 resolution at the 1990 December ASTM meeting sought to address these negatives via a more elaborate round robin program. A task force was formed and charged with the responsibility to design, conduct, and manage this program for completion in 1991. This program is known as the 1991 ASTM VPTMRRP. Because the data are more extensive, the 1991 ASTM VPTMRRP provides correlation equations which are more representative than the 1988 ASTM Round Robin Program.

The correlation equation derived from the EPA data and the correlation equation derived from the 1991 ASTM VPTMRRP both have advantages and disadvantages in correlating the Grabner method to the Digital Herzog method. The advantages of the 1991 ASTM VPTMRRP are that it uses a larger set of data, and that more instruments and laboratories were utilized in the program. However, the utilization of more laboratories increases the chances of error in the program and thus in the derivation of the correlation equation from that program. Another concern with the 1991 ASTM VPTMRRP is that the program grouped different instrument models under a "method" and then developed a correlation equation relating that "method" to other "methods" (each of which also contained more than one specific instrument model). Since under Method 3 the correlation equation in question is to be used by EPA in the making of enforcement determinations where the measurements will be made by specific instrument models, equations and precision figures developed from the grouped instruments may not be as appropriate as equations developed from only the specific models used by EPA. Another concern associated with the data from which the 1991 ASTM VPTMRRP correlation equation was derived was that the program found a substantial number of outliers. In some cases the magnitude of deviation from the central tendency of the data set led to questions about whether samples had been labeled correctly. This problem casts some doubt on the credibility of the correlation equations and the precision figures associated with them. An advantage of the EPA-derived equation is that only one laboratory has performed the analysis, thus eliminating lab-to-lab variation. A disadvantage is that the data set is smaller.

Based on the above discussion, the Agency has concluded that the correlation equation as proposed in the NPRM is more appropriate than the one derived from the 1991 ASTM VPTMRRP. In any event, the difference between the two equations is small.

The correlation equation for the Grabner method in the final rule is the same as proposed. EPA has chosen the equation that correlates to the Digital Herzog equipped with transducers because it is more precise, and technically closer to the specified test condition of 1 part by volume air saturated sample at 32–34 °F to 4 parts by volume air at 100 °F. The present methods that use gauges, Method 1 and Method 2 using Herzogs with gauges, have varying and larger unspecified volumes at unspecified temperatures than Method 2 using the Digital Herzogs with transducers. EPA believes the varying and larger unspecified volumes at unspecified temperatures are the largest source of bias between laboratories that use the gauge methods and that this bias is not easily addressed or corrected.

EPA will recognize correlations from regulated parties if the correlations are established directly with EPA's test laboratory. As mentioned earlier, any test method may be used for defense as long as adequate correlation is demonstrated to Method 3 (i.e., any vapor pressure defense test method could be used if adequate correlation exists directly to Method 3, which can then be converted to Reid Vapor Pressure by use of the EPA Grabner correlation equation). Examples of the Dry Manual and Digital Herzog (gauge and transducer) test procedures and their respective correlation equations to Method 3 may be requested from the United States Environmental Protection Agency, Attention: Carl Scarbro, 2565 Plymouth Road, Mail Code SDSB–12, Ann Arbor, MI, 48105.

One commenter stated that he observed differences in results between the field (portable) Grabner testing instrument and the laboratory Grabner testing instrument. EPA has not observed differences in results between the laboratory Grabner instrument and the field Grabner instrument. The data of the 1991 ASTM correlation testing program show that there is no difference between the laboratory Grabner and the field Grabner results. These data are available for inspection at the public docket. Based on these data, EPA concludes that the field and laboratory Grabner testing instruments give equivalent results when they are operated in accordance with the requirements of Method 3.

A minor change was made to the wording of section 4.1 of Method 3 to eliminate the possible use of chemicals of lower purity for quality control determinations. This revision of section 4.1 makes it consistent with section 7.3 of Method 3. Section 6 of Method 3 was changed to reflect an allowable sample container's capacity of 70–85%, not 70–80%, in order to be consistent with section III, 13. of this preamble.

The following are editorial comments that were received in response to the NPRM. Two commenters stated that a typographical error occurred in paragraph 7.1.3 of Method 3: that "* * * latitude adjusted mercury barometer" should read "* * * altitude-adjusted mercury barometer." In fact, the barometers on pressure measurement devices are latitude adjusted mercury barometers. Thus, this will remain as in the NPRM. One commenter stated that the equation for mean measured pressure given in section 7.3.2 is in error. A summation sign (Σ) should be inserted in front of x_i/n. EPA agrees and has made the correction in the final rule. One commenter noted that in section 7.3 of Method 3 the word "volumes" should be "values", and EPA has made the correction. The title for Method 3 has been revised. Otherwise, Method 3 is promulgated as proposed.

17. Gauge Method Cleaning Procedure

In the NPRM, the Agency stated that it found a possible source of error in the gauge method (Method 1) cleaning procedure. [section 8.5 of Method 1, appendix E]. Prior to the NPRM, EPA received comments stating that measured vapor pressure declines for pure compounds due to condensed liquid in the gauge. In cases where a decrease in the measured vapor pressure resulted from pure compounds condensing in the gauge, the gauges were cleaned in accordance with the EPA and ASTM methodologies. The commenter applied a pulsed vacuum in addition to the regular cleaning procedure. We did not propose a change to the regulations, but asked for comments on possible solutions.

One commenter stated that the possible source of error in the gauge method cleaning procedure was identified during the preparation for a 1989 member round robin on the EPA Method 1 vapor pressure test method. It appeared that liquid was remaining trapped in the gauge. As a result, a modification to the EPA procedure, to expel the liquid, was included with the instructions for all round robin participants. Because Option 1 has been chosen, EPA shall not revise its regulations for the gauge method cleaning procedure to account for this problem; however, EPA will place the appropriate changes in a memorandum to the Air Docket (Docket No. A–92–03). Recent cyclopentane experiments in the API laboratory indicate that these changes are warranted. Any contaminant in the gauge can cause the next RVP measurement to be inaccurate.

18. Sampling Method Preference

In the direct final rule published on June 25, 1990 at 55 FR 25833, the Agency discussed sampling method preference. At that time the preferred method of taking a sample from a storage tank was the "all-levels sample." Since the publication of those revisions, the Agency has received comments

indicating that a "running sample" should be used when tank sampling instead of the "all-levels sample". The Agency requested comments on this issue in the notice of proposed rulemaking.

One commenter stated that an "all-levels sample" provides an accurate and reproducible sampling technique, and that "running" or "all-levels" sampling should give essentially the same result if correct procedures are followed. The Agency agrees and also believes that if either method of sampling (i.e., "running" or "all-levels") is completed in the correct manner, they both will yield essentially the same results. The note in section 12.4, which indicates a sampling preference has been revised to read when using a single sample, either an "all-levels" or "running" sample are the preferred methods of choice.

Another commenter stated that an "all-levels sample" can be difficult to take, especially if the gasoline tank contains a depth of 25 feet or more of product. This commenter preferred multiple spot samples as "they provide indication of stratification and greater statistical significance".

One commenter pointed out that the "all-levels sample" is difficult to take when stratification occurs in the tank and recommended upper, middle and lower spot sampling. Where there is a question as to whether a tank's contents has stratification layers in it, EPA recommends that the regulated party, in their oversight defense testing program, complete either "running" or "all-level" sampling, along with upper, middle, and lower spot sampling. Section 12.4 has been revised to include this language when there exists the question of stratification in tanks.

19. Analysis of Ethanol Content

One commenter expressed concern about EPA's enforcement of ethanol content and subsequent RVP testing results. The commenter stated that outside labs have indicated that the methods used by EPA may not give proper results on ethanol content if there are alcohols in the base gasoline. He asked if EPA has the enforcement power to assess fines to blenders that have complied with the regulations by volume, but not by later tests that have been taken by EPA.

