AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

2–3–93
Vol. 58 No. 21

federal register

Wednesday
February 3, 1993

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 20402

OFFICIAL BUSINESS
Penalty for private use, $300

SECOND CLASS NEWSPAPER

Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097–6326)

2–3–93
Vol. 58 No. 21
Pages 6875–7046

federal register

Wednesday
February 3, 1993

Briefing on How To Use the Federal Register
For information on a briefing in Washington, DC, see announcement on the inside cover of this issue.

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

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The seal of the National Archives and Records Administration authenticates this issue of the **Federal Register** as the official serial publication established under the Federal Register Act. 44 U.S.C. 1507 provides that the contents of the **Federal Register** shall be judicially noticed.

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WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
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.

WASHINGTON, DC

WHEN: March 5 at 9:00 a.m.

WHERE: Office of the Federal Register, 7th Floor Conference Room, 800 North Capitol Street NW, Washington, DC

RESERVATIONS: 202–523–4538

Printed on recycled paper containing 100% post consumer waste

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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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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.

FEDERAL ELECTION COMMISSION

11 CFR Part 201

[Notice 1993–3]

Ex Parte Communications

AGENCY: Federal Election Commission.

ACTION: Notice of public hearing.

SUMMARY: The Federal Election Commission is considering holding a public hearing on its interim ex parte communication rules. The rules establish procedures for handling communications made to Commissioner offices in connection with Commission audits, litigation, rulemaking proceedings and advisory opinions, by persons not employed by the Commission.

DATES: The Commission is considering holding a hearing on March 31, 1993 at 10:00 a.m. if a sufficient number of persons are interested in testifying. Requests to testify must be received on or before March 5, 1993. Persons requesting to testify must also submit written comments by March 5, 1993, if they have not previously filed written comments on the proposed rules.

ADDRESSES: Requests to testify, and any accompanying comments, must be made in writing and addressed to: Ms. Susan E. Propper, Assistant General Counsel, 999 E Street NW., Washington, DC 20463. Commission hearings are held in the Commission's ninth floor meeting room, 999 E Street NW., Washington, DC.

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

SUPPLEMENTARY INFORMATION: On December 9, 1992 (57 FR 58133), the Commission published interim final rules, with a request for comments. The rules established procedures for handling communications made to Commissioner offices in connection with Commission audits, litigation, rulemaking proceedings and advisory opinions, by persons not employed by the Commission. These communications are prohibited, in the case of audits and litigation; and are to be part of the public record, in the case of rulemaking proceedings and advisory opinions.

Although these rules became effective upon publication in the Federal Register, the Commission stated that it would consider comments received on or before January 8, 1993, and might re-evaluate the rules in light of such comments. A number of timely comments were received, one of which requested that the Commission hold a public hearing on these rules. The Commission is willing to hold a hearing if a sufficient number of interested parties request an opportunity to testify.

Dated: January 29, 1993.

Scott E. Thomas,

Chairman, Federal Election Commission.

[FR Doc. 93–2525 Filed 2–2–93; 8:45 am]

BILLING CODE 6715–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 33

[Docket No. 92–ANE–29; Special Conditions No. SC–92–01–NE]

Special Conditions: Turbomeca Makila 1A2 Turboshaft Engine

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for the Turbomeca Model Makila 1A2 turboshaft engine. This engine will have novel or unique engine ratings that are not defined by the applicable airworthiness regulations. These special conditions contain the additional safety standards which the Administrator considers necessary to establish a level of safety equivalent to that established by the airworthiness standards of part 33 of the Federal Aviation Regulations.

EFFECTIVE DATE: March 5, 1993.

FOR FURTHER INFORMATION CONTACT: Chung Hsieh, Engine and Propeller Standards Staff, ANE–110, Engine and Propeller Directorate, Aircraft Certification Service, FAA, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803–5229; (617) 273–7077; Fax (617) 270–2412.

SUPPLEMENTARY INFORMATION:

Background

On July 31, 1991, Turbomeca, applied for an amendment to Type Certificate No. E12–NE, to include a new Model Makila 1A2 turboshaft engine. The Makila 1A2 turboshaft engine, a derivative of the Makila 1A turboshaft engine, is rated at 30-Second one engine inoperative (OEI), 2-Minute OEI, 30-Minute OEI, continuous OEI, Takeoff, and Maximum Continuous ratings.