In response, EPA notes that it is the responsibility of the blender to (1) ensure that the base gasoline to which the ethanol is added is free of other alcohols, and, (2) in order to qualify for the 1 psi RVP exemption, ensure that the ethanol volume is 9% to 10% in the final fuel. The procedures in 40 CFR part 80, appendix F for the determination of alcohol content are accurate and precise. Any concerns regarding ethanol blends and the one pound psi allowance are more properly directed to the final rule published on December 12, 1991 (56 FR 64704).

The commenter also stated that ASTM is recognized as the official body for testing and not EPA, and that EPA should be forced to participate in many correlation programs. While ASTM is a voluntary consensus standard organization, the legal responsibility for crafting regulatory testing standards for volatility is solely EPA's. EPA also notes that it has participated in many testing correlation programs. The Agency has participated in the Mobil correlation program, the Great Lakes correlation program, UIC correlation program, to name a few, and in at least one correlation program with the commenter.

20. Determination of Compliance

Since option 1 has been chosen by EPA, 40 CFR 80.27(b) has been revised to reflect the fact that only one testing methodology (Method 3 in appendix E) is used in the determination of compliance to the standards listed in 40 CFR 80.27(a).

IV. Paperwork Reduction Act

The information collection requirements contained in the volatility rule have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and have been assigned OMB control number 2060–0178. Public recordkeeping burden is estimated to be approximately 1 hour a year per facility. It is not anticipated that the revisions being promulgated today will have any impact on the recordkeeping burden. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Chief, Information Policy Branch, PM–223Y, U.S. Environmental Protection Agency, 401 M St. SW., Washington, DC 20460, and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, marked "Attention: Desk Officer for EPA."

V. Administrative Designation and Regulatory Analysis

Under Executive Order 12291, EPA must judge whether an action is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This final rule is not major because it is not likely to result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effect on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The effects of this action are to revise the volatility regulations by clarifying some parts of the liability provisions, amending the defenses to liability, adding a test exemption section, and revising the sampling and testing procedures. These revisions do not add any burden to the regulated industry. Under these circumstances, this rule is not likely to result in the conditions described in Executive Order 12291.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any written comments from OMB and any EPA response to OMB's comments are available in the public docket for this rulemaking.

VI. Impact on Small Entities

Under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, EPA is required to determine whether a regulation will have a significant impact on a substantial number of small entities so as to require a Regulatory Flexibility Analysis. For all the reasons described in section IV and in the Volatility Rule (54 FR 11883) this final rule will not have a significant impact on small entities in the regulated industry. There are no additional reporting requirements in the final regulations. Therefore, there is no significant impact on small entities. Therefore, I certify that this regulation will not have a significant impact on a substantial number of small entities.

List of Subjects in 40 CFR Part 80

Fuel additives, Gasoline, Incorporation by reference, Motor vehicle pollution, Penalties, Reporting and recordkeeping requirements.

Dated: January 19, 1993.

William K. Reilly,

Administrator.

For the reasons set out in the preamble, part 80 of title 40 of the Code of Federal Regulations is amended to read as follows:

PART 80—REGULATION OF FUELS AND FUEL ADDITIVES

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

Authority: Sections 114, 211(c), 211(h) and 301(a) of the Clean Air Act as amended, 42 U.S.C. 7414, 7545(c), 7545(h) and 7601(a).

2. Section 80.27 is amended by revising paragraphs (b) and (c) and by adding a new paragraph (e) to read as follows:

§ 80.27 Controls and prohibitions on gasoline volatility.

* * * * *

(b) *Determination of Compliance.* Compliance with the standards listed in paragraph (a) of this section shall be determined by use of one of the sampling methodologies as specified in appendix D of this part and the testing methodology specified in appendix E of this part.

(c) *Liability.* Liability for violations of paragraph (a) of this section shall be determined according to the provisions of § 80.28. Where the terms refiner, importer, distributor, reseller, carrier, ethanol blender, retailer, or wholesale purchaser-consumer are expressed in the singular in § 80.28, these terms shall include the plural.

* * * * *

(e) *Testing exemptions.* (1)(i) Any person may request a testing exemption by submitting an application that includes all the information listed in paragraphs (e)(3), (4), (5) and (6) of this section to:

Director (6406J), Field Operations and Support Division, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460

(ii) For purposes of this section, "testing exemption" means an exemption from the requirements of § 80.27(a) that is granted by the Administrator for the purpose of research or emissions certification.

(2)(i) In order for a testing exemption to be granted, the applicant must demonstrate the following:

(A) The proposed test program has a purpose that constitutes an appropriate basis for exemption;

(B) The proposed test program necessitates the granting of an exemption;

(C) The proposed test program exhibits reasonableness in scope; and

(D) The proposed test program exhibits a degree of control consistent with the purpose of the program and the Environmental Protection Agency's (EPA's) monitoring requirements.

(ii) Paragraphs (e)(3), (4), (5) and (6) of this section describe what constitutes a sufficient demonstration for each of the four elements in paragraphs (e)(2)(i)(A) through (D) of this section.

(3) An appropriate purpose is limited to research or emissions certification. The testing exemption application must include a concise statement of the purpose(s) of the testing program.

(4) With respect to the necessity that an exemption be granted, the applicant must demonstrate an inability to achieve the stated purpose in a practicable manner, during a period of the year in which the volatility regulations do not apply, or without performing or causing to be performed one or more of the prohibited activities under § 80.27(a). If any site of the proposed test program is located in an area that has been classified by the Administrator as a nonattainment area for purposes of the ozone national ambient air quality standard, the application must also demonstrate an inability to perform the test program in an area that is not so classified.

(5) With respect to reasonableness, a test program must exhibit a duration of reasonable length, effect a reasonable number of vehicles or engines, and utilize a reasonable amount of high volatility fuel. In this regard, the testing exemption application must include:

(i) An estimate of the program's duration;

(ii) An estimate of the maximum number of vehicles or engines involved in the test program;

(iii) The time or mileage duration of the test program;

(iv) The range of volatility of the fuel (expressed in Reid Vapor Pressure (RVP)) expected to be used in the test program; and

(v) The quantity of fuel which exceeds the applicable standard that is expected to be used in the test program.

(6) With respect to control, a test program must be capable of affording EPA a monitoring capability. At a minimum, the testing exemption application must also include:

(i) The technical nature of the test program;

(ii) The site(s) of the test program (including the street address, city, county, state, and zip code);

(iii) The manner in which information on vehicles and engines used in the test program will be recorded and made available to the Administrator;

(iv) The manner in which results of the test program will be recorded and made available to the Administrator;

(v) The manner in which information on the fuel used in the test program (including RVP level(s), name, address, telephone number, and contact person of supplier, quantity, date received from the supplier) will be recorded and made available to the Administrator;

(vi) The manner in which the distribution pumps will be labeled to insure proper use of the test fuel;

(vii) The name, address, telephone number and title of the person(s) in the organization requesting a testing exemption from whom further information on the request may be obtained; and

(viii) The name, address, telephone number and title of the person(s) in the organization requesting a testing exemption who will be responsible for recording and making available to the Administrator the information specified in paragraphs (e)(6)(iii), (iv), and (v) of this section, and the location in which such information will be maintained.

(7) A testing exemption will be granted by the Administrator upon a demonstration that the requirements of paragraphs (e)(2), (3), (4), (5) and (6) of this section have been met. The testing exemption will be granted in the form of a memorandum of exemption signed by the applicant and the Administrator (or his delegate), which shall include such terms and conditions as the Administrator determines necessary to monitor the exemption and to carry out the purposes of this section. Any violation of such a term or condition shall cause the exemption to be void.