The applicable airworthiness requirements do not contain 30-Second OEI, and 2-Minute OEI, rating definitions, and do not contain adequate or appropriate safety standards for the type certification of these new and unusual engine ratings.

Type Certification Basis

Under the provisions of § 21.101 of the Federal Aviation Regulations (FAR), Turbomeca must show that the Model Makila 1A2 turboshaft engine meets the applicable provisions of the regulations incorporated by reference in Type Certificate No. E12–NE, or the applicable regulations in effect on the date of application. The Federal Aviation Regulations incorporated by reference in Type Certificate No. E12–NE are: § 21.29 and part 33, effective February 1, 1965, as amended.

The Administrator finds that the applicable airworthiness regulations do not contain adequate or appropriate safety standards for the Model Makila 1A2 turboshaft engine because of the new and unique engine ratings, therefore, the Administrator prescribes special conditions under the provisions of § 21.16 to establish a level safety equivalent to that established in the regulations.

Special conditions, as appropriate, are issued in accordance with § 11.49 of the FAR after public notice, as required by §§ 11.28 and 11.29(b), and become part of the type certification basis in accordance with § 21.101(b)(2).

Discussion of Comments

Interested persons have been afforded the opportunity to participate in the making of these special conditions. No comments were received on the special conditions as proposed.

The FAA has determined that since the issuance of the Proposed special conditions, "The Special Conditions" section required the following two typographical changes in paragraphs (c)(1) and (g)(4), and one clarification in paragraph (h)(2):

(a) Paragraph (c)(1): The word "operation" was changed to "operating."

(b) Paragraph (g)(4): The header "* * * Maximum Continuous OEI power" was changed to "* * * Maximum Continuous power."

(c) Paragraph (h)(2): The end of the last sentence "* * * the maximum operating temperature limit" was changed to "* * * the 30-second OEI rating operating limit," as the meaning and intent of these two phrases are the same.

After careful review of the available data, the FAA determined that air safety and the public interest require the adoption of the special conditions with the changes described above.

Conclusion

This action affects only certain novel or unusual design features on one model engine. It is not a rule of general applicability, and affects only the manufacturer who applied to the FAA for approval of these features on the engine.

List of Subjects in 14 CFR Part 33

Air transportation, Aircraft, Aviation safety, Safety.

The authority citation continues to read as follows:

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

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions for the Turbomeca Model Makila 1A2 turboshaft engine are issued as part of the type certification basis:

(a) In addition to the requirements of Section 33.7, the following ratings are defined:

(1) RATED 30-SECOND ONE-ENGINE-INOPERATIVE (OEI) POWER: The brake horsepower developed statically in standard atmosphere at sea level, or at a specified altitude and temperature, for continued one-flight operation after the failure of one engine in multi-engine rotorcraft, limited to three periods of use no greater than 30 seconds each, at rotor shaft rotation speed and gas temperature established for this rating by FAR part 33 or this special condition.

(2) RATED 2-MINUTE OEI POWER: The brake horsepower, developed statically in standard atmosphere at sea level, or at a specified altitude and temperature, for continued one-flight operation after failure of one engine in multi-engine rotorcraft, limited to three periods of use of up to 2 minutes each, at rotor shaft rotation speed and gas temperature established for this rating by FAR part 33 or this special condition.

(b) In addition to the requirements of § 33.4, mandatory inspection and maintenance actions required, following the use of the 30-Second or 2-Minute OEI rating, must be included in the airworthiness limitations section of the appropriate engine manuals.

(c) In addition to the requirements of § 33.27, the following tests must be conducted for the most critically stressed rotor component of each turbine and compressor, including integral drum rotors, and centrifugal compressors. For 30-Second and 2-Minute OEI conditions, test for a period of 2½ minutes.

(1) At its maximum operation temperature, except as provided in § 33.27(c)(2)(iv), and

(2) At the highest speed determined in accordance with § 33.27(c)(2)(i) through (c)(2)(vi).

(3) This test may be performed using a separate test vehicle if desired.

(4) Following the test based on the 30-Second OEI rating, rotor growth and distress beyond dimensional limits for an overspeed condition is permitted, provided the structural integrity of the rotor is maintained, as shown by a procedure acceptable to the Administrator.