* * * * *

3. Section 80.28 is amended as follows:

a. Paragraphs (b)(1), (b)(2) and (f)(3) are revised;

b. Paragraphs (b)(3) and (f)(4) are revised;

c. Paragraphs (b)(4) and (f)(5) are added;

d. Paragraph (g)(1)(i) is removed, paragraph (g)(1)(iii) is redesignated as new paragraph (g)(1)(i) and revised; and paragraph (g)(1)(ii) is revised;

e. Paragraphs (g)(2) introductory text, (g)(2)(ii), and (g)(3) introductory text are revised;

f. Paragraph (g)(3)(ii) is removed, paragraph (g)(3)(iii) is redesignated as new paragraph (g)(3)(ii) and revised;

g. Paragraph (g)(4)(i) is revised;

h. Paragraph (g)(6)(ii) is removed and paragraphs (g)(6)(iii) and (g)(6)(iv) are redesignated as new paragraphs (g)(6)(ii) and (g)(6)(iii), respectively and revised; and

i. Paragraph (g)(7) is revised, to read as follows:

§ 80.28 Liability for violations of gasoline volatility controls and prohibitions.

* * * * *

(b) * * *

(1) The carrier, except as provided in paragraph (g)(1) of this section;

(2) The refiner (if he is not an ethanol blender) at whose refinery the gasoline was produced or the importer at whose import facility the gasoline was imported, except as provided in paragraph (g)(2) of this section;

(3) The ethanol blender (if any) at whose ethanol blending plant the gasoline was produced, except as provided in paragraph (g)(6) of this section; and

(4) The distributor and/or reseller, except as provided in paragraph (g)(3) of this section.

* * * * *

(f) * * *

(3) The carrier (if any), if the carrier caused the gasoline to violate the applicable standard;

(4) The ethanol blender (if any) at whose ethanol blending plant the gasoline was produced, except as provided in paragraph (g)(6) of this section; and

(5) The refiner (if he is not an ethanol blender) at whose refinery the gasoline was produced and/or the importer at whose import facility the gasoline was imported, except as provided in paragraph (g)(2) of this section.

(g) * * *

(1) * * *

(i) That the violation was not caused by him or his employee or agent; and

(ii) Evidence of an oversight program conducted by the carrier, such as periodic sampling and testing of incoming gasoline, for monitoring the volatility of gasoline stored or transported by that carrier.

(2) In any case in which a refiner or importer would be in violation under paragraphs (b)(2), (d)(3), or (f)(5) of this section, the refiner or importer shall not be deemed in violation if he can demonstrate:

* * * * *

(ii) Test results using the sampling and testing methodologies set forth in appendices D and E of this part, or any other test method where adequate correlation to Method 3 of appendix E of this part is demonstrated, which show evidence that the gasoline determined to be in violation was in compliance with the applicable standard when it was delivered to the next party in the distribution system.

(3) In any case in which a distributor or reseller would be in violation under paragraph (b)(4), (c)(1), (d)(1), (e)(2), or (f)(2) of this section, the distributor or reseller shall not be deemed in violation if he can demonstrate:

* * * * *

(ii) Evidence of an oversight program conducted by the distributor or reseller, such as periodic sampling and testing of gasoline, for monitoring the volatility of gasoline that the distributor or reseller sells, supplies, offers for sale or supply, or transports.

(4) * * *

(i) Test results using the sampling and testing methodologies set forth in appendices D and E of this part, or any other test method where adequate correlation to Method 3 of appendix E of this part is demonstrated, which show evidence that the gasoline determined to be in violation was in compliance with the applicable standard when transported from the refinery.

* * * * *

(6) * * *

(ii) Evidence of an oversight program conducted by the ethanol blender, such as periodic sampling and testing of gasoline, for monitoring the volatility of gasoline that the ethanol blender sells, supplies, offers for sale or supply or transports; and

(iii) That the gasoline determined to be in violation contained no more than 10% ethanol (by volume) when it was delivered to the next party in the distribution system.

(7) In paragraphs (g)(1)(i), (g)(2)(i), (g)(3)(i), (g)(4)(ii), (g)(5), and (g)(6)(i) of this section, the respective party must demonstrate by reasonably specific showings, by direct or circumstantial evidence, that it or its employee or agent did not cause the violation.

* * * * *

4. Appendix D to part 80 is amended by revising sections 4.2, 6.3 note, 11.5.1, 11.5.2, 12.2, 12.4, 12.5, and Figure 6 and by adding sections 4.2.1, 11.5.2.1 and 11.5.2.2 and 7b to read as follows:

Appendix D to Part 80—Sampling Procedures for Fuel Volatility

* * * * *

4.2 *Container closure.* Closure devices may be used as long as they meet the following test: The quality of closures and containers must be determined by the particular laboratory or company doing the testing through the analysis of at least six sample pairs of gasoline and gasoline-oxygenate blends. The six sample pairs must include at least one pair of ethanol at 10 percent and one pair of MTBE at 15 percent. The second half of the pair must be analyzed in a period of no less than 90 days after the first. The data obtained must meet the following criteria and should be made available to the EPA upon request;

n=number of pairs

d=duplicate bottle's-initial bottle's vapor pressure

t=student t statistic; the double sided 95% confidence interval for n − 1 degrees of freedom

$$\Sigma d/n \pm (2)^{1/2} * t * ((\Sigma d^2 - (\Sigma d)^2/n)/(n-1))^{1/2} > 0.38 \text{ psi}$$

4.2.1 Screw caps must be protected by material that will not affect petroleum or petroleum products. A phenolic screw cap with a teflon coated liner may be used, since it has met the requirements of the above performance test upon EPA analysis.

* * * * *

6.3 * * *

Note: When taking samples from tanks suspected of containing flammable atmospheres, precautions should be taken to guard against ignitions due to static electricity. No object or material should be lowered into or suspended in a compartment of a tank which is being filled. A recommended waiting period of no less than five minutes after cessation of pumping will generally permit a substantial relaxation of the electrostatic charge for small volume vessels such as tank cars and tank trucks; under certain conditions a longer period may be deemed advisable. A recommended waiting period of no less than 30 minutes will generally permit a substantial relaxation of the electrostatic charge for large volume vessels such as storage tanks or ship tanks; under certain conditions a longer period may be deemed advisable.

* * * * *

11.5.1 *Apparatus.* Sample containers conforming with section 4.1 should be used. A spacer, if appropriate (figure 6), and a nozzle extension device similar to that shown in figures 7, 7a, or 7b shall be used when nozzle sampling. The nozzle extension device does not need to be identical to that shown in figures 7, 7a, or 7b but it should be a device that will bottom fill the container with a minimum amount of vapor loss.

11.5.2 *Retail sampling procedure*

11.5.2.1 If a nozzle extension as found in figure 7 or 7a is used, 3 gallons of gasoline should first be dispensed from the pump nozzle to purge the pump hose and nozzle. Then a small amount of product should be dispensed through the nozzle extension into the sample container to rinse the sample container. A pump nozzle spacer (figure 6) may be used if the pump is a vapor recovery type. Rinse the sample container and discard the waste product into an appropriate container. Insert the nozzle extension (figure 7 or 7a) into the sample container and insert the pump nozzle into the extension with slot over the air bleed hole (when using figure 7). Fill the sample container slowly through the nozzle extension to 70–85 percent full (figure 8). Remove the nozzle extension. Cap the sample container at once. Check for leaks. Discard the sample container and re-sample if leak occurs. If the sample container is leak tight, label the container and deliver it to the laboratory.

11.5.2.2 If a nozzle extension as found in figure 7b is used, 3 gallons of gasoline should first be dispensed from the pump nozzle to purge the pump hose and nozzle. Then screw a dry and dirt free 4 oz sample bottle container onto the bottle filling fixture. Insert the nozzle into the nozzle extension. Insert the discharge end of the modified nozzle extension into a gasoline safety can or into the filler neck of a vehicle. Obtain the sample by pumping at least 0.2 gallon through the sampler. Remove the sample bottle from the fixture. The sample must be 70–85 percent

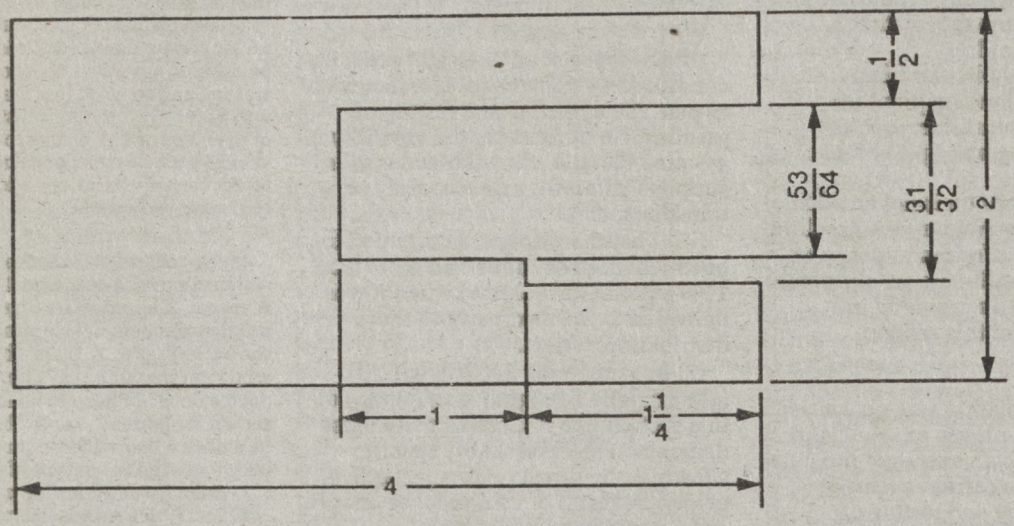
full. Cap the sample container at once. Check for leaks. Discard the sample container and re-sample if a leak occurs. If the sample container is leak tight, label the container and deliver it to the laboratory.

12.2 *Sample containers.* For nozzle sampling, use containers of not less than 4 ounces (118 ml) nor more than two gallons (7.6 liters) capacity, of sufficient strength to withstand the pressure to which they may be subjected, and of a type that will permit replacement of the cap or stopper with suitable connections for the transfer of the sample to the gasoline chamber of the vapor pressure testing apparatus. For running or all-level sampling procedures, use containers of not less than one quart (0.9 liter) nor more than two gallons (7.6 liters) capacity. Open-type containers have a single opening which permits sampling by immersion. Closed-type containers have two openings, one in each end (or the equivalent thereof), fitted with valves suitable for sampling by purging.

12.4 *Sampling open tanks.* Use clean containers of the open type when sampling open tanks and tank cars. An all-levels or a running sample obtained by the bottle procedure described in 11.2 is recommended. When the question exists of stratification of the contents of the tank, it is recommended that either a running or all-levels sample be taken along with upper, middle, and lower spot sampling. Before taking the sample, flush the container by immersing it in the product to be sampled. Then obtain the sample immediately. The sample must be 70–85 percent full. Close the container promptly and confirm it is not leaking. Label the container and deliver it to the laboratory.

12.5. *Sampling closed tanks.* Containers of the closed type may be used to obtain samples from closed or pressure tanks. Obtain the sample using the purging procedure described in 12.6.

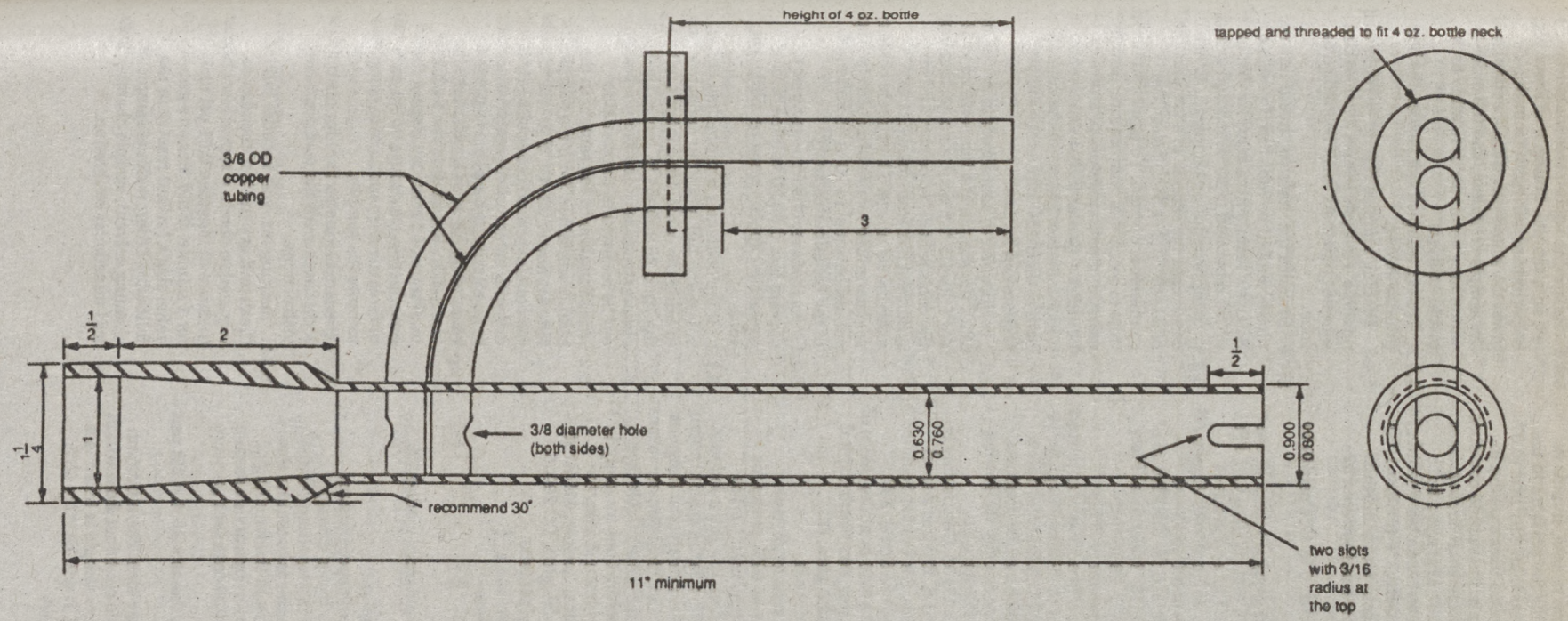
* * * * *



Make from 1/4 Inch flat stock (recommend non-ferrous material)
All dimensions in inches
Scale: 1inch = 1 inch
Break all edges and corners

Figure 6. Spacer for Nozzle Sampling

BILLING CODE 6560–50–P



All dimensions in inches
All decimal dimensions represent minimum and maximum
Tolerance for all other dimensions is ± 1/32"
Made of non-ferrous material, uneffected by gasoline
Scale: 0.700 inch = 1 inch

Figure 7b. Nozzle Extension for Nozzle Sampling with 4 ounce bottle

BILLING CODE 6560-50-C

* * * * *

5. Appendix E to part 80 is revised as follows:

Appendix E—Test for Determining Reid Vapor Pressure (RVP) of Gasoline and Gasoline-Oxygenate Blends

Method 3—Evacuated Chamber Method

1. Scope.

1.1 This method covers the determination of the absolute pressure, measured against a vacuum of a gasoline or gasoline-oxygenate blend sample saturated with air at 32–40 °F (0–4.5 °C). The absolute (measured) pressure is observed with a system volume ratio of 1 part sample and 4 parts evacuated space at 100 °F (37.8 °C).