(d) In addition to the requirements of § 33.29, the engine must provide for a means to indicate when the engine is at either 30-Second or 2-Minute OEI rated power level, and to determine the elapsed time of operation at 2-Minute OEI and 30-Second OEI rated power levels.

(e) In addition to the requirements of § 33.67, the engine must provide for a means for automatic availability of the 30–Second OEI power, and engine test runs must be performed to demonstrate automatic switching to a 30-Second OEI rating condition.

(f) In addition to the requirements of § 33.85, tests performed at the 30-Second and 2-Minute OEI ratings during the applicable endurance test prescribed in § 33.87, may be used in showing compliance with the requirements of § 33.85 for these OEI ratings.

(g) In addition to the requirements of § 33.87, an engine test must be conducted four times, using the following test sequence for a total of not less than 120 minutes:

(1) Takeoff Power—three minutes at rated takeoff power

(2) 30-Second OEI power—thirty seconds at rated 30-Second OEI power

(3) 2-Minute OEI power—two minutes at rated 2-Minute OEI power

(4) 30-Minute OEI, Continuous OEI, or Maximum Continuous power—five minutes at rated 30-Minute OEI power, or rated Continuous OEI power, or rated Maximum continuous power, whichever is greatest, except that during the first test sequence this period shall be 65 minutes

(5) Minimum flight power—one minute at minimum flight power

(6) 30-Second OEI power—thirty seconds at rated 30-Second OEI power

(7) 2-Minute OEI power—two minutes at rated 2-Minute OEI power

(8) Idle power—one minute at Idle power

(h) In addition to the requirements of Section 33.88, the following must be performed:

(1) For engines that do not provide a means for temperature limiting, conduct a test for a period of five minutes at the maximum permissible power-on RPM, with the gas temperature at least 75 degrees Fahrenheit higher than the 30-Second OEI rating operating limit.

(2) For engines that provide a means for temperature limiting, conduct a test for a period of four minutes at the maximum permissible power-on RPM, with the gas temperature at least 35 degrees Fahrenheit higher than the 30-Second OEI rating operating limit.

(3) Following the test, rotor assembly growth and distress beyond serviceable limits for an over temperature condition is permitted provided that the structural integrity of the rotor assembly is maintained, as shown by a procedure that is acceptable to the Administrator.

(i) In addition to the requirements of § 33.93, the engine must be completely disassembled after completing the additional testing of § 33.87, required under this special condition. The engine may exhibit deterioration in excess of that permitted in § 33.93(b), and may include some engine parts and components that may be unsuitable for further use. It must be shown by procedures approved by the Administrator that the structural integrity of the engine including mounts, cases, bearing supports, shafts and rotors, is maintained.

Issued in Burlington, Massachusetts, on January 19, 1993.

Jack A. Sain,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 93–2056 Filed 2–2–93; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 92–NM–177–AD; Amendment 39–8476; AD 93–01–22]

Airworthiness Directives; Fokker Model F28 Mark 0100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Fokker Model F28 Mark 0100 series airplanes, that requires modification of the oxygen drop-out panels of the forward and aft cabin attendant positions. This amendment is prompted by reports that the lanyards for the oxygen masks and mask retainers at the forward and aft cabin attendant seats are too short for the attendants seated there to reach easily. This condition if not corrected, could result in the cabin attendants seated in the forward and aft cabin attendant seats being unable to reach their oxygen masks in an emergency situation.

DATES: Effective March 10, 1993.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 10, 1993.

ADDRESSES: The service information referenced in this AD may be obtained from Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Quam, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2145; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) that is applicable to certain Fokker Model F28 Mark 0100 series airplanes was published in the Federal Register on October 21, 1992 (57 FR 48002). That action proposed to require modification of the oxygen drop-out panels of the forward and aft cabin attendant positions.

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

Both commenters support the proposed rule.

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

The FAA estimates that 46 airplanes of U.S. registry will be affected by this AD, that it will take approximately 6 work hours per airplane to accomplish the required actions, and that the average labor rate is $55 per work hour. Required parts will cost approximately $223 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $25,438, or $553 per airplane. This total cost figure assumes that no operator has yet accomplished the requirements of this AD.

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 final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption "ADDRESSES."

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 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 airworthiness directive:

93–01–22. FOKKER: Amendment 39–8476. Docket 92–NM–177–AD.