1.2 The values stated in pounds per square inch absolute are standard.

2. Summary of method.

2.1 A known volume of air-saturated fuel at 32–40 °F is introduced into an evacuated, thermostatically controlled test chamber, the internal volume of which is or becomes five times that of the total test specimen introduced into the test chamber. After the injection the test specimen is allowed to reach thermal equilibrium at the test temperature, 100 °F (37.8 °C). The resulting pressure increase is measured with an absolute pressure measuring device whose volume is included in the total of the test chamber volume. The measured pressure is the sum of the partial pressures of the sample and the dissolved air.

2.2 The total measured pressure is converted to Reid vapor pressure by use of a correlation equation (see Section 9).

3. Apparatus.

3.1 The apparatus shall employ a thermostatically controlled test chamber which is capable of maintaining a vapor-to-liquid ratio between 3.95 and 4.05 to 1.00.

3.2 The pressure measurement device shall have a minimum operation range from 0 to 15 psia (0 to 103 kPa) with a minimum resolution of 0.05 psia (0.34 kPa). The pressure measurement device shall include any necessary electronic and readout devices to display the resulting reading.

3.3 The test chamber shall be maintained at 100±0.2 °F (37.8±0.1 °C) for the duration of the test except for the time period after sample injection when the sample is coming to equilibrium with test temperature of 100±0.2 °F (37.8±0.1 °C).

3.4 A thermometer that meets the specification ASTM 18 F (18 C) or a platinum resistance thermometer shall be used for measuring the temperature of the test chamber. The minimum resolution for the temperature measurement device is 0.2 °F (0.1 °C) and an accuracy of ±0.2 °F (±0.1 °C).

3.5 The vapor pressure apparatus shall have a provision for the introduction of the test specimen into the evacuated or to be evacuated test chamber and for the cleaning or purging of the chamber following the test.

3.6 If a vacuum pump is used, it must be capable of reducing the pressure in the test chamber to less than 0.01 psia (0.07 kPa). If the apparatus uses a piston to induce a vacuum in the sample chamber the residual pressure shall be no greater than 0.01 psia (0.07 kPa) upon full expansion of the test chamber devoid of any material at 100±0.2 °F (37.8±0.1 °C).

3.7 Ice water or air bath for chilling the sample to a temperature between 32–40 °F (0–4.5 °C).

3.8 Mercury barometer, 0 to 17.4 psia (0 to 120 kPa) range.

3.9 McLeod vacuum gauge, to cover at least the range of 0 to 5 mm Hg (0 to 0.67 kPa). Calibration of the McLeod gauge is checked as in accordance with Annex A6 of ASTM test Method D 2892–84, (Standard test method for distillation of Crude Petroleum (15–Theoretical Plate Column)). ASTM D–2892–84 is incorporated by reference. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C 552(a) and 1 CFR part 51. Copies may be obtained from the American Society for Testing and Materials, 1916 Race St., Philadelphia, PA 19103. Copies may be inspected at the U.S. Environmental Protection Agency, Air Docket Section, room M–1500, 401 M Street, SW., Washington, DC 20460 or at the Office of the Federal Register, 800 North Capitol Street, NW., Washington, DC.

4. *Reagents and materials.*

4.1 *Quality control standards.* Use chemicals of at least 99% purity for quality control standards. Unless otherwise indicated, it is intended that all reagents conform to the specifications of the committee on Analytical Reagents of the American Chemical Society where such specifications are available (see section 7.3). Specifications for analytical reagents may be obtained from the American Chemical Society, 1155 16th Street, NW., Washington, DC 20036.

4.1.1 2,2,4-trimethylpentane

4.1.2 2,2-dimethylbutane

4.1.3 3-methylpentane

4.1.4 n-pentane

4.1.5 acetone

4.2 n-pentane (commercial grade-95% pure)

5. *Handling of samples.*

5.1 The sensitivity of vapor pressure measurements to losses through evaporation and the resulting change in composition is such as to require the utmost precaution in the handling of samples. The provisions of this section apply to all samples for vapor pressure determinations.

5.2 Sample in accordance with 40 CFR part 80, appendix D.

5.3 Sample container size. The minimum size of the sample container from which the vapor pressure sample is taken is 4 ounces (118 ml). It will be 70 to 85% filled with sample.

5.4 *Precautions.*

5.4.1 Determine vapor pressure as the first test on a sample. Multiple analyses may be performed, but must be evaluated given the stated precision for the size of the sample container, and the order in which they were run in relation to the initial analysis.

5.4.2 Protect samples from excessive heat prior to testing.

5.4.3 Leaking samples should be replaced if possible. Analysis results from leaking sample containers must be marked as such.

5.4.4 Samples that have separated into two phases should be replaced if possible. Analysis results from samples that have phase separated must be marked as such.

5.4.5 Sample handling temperature. In all cases, cool the sample to a temperature of 32–40° F (0–4.5° C) before the container is opened. To ensure sufficient time to reach this temperature, directly measure the temperature of a similar liquid at a similar initial temperature in a like container placed in the cooling bath at the same time as the sample.

6. *Preparation for test.*

6.1 *Verification of sample container filling.* With the sample at a temperature of 32–40 °F (0–4.5 °C), take the container from the cooling bath, wipe dry with an absorbent material, unseal it, and examine its ullage. The sample content, as determined by use of a suitable gauge, should be equal to 70 to 85 volume % of the container capacity.

6.1.1 Analysis results from samples that contain less than 70 volume % of the container capacity must be marked as such.

6.1.2 If the container is more than 85 volume % full, pour out enough sample to bring the container contents within the 70 to 85 volume % range. Under no circumstance may any sample poured out be returned to the container.

6.2 Air saturation of the sample in the sample container. With the sample at a temperature of 32–40 °F (0–4.5 °C), take the container from the cooling bath, wipe dry with an absorbent material, unseal it momentarily, taking care to prevent water entry, re-seal it, and shake it vigorously. Return it to the bath for a minimum of 2 minutes. Repeat the air introduction procedure twice, for a total of three air introductions to completely saturate the sample.

6.3 Prepare the instrument for operation in accordance with the manufacturer's instructions.

6.3.1 *Instruments with vacuum pumps.* Clean and dry the test chamber as required to obtain a sealed test chamber pressure of less than 0.01 psi (0.07 kPa) for 1 minute. If the pressure exceeds this value check for and resolve in the following order; residual sample or cleaning solvent, sample chamber leaks, and transducer calibration.

6.3.2 *Instruments without vacuum pumps.* The sample purges the sample chamber through a series of rinses before the analysis occurs. Errors due to leaks in the plunger, piston seals, or carryover from previous samples or standards may give erratic results (see Note of section 6.3.2). The operator must run a quality control standard for at least one in twenty analyses or once a day to determine if there is carryover from previous analyses or if leaks are occurring.

Note: When using a self cleaning apparatus some residual product may be carried over into subsequent analyses. Carryover effect should be investigated when conducting sequential analyses of dissimilar materials, especially calibration standards. Inaccuracies caused by carryover effect should be resolved using testing procedures designed to minimize such interferences.

6.4 If a syringe is used for the physical introduction of the sample specimen, it must be either clean and dry before it is used or it may be rinsed out at least three times with the sample. When cleaning the syringe, the rinse may not be returned to the sample container. The syringe must be capable of obtaining, upon filling with the sample charge, a quantity of sample that has an entrained gas volume of less than 3% of the necessary sample volume.