Applicability: Model F28 Mark 0100 series airplanes; serial numbers 11244 through 11365, inclusive, and 11367; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To ensure that the cabin attendants seated in the forward and aft cabin attendant seats can reach their oxygen masks in emergency situations, accomplish the following:

(a) Within 6 months after the effective date of this AD, modify the oxygen drop-out panels of the forward and aft cabin attendant positions, in accordance with Fokker 100 Service Bulletin SBF100–35–003, dated March 23, 1992.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(c) 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.

(d) The modification shall be done in accordance with Fokker 100 Service Bulletin SBF100–35–003, dated March 23, 1992. 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 Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on March 10, 1993.

Issued in Renton, Washington, on January 14, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–2551 Filed 2–2–93; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 92–NM–80–AD; Amendment 39–8472; AD 93–01–18]

Airworthiness Directives; Gulfstream Model G–1159 (GII), G1159A (GIII), and G–1159B (GIIB) Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Gulfstream Model GII, GIIB, and GIII series airplanes, that requires inspections to detect cracks in the forward and aft fail-safe channels and splice fittings between buttock line (BL) 135 and 156, and repair or replacement of cracked parts. This amendment is prompted by reports of cracks found in the fail-safe channels and splice fittings on the wings of several Model GII and GIII series airplanes. The actions specified by this AD are intended to prevent progressive structural degradation at BL 145 wing spanwise splice and possible loss of fail-safe strength capability.

DATES: Effective March 10, 1993.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 10, 1993.

ADDRESSES: The service information referenced in this AD may be obtained from Gulfstream Aerospace Corporation, P.O. Box 2206, M/S D–10, Savannah, Georgia 31402–9980. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Atlanta Aircraft Certification Office, suite 210C, 1669 Phoenix Parkway, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Steve Flanagan, Aerospace Engineer, Airframe Branch, ACE–120A, FAA, Atlanta Aircraft Certification Office, suite 210C, 1669 Phoenix Parkway, Atlanta, Georgia 30349; telephone (404) 991–2910; fax (404) 991–3606.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) that is applicable to all Gulfstream Model GII, GIIB, and GIII series airplanes was published in the **Federal Register** on July 7, 1992 (57 FR 29844). That action proposed to require inspections to detect cracks in the forward and aft fail-safe channels and splice fittings between buttock line (BL) 135 and 156, and repair or replacement of cracked parts.

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 requests that paragraph (a)(4) of the proposed AD be revised to require that operators submit reports of crack damage to Gulfstream, rather than to the FAA. The commenter states that a requirement to report inspection findings to the FAA would be redundant, since Gulfstream is currently collecting this data and the FAA could obtain that information, as necessary. The FAA concurs and has revised the final rule accordingly.

The commenter also requests clarification as to why the notice specifies that the AD is interim action when inspections and repair or replacement of any damaged parts found would be required. The FAA's intent in stating that the proposed AD is interim action is to allow for the possibility that a preventive modification may be developed, at which time the FAA may consider further rulemaking to require accomplishment of that modification.

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

There are approximately 445 Model GII, GIIB, and GIII series airplanes of the affected design in the worldwide fleet. The FAA estimates that 345 airplanes of U.S. registry will be affected by this AD, that it will take approximately 2 work hours per airplane to accomplish the required actions (excluding preparation and close-up time), and that the average labor rate is $55 per work hour. Required parts will cost approximately $2,300 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $831,450, or $2,410 per airplane. This total cost figure assumes that no operator has yet accomplished the requirements of this AD.

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 final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption "**ADDRESSES.**"

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 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 airworthiness directive:

93–01–18. Gulfstream Aerospace Corporation: Amendment 39–8472. Docket 92–NM–80–AD.

Applicability: All Model G–1159 (GII), G–1159A (GIII), and G–1159B (GIIB) series airplanes; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent progressive structural degradation at buttock line (BL) 145 wing spanwise splice and possible loss of fail-safe strength capability, accomplish the following:

(a) Within 150 hours time-in-service after the effective date of this AD, or within 90 days after the effective date of this AD, whichever occurs first, inspect the forward and aft lower plank splice fail-safe channels and flanges and splice fittings between wing BL 135 and 156 to detect cracks, in accordance with Gulfstream Customer Bulletin No. 400A, dated April 27, 1992 (for Model GII series airplanes); Gulfstream Customer Service Bulletin No. 403A, dated April 27, 1992 (for Model GIIB series airplanes); or Gulfstream Customer Service Bulletin No. 114A, dated April 27, 1992 (for Model GIII series airplanes); as applicable.