7. *Calibration*

7.1 *Pressure measurement device.*

7.1.1 Check the calibration of the pressure measurement device daily or until the stability of the device is documented as having less than or equal to 0.03 psi (0.2 kPa) drift per unit of the appropriate calibration period. When calibration is necessary, follow the procedures in sections 7.1.2 through 7.1.4.

7.1.2 Connect a properly calibrated McLeod gauge to the vacuum source line to the test chamber. Apply vacuum to the test chamber. When the McLeod gauge registers a pressure less than 0.8 mm Hg (0.1 kPa) adjust the pressure measurement device's zero control to match to within ±0.01 psi (0.07 kPa) of the McLeod Gauge.

7.1.3 Open the test chamber to the atmosphere and observe the pressure measurement device's reading. Adjust the pressure measurement devices span control to within ±0.01 psi (0.07 kPa) of a temperature and latitude adjusted mercury barometer.

7.1.4 Repeat steps 7.1.2 and 7.1.3 until the instrument zero and barometer readings read correctly without further adjustments.

7.2 *Thermometer.* Check the calibration of the ASTM 18 F (18 C) thermometer or the platinum resistance thermometer used to monitor the test chamber at least every six months in accordance ASTM E1–86, (Standard Specification for ASTM Thermometers). ASTM E1–86 is incorporated by reference. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from the American Society for Testing and Materials, 1916 Race St., Philadelphia, PA 19103. Copies may be inspected at the U.S. Environmental Protection Agency, Air Docket Section, room M–1500, 401 M Street, SW., Washington, DC 20460 or at the Office of the Federal Register, 800 North Capitol Street, NW., Washington, DC. Check the reading of the thermometer against a National Institute of Standards and Technology traceable thermometer.

7.3 *Quality assurance.* The instrument's performance must be checked at least once per day using a quality control standard listed in section 4.1. In the case of the non-vacuum pump instruments the frequency is stated in section 6.3.2. The standards must be chilled to the same temperature, have the same ullage, and saturated with air in the same manner as the samples. Record total measured pressure and compare against the following reference values:

Compound	Lower control limit	Upper control limit
2,2,4-trimethylpentane	2.39 psia (16.5 kpa)	3.03 psi (20.9 kpa)
3-methylpentane	6.86 psia (47.3 kpa)	7.26 psi (50.1 kpa)
acetone	7.97 psia (55.0 kpa)	8.12 psi (56.0 kpa)
2,2-dimethylbutane	10.64 psia (73.4 kpa)	10.93 psi (75.4 kpa)
n-pentane	16.20 psia (111.7 kpa)	16.40 psi (113.1 kpa)

If the observed pressure does not fall between the reference values, check the instrument for leaks and its calibration (Section 7).

7.3.1 Other compounds, gasolines, and gasoline blends may be used as control standards as long as these materials have been statistically evaluated for their mean total measured pressure using an instrument that conforms to this procedure.

7.3.2 The control limits can be calculated with the following formula:

Mean measured pressure

$$\bar{X} = \frac{\sum X_i}{n}$$

Standard Deviation

$$S_{x_i} = \frac{\sum x_i^2 - (\sum x_i)^2/n}{(n-1)\,]^{0.5}}$$

Upper Control Limit (UCL)

$$UCL = X + (t_{n-1,0.975}) * (S_x)$$

Lower Control Limit (LCL)

$$LCL = X - (t_{n-1,0.975}) * (S_x)$$

where: x_i is the individual analyses of the control standard, n is the number of analyses (for a new instrument or a new control standard this should be at least ten analyses); $(t_{n-1,0.975})$ is the two-tailed student t statistic for n-1 degrees of freedom for 95% of the expected data from the analysis of the standard.

8. *Procedure.*

8.1 Remove the sample from the cooling bath or refrigerator, dry the exterior of the container with absorbent material, unseal, and insert the transfer tube, syringe, or transfer connection (see section 6). Draw an aliquot (minimize gas bubbles) of sample into a gas tight syringe or transfer the sample using tubing or transfer connection and deliver this test specimen to the test chamber as rapidly as possible. The total time between opening the chilled sample container and inserting/securing the syringe or transfer connection into the sealed test chamber shall not exceed one minute.

8.2 Follow the manufacturer's instructions for injection of the test specimen into the test chamber, and for the operation of the instrument to obtain a total measured vapor pressure result for the test specimen.

8.3 Set the instrument to read the test results in terms of total measured pressure. If the instrument is capable of calculating a Reid Vapor Pressure equivalent value ensure that only the parameters in section 9.2 are used.

9. *Calculation and record of result.*

9.1 Note the total measured vapor pressure reading for the instrument to the nearest 0.01 psi (0.07 kPa). For instruments which do not automatically display a stable pressure value, manually note the pressure indicator reading every minute to the nearest 0.01 psi (0.07 kPa). When three successive readings agree to within 0.01 psia (0.07 kPa) note the final result to the nearest 0.01 psia (0.07 kPa).

9.2 Using the following correlation equation, calculate the Reid Vapor Pressure (RVP) that is equivalent to the total measured vapor pressure obtained from the instrument, in order to compare the vapor pressure standards set out in 40 CFR 80.27. Ensure that the instrument reading in this equation corresponds to the total measured pressure and has not been corrected by an automatically programmed correction factor.

$$RVP\ psi = (0.956 * X) - 0.347$$

$$RVP\ kPa = (0.956 * X) - 2.39$$

where: X=total measured vapor pressure in psi or kPa

9.3 Record the RVP to the nearest 0.01 psi (0.07 kPa) as the official test result.

9.4 EPA will use the above method as the official vapor pressure test method. EPA will recognize correlations from regulated parties if the correlations are established directly with EPA's test laboratory. Any test method may be used for defense as long as adequate correlation is demonstrated to this method (i.e., any vapor pressure defense test method could be used if adequate correlation exists directly to this method, which can then be converted to Reid Vapor Pressure by use of the EPA Grabner correlation equation in section 9.2 of this method).

[FR Doc. 93–5683 Filed 3–16–93; 8:45 am]

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federal register

Wednesday
March 17, 1993

Part III

Department of Labor

Mine Safety and Health Administration

30 CFR Parts 56 and 57
Safety Standards for Explosives at Metal and Nonmetal Mines; Proposed Rule

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 56 and 57

RIN 1219–AA17

Safety Standards for Explosives at Metal and Nonmetal Mines

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice of public hearing; close of record.

SUMMARY: In response to a request from the mining community, the Mine Safety and Health Administration (MSHA) will hold a public hearing on its October 16, 1992, proposed rule addressing its safety standards for explosives at metal and nonmetal mines. The hearing will address the major issues raised by commenters in response to the proposed rule. The hearing will be held in Washington, DC.

DATES: All requests to make oral presentations for the record should be submitted at least 5 days before the hearing date. Immediately before the hearing, any unalloted time will be made available to persons making late requests. The public hearing will be held on Thursday, April 15, 1993, in Washington, DC. The hearing will begin at 9 a.m. The public record for the rulemaking will close on May 7, 1993.

ADDRESSES: The hearing will be held at the following location: Frances Perkins Department of Labor Building, room N3437 C and D, 200 Constitution Avenue, NW., Washington, DC 20210. Send requests to make oral presentations to: Mine Safety and Health Administration, Office of Standards, Regulations and Variances, room 631, 4015 Wilson Boulevard, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, MSHA, (703) 235–1910.