Note: Inspections of the same type as those required by paragraph (a) of this AD that were accomplished prior to the effective date of this AD in accordance with Gulfstream Customer Service Bulletin No. 400, dated March 16, 1992 (for Model GII series airplanes); Gulfstream Customer Service Bulletin No. 403, dated March 16, 1992 (for Model GIIB series airplanes); or Gulfstream Customer Service Bulletin No. 114, dated March 16, 1992 (for Model GIII series airplanes); are considered in compliance with the requirements of paragraph (a) of this AD.

(1) If no cracks are found, no further action is required.

(2) If cracks are found in the fail-safe channels or splice fittings, and the cracks meet the conditions and are within the limits specified in the applicable customer bulletin:

(i) Flight is permitted provided that repetitive inspections of the same type as the inspections required by paragraph (a) of this AD are accomplished at intervals not to exceed 6 months, in accordance with the applicable customer bulletin.

(ii) Repair cracked fail-safe channels and replace cracked splice fittings no later than the next regularly scheduled 18-month wing tank interior inspection, in accordance with the applicable customer bulletin.

(iii) Accomplishment of the repair and replacement procedures required by paragraph (a)(2)(ii) of this AD constitutes terminating action for the repetitive inspections required by paragraph (a)(2)(i) of this AD.

(3) If cracks are found as a result of the initial or repetitive inspections required by paragraph (a) or (a)(2)(i) of this AD, and the cracks do not meet the conditions and are outside the limits specified in the applicable customer bulletin: Prior to further flight, repair cracked fail-safe channels and replace cracked splice fittings, in accordance with the applicable customer bulletin.

(4) Within 10 days after the detection of cracks as a result of the initial and repetitive inspections required by paragraphs (a) and (a)(2)(i) of this AD, submit a report of crack damage to Gulfstream Aerospace Corporation, P.O. Box 2206, M/S D–10, Savannah, Georgia 31402–9980. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Atlanta Aircraft Certification Office (ACO), ACE–115A, FAA, Small Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta ACO.

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

(c) 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.

(d) The inspections, repair, and replacement shall be done in accordance with Gulfstream Customer Bulletin No. 400A, dated April 27, 1992 (for Model GII series airplanes); Gulfstream Customer Service Bulletin No. 403A, dated April 27, 1992 (for Model GIIB series airplanes); or Gulfstream Customer Service Bulletin No. 114A, dated April 27, 1992 (for Model GIII series airplanes). (NOTE: The issue dates of those service bulletins are indicated only on the first page of each service bulletin; no other pages of those documents are dated.) 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 Gulfstream Aerospace Corporation, P.O. Box 2206, M/S D–10, Savannah, Georgia 31402–9980. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Atlanta Aircraft Certification Office, suite 210C, 1669 Phoenix Parkway, Atlanta, Georgia 30349; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on March 10, 1993.

Issued in Renton, Washington, on January 13, 1993.

James V. Devany,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–2552 Filed 2–2–93; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 92–NM–130–AD; Amendment 39–8473; AD 93–01–19]

Airworthiness Directives; Boeing Model 767 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Boeing Model 767 series airplanes, that currently requires a repetitive operational check to manually open and close all entry/service doors to verify the integrity of the door counterbalance inner torsion springs, and replacement, if necessary. This amendment provides for an optional installation which, when accomplished, constitutes terminating action for the currently required repetitive operational checks. This amendment also adds airplanes to the applicability of the rule. This action is prompted by the development of an improved graphite-composite inner torsion spring that positively addresses the identified unsafe condition. The actions specified by this AD are intended to ensure opening of entry/service doors when required for emergency evacuation.

DATES: Effective March 10, 1993.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 10, 1993.

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

FOR FURTHER INFORMATION CONTACT: Mr. Pliny Brestel, Aerospace Engineer, Seattle Aircraft Certification Office, Airframe Branch, ANM–120S, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (206) 227–2783; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations by superseding AD 89–08–07, Amendment 39–6186 (54 FR 14206, April 10, 1989), which is applicable to certain Boeing Model 767 series airplanes, was published in the **Federal Register** on August 31, 1992 (57 FR 39372). The action proposed to require a replacement of certain inner torsion springs or certain counterbalance assemblies; this replacement would terminate the need for the currently required operational checks to verify the integrity of the door counterbalance inner torsion springs. It also proposed to revise the applicability of the rule to include additional airplanes that had been identified as subject to the addressed unsafe condition.

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 supports the proposed rule.

One commenter requests that paragraph (a) of the proposal either be revised to extend the repetitive interval for the operational checks from 350 flight hours to 400 flight hours so as to be consistent with proposed paragraph (b), or be deleted altogether. This commenter considers that, as it is currently formatted, paragraph (a) of the proposal is confusing with regards to this repetitive check interval. The FAA does not concur with the commenter's requested changes. The intent of paragraph (a) is to retain the initial and repetitive check requirements of AD 89–08–07 so that operators are given credit for checks that they have already accomplished in accordance with that AD; and to ensure that any Model 767 series airplane placed on the U.S. register in the future will be subject immediately to the initial check. It is also important to retain this information, since the compliance time for performing the checks in accordance with paragraph (b) is directly related to the time that the operator last performed a check in accordance with AD 89–08–07.

Several commenters request that proposed paragraph (b) be clarified to specify exactly which counterbalance assemblies are considered to be those for which no further action is needed. The proposal only refers to "improved counterbalance assemblies." One commenter questions whether counterbalances containing titanium springs would be considered "improved" units. The FAA concurs that clarification is warranted. The FAA considers that assemblies for which no further action is required are:

1. Counterbalance assemblies equipped with titanium inner torsion springs;

2. Counterbalance assemblies rated for escape slides;

3. Improved counterbalance assemblies (those having part numbers specified in Section III, paragraphs A. through F., of Boeing Service Bulletin 767–52A0053, Revision 2, dated April 30, 1992); and

4. Counterbalance assemblies equipped an improved graphite-composite inner torsion spring (those having part numbers specified in Section III; paragraphs A. through F., of Boeing Service Bulletin 767–52A0053, Revision 2, dated April 30, 1992).

Airplanes that are equipped with these assemblies require no further action and the operational checks currently required by the existing AD may be discontinued. The FAA has revised paragraph (b) of the final rule to clarify this point.

Two commenters request that proposed paragraph (b) be revised to extend the initial inspection time from the proposed 400 flight hours to 900 flight hours. Such an extension will allow operators to avoid having to revise their normal maintenance schedules in order for this inspection to be accomplished. The costs incurred by such special scheduling would be more than the costs described in the economic impact information that was contained in the preamble to the notice. The FAA does not concur that such an extension is warranted. The inspection called for in paragraph (b) is merely a determination of the types of components installed in the entry/service doors. The 400-flight hour compliance time should not necessitate any special scheduling for the majority of the affected fleet; additionally, this determination can be made by reviewing airplane records, rather than by physically inspecting the airplane.

Two commenters request that proposed paragraph (b)(2) be revised to extend the interval for repetitive operational checks from the proposed 400 flight hours to either 425 flight hours or 900 flight hours. These commenters state that such an extension will allow them to avoid the additional costs of special scheduling of airplanes to times other than those of normal maintenance schedules. The FAA concurs that the interval for repetitive operational checks may be extended to 425 flight hours; this will allow the check to be accomplished during a regularly scheduled "B" check for the majority of the affected fleet. The FAA has determined that this extension of an additional 25 flight hours will not adversely impact safety. The FAA does not consider that any further extension is warranted, however, since the checks take less than one work hour to perform and should not necessitate special scheduling; moreover, this AD extends the repetitive check interval from that which was previously required by AD 89–08–07.

One commenter requests that proposed paragraph (c), which would require the installation of the improved door components as terminating action, be deleted or revised so as not to mandate the installation. This commenter considers that the repetitive operational checks should be allowed to continue indefinitely as an alternative to terminating action. This alternative ensures adequate checking for the broken graphite-composite inner torsion springs, and is the preferred method for some operators. The FAA concurs. Upon further consideration of the problems associated with the integrity of the door counterbalance inner torsion springs, the FAA considers that (1) the inspection area is easily accessible, (2) the failure is easily detectable, and (3) the consequences of the failure are not likely to be catastrophic. In consideration of these items, the FAA has determined that the circumstances warrant continual operational checks rather than a mandated terminating modification. The final rule has been revised accordingly. Additionally, the economic impact information, below, has been revised to delete the costs associated with the proposed mandatory modification.