SUPPLEMENTARY INFORMATION: On January 18, 1991, MSHA published a final rule in the **Federal Register** (56 FR 2070) revising its safety standards for explosives at metal and nonmetal mines. On October 16, 1992 (57 FR 47524), MSHA published a proposed rule addressing certain stayed provisions of the January 18, 1991, final rule. The proposed rule defines "blast site," "magazine," and "storage facility." It also addresses the storage of packaged blasting agents, the location of explosive material storage facilities, vehicles transporting explosive material, primer protection, loading and blasting, double trunklines in nonelectric initiation systems, excessive temperatures, and burning explosive material. The Agency initially scheduled the written comment period on the proposed rule to close on December 15, 1992. In response to requests from the mining community, on November 25, 1992, MSHA extended the comment period to January 29, 1993 (57 FR 55491).

The purpose of the public hearing is to receive relevant comments and to answer questions concerning the proposed standards. The hearing will be conducted in an informal manner by a panel of MSHA officials. Although formal rules of evidence or cross examination will not apply, the presiding MSHA official may exercise discretion to ensure the orderly progress of the hearing and may exclude irrelevant or unduly repetitious material and questions.

The hearing will begin with an opening statement from MSHA, followed by an opportunity for members of the public to make oral presentations. The hearing panel will be available to address relevant questions. At the discretion of the presiding official, speakers may be limited to a maximum of 20 minutes for their presentations. In the interests of conducting a productive hearing, MSHA will schedule speakers in a manner that allows all points of view to be heard as effectively as possible.

Verbatim transcripts of the proceedings will be prepared and made a part of the rulemaking record. Copies of the hearing transcripts will be made available to the public for review.

MSHA will also accept for the record additional written comments and other appropriate data from any interested party, including those not presenting oral statements. Written comments and data submitted to MSHA will be included in the rulemaking record. To allow for the submission of any post-hearing comments, the record will remain open until May 7, 1993.

Issues

Commenters posed various questions about provisions contained in the proposed rule. Of greatest concern to commenters are the issues discussed below. MSHA specifically requests further comment on these issues in addition to any other aspects of the proposed rule.

The standards in part 56 apply to all surface metal and nonmetal mines; those in part 57 apply to underground and surface areas of underground metal and nonmetal mines.

A. Definition of "Blast Site"

The proposed rule defined "blast site" as a 50-foot (15.2 meter) perimeter where safety precautions must be taken during the loading of blastholes. As an alternative, the proposed rule would permit the "blast site" to consist of a minimum distance of 30 feet (9.1 meters) in all directions from loaded holes if the 30-foot (9.1 meter) perimeter is demarcated with a barrier or berm.

Some commenters agreed with the proposed definition; however, commenters suggested, for clarity, that MSHA define the terms "berm" and "barrier" within the explosives standards. As mentioned in the preamble to the proposed rule, MSHA considers a "barrier" to be a material object or objects that separate, keep apart, or demarcate based on the definition in Webster's New International Dictionary, 179, 3rd ed. 1966. MSHA believes that the term "barrier" has a commonly accepted meaning; therefore, there is no need for a separate definition in the explosives standards.

For purposes of the explosives standards, MSHA intends for a "berm" to be a type of barrier that would clearly demarcate the blast site. However, to avoid confusion with the term "berm" in subpart H, of parts 56 and 57 which defines a "berm" as capable of impeding the passage of a vehicle over the bank of an elevated roadway, MSHA is considering deleting "berm" from the proposed "blast site" definition and using "barrier." A "barrier" would be a "berm" as long as the berm clearly demarcates the blast site. MSHA solicits comments on whether the term "berm" should be removed from the blast site" definition.

Another commenter suggested that MSHA modify the definition to allow a "posted warning sign" as an alternative to a berm or barrier. A few commenters stated that the 50-foot (15.2 meter) and 30-foot (9.1 meter) distances were arbitrary and provided no additional level of safety to miners.

One commenter recommended that MSHA clarify that unloaded blastholes are not a part of the "blast site" unless they are within the 50-foot (15.2 meter) or 30-foot (9.1 meter) distance.

Some commenters recommended that MSHA adopt the "blast site" definition found in the Institute of Makers of Explosives (IME) Safety Library Publication No. 12, 1991 edition. As mentioned in the preamble to the proposed rule, MSHA's 50-foot (15.2 meter) perimeter requirement was based on the IME document. However, MSHA added the 30-foot (9.1 meter) alternative

in response to commenters who felt that MSHA's "blast site" definition was too restrictive. MSHA solicits additional data or evidence which may support an alternative definition for "blast site."

B. Location of Explosive Material Storage Facilities

MSHA proposed to delete paragraph (a)(1) of §§ 56/57.6131. This stayed provision requires that storage facilities for explosive material be located in accordance with Appendix I to Subpart E-MSHA Tables of Distances. MSHA believes that applying the separation of distances to occupied buildings and other structures on mine property would cause serious compliance problems for some operators.

Some commenters suggested that MSHA retain the table of distances; however, several other commenters agreed with MSHA's proposal to delete the table of distances since the Agency has no technical data to support the selected distances. MSHA solicits further comment on this issue.

C. Loading and Blasting

Under proposed §§ 56/57.6306, once loading begins, MSHA would permit at the blast site only those activities directly related to the blasting operation and the activities of surveying, stemming, and reopening of holes, provided that reasonable care is exercised. Haulage activity would be permitted near the base of the highwall being loaded provided no other haulage access exists. MSHA believes that prohibiting activities unrelated to the loading and blasting process minimizes the risk of miners coming into contact with explosive material or being injured by an unplanned event.

Most commenters agreed with the proposal. However, a few commenters noted that the revised standard is too restrictive since it would severely limit non-blasting activities within the blast site. Non-blasting activities mentioned included haulage, road construction, drilling and mining. MSHA solicits additional comment on what non-blasting activities could be safely undertaken at the blast site. Data to support such a position would be extremely useful.

MSHA would also require that loading be continuous except where adverse circumstances necessitate an interruption in loading. If the interruption in the loading procedure were expected to exceed 72 hours, the operator would have to notify the appropriate MSHA district office before the end of the 72 hours. MSHA believes that the proposed rule responds to the hazards associated with leaving explosive materials in blastholes for a prolonged time period.

Although commenters supported the continuous loading requirement of the proposed rule, they questioned whether MSHA had supporting data to demonstrate that the notification requirement would enhance safety. These commenters recommended deleting this requirement.

In addition, MSHA would also require that blasts be initiated without delay. If the time between the completion of loading and connection of circuits were expected to exceed 72 hours, the operator would have to notify the appropriate MSHA district office before the end of the 72 hours. MSHA's intent is to have the loaded circuits connected and fired as soon as practicable.

Commenters supported the requirement that blasts be initiated without delay; however, commenters again recommended deletion of the notification requirement due to lack of supporting data.

Some commenters recommended revising the proposed rule to require that haulage or other travel be suspended on all subsequent shifts if the time between the completion of loading and connection of circuits extends from one shift to the next. The commenter suggested that MSHA make exceptions for travel in response to emergency situations or for the final connection of circuits.

D. Non-electric Initiation Systems

MSHA proposed to delete paragraph (a) of §§ 56/57.6501. This stayed provision requires the use of double trunklines or loop systems to help prevent misfires when blasting with any nonelectric system. MSHA intended that this requirement would ensure multiple initiation paths, providing for the contingency that a cut-off of one lead would not disable the blasting sequence. However, the Agency is seeking additional data related to this issue.

A majority of the commenters agreed that deleting paragraph (a) would not diminish miner safety. However, some commenters supported the provision stating that the double trunkline or loop system is a more reliable system.

Dated: March 11, 1993.

Edward C. Hugler,

Acting Assistant Secretary for Mine Safety and Health.

[FR Doc. 93–6097 Filed 3–16–93; 8:45 am]

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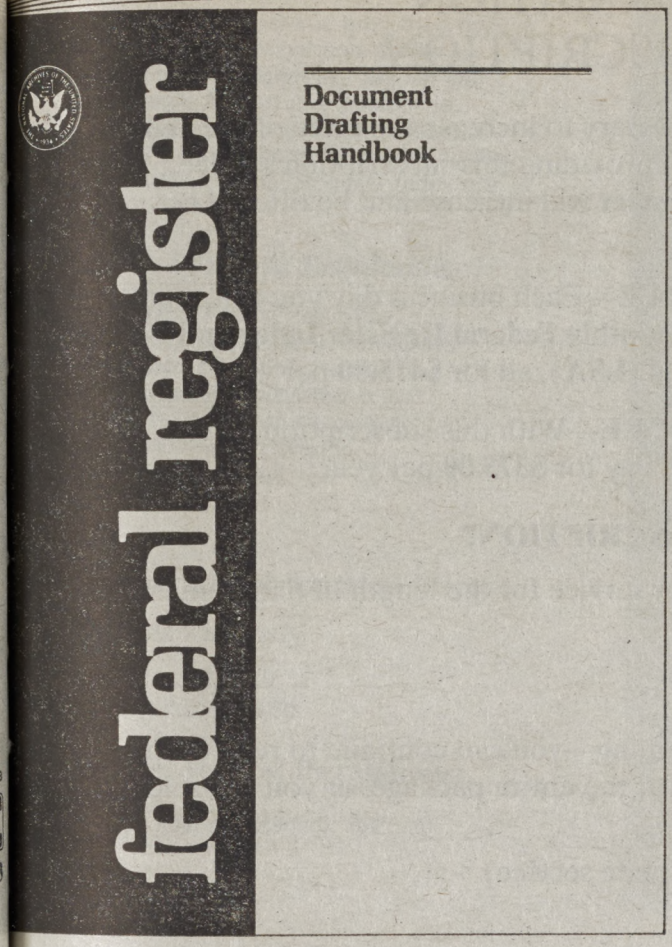
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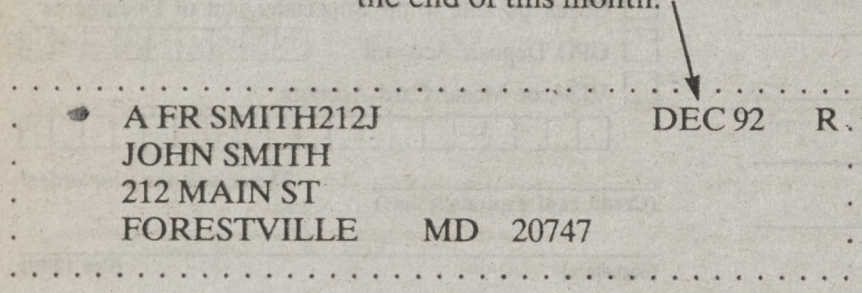
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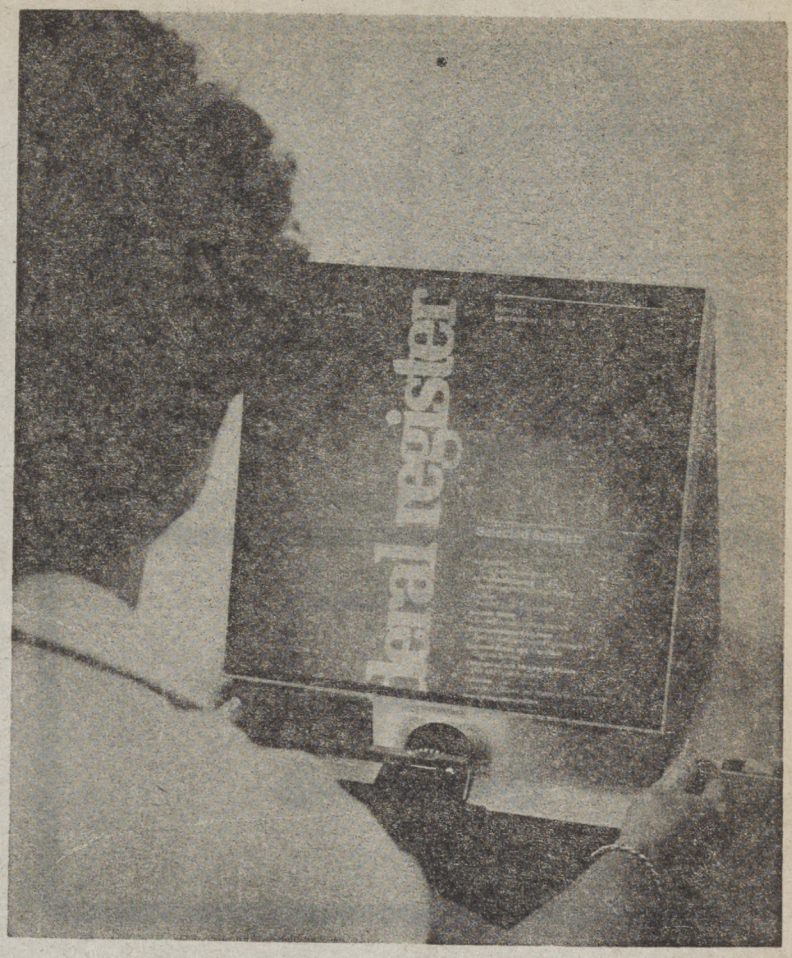
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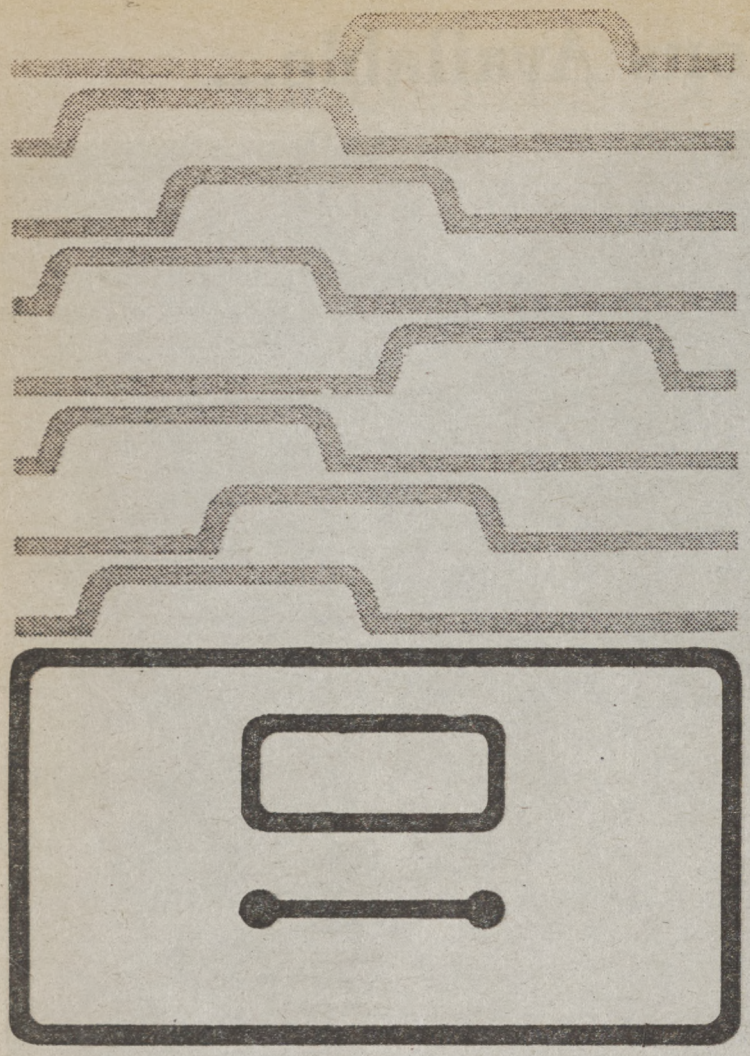
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