Paragraph (a) has been revised and reformatted to clarify that the requirements of that paragraph are terminated once the requirements of paragraph (b) are initiated.

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

There are approximately 122 Boeing Model 767 series airplanes of the affected design in the worldwide fleet; this number includes 18 additional airplanes worldwide that have been added as a result of this AD action. The FAA estimates that 50 airplanes of U.S. registry will be affected by this proposed AD. (No additional U.S.-registered airplanes have been added as a result of this AD action.) The FAA estimates that it will take approximately 1 work hour per airplane to accomplish each operational check, at an average labor rate of $55 per work hour. Based on these figures, the total cost impact of the requirements of this AD on U.S. operators is estimated to be $2,750 per cycle, or $55 per airplane per cycle. This total cost figure assumes that no operator has yet accomplished the requirements of this AD action.

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 final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption "ADDRESSES."

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 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 removing amendment 39–6186 (54 FR 14206, April 10, 1989), and by adding a new airworthiness directive (AD), to read as follows:

93–01–19. Boeing: Amendment 39–8473. Docket 92–NM–130–AD. Supersedes AD 89–08–07, Amendment 39–6186.

Applicability: Model 767 series airplanes with entry or service doors equipped with slide rafts; line positions 002 through 409, inclusive; certificated in any category.

Compliance: Required as indicated, unless accomplished previously. To ensure opening of entry/service doors when required for emergency evacuation, accomplish the following:

(a) For airplanes having line positions 132, 136, and 140 through 409, inclusive: Within 350 flight hours after May 9, 1989 (the effective date of AD 89–08–07, Amendment 39–6186), perform an operational check on each entry/service door to detect a broken counterbalance inner torsion spring, in accordance with Boeing Alert Service Bulletin 767–52A0053, dated August 25, 1988; or Revision 1, dated December 22, 1988.

(1) Repeat this operational check thereafter at intervals not to exceed 350 flight hours, until the requirements of paragraph (b) of this AD are accomplished.

(2) If any broken counterbalance inner torsion spring is detected during an operational check, prior to further flight, replace it with an airworthy part in accordance with the service bulletin. After replacement of any counterbalance inner torsion spring, continue to perform the operational checks at intervals not to exceed 350 flight hours until the requirements of paragraph (b) of this AD are accomplished.

(b) For airplanes having line positions 002 through 409, inclusive: Within 425 flight hours after the effective date of this AD, or within 425 flight hours after the last operational check accomplished in accordance with paragraph (a) of this AD, whichever occurs first, determine if the entry/service doors are equipped with a counterbalance assembly using a titanium inner torsion spring, a counterbalance assembly rated for escape slides, an improved counterbalance assembly, or an improved graphite-composite inner torsion spring; and if further action is necessary; in accordance with Section III, paragraphs A. through F., of Boeing Service Bulletin 767–52A0053, Revision 2, dated April 30, 1992. The airplane records may be reviewed in order to make this determination.

Note: The part numbers of the "improved" parts referred to in this AD are specified in Section III, paragraphs A. through F., of Boeing Service Bulletin 767–52A0053, Revision 2, dated April 30, 1992.

(1) For those doors equipped with a counterbalance assembly using titanium inner torsion springs, a counterbalance assembly rated for escape slides, an improved counterbalance assembly, or an improved graphite-composite inner torsion spring, no further action is required.

(2) For those doors not equipped with a counterbalance assembly using a titanium inner torsion spring, a counterbalance assembly rated for escape slides, an improved counterbalance assembly, or an improved graphite-composite inner torsion spring: Prior to further flight, perform an operational check to detect the existence of a broken inner torsion spring, in accordance with Section III, paragraph G., of the Boeing service bulletin.

(i) If any broken inner torsion spring is found, prior to further flight, accomplish the procedures specified in either paragraph (b)(2)(i)(A) or (b)(2)(i)(B) of this AD:

(A) Replace the spring with an airworthy part in accordance with Section III., paragraph G., of the Boeing service bulletin, and repeat the operational check at intervals not to exceed 425 flight hours; or

(B) Install an improved counterbalance assembly or an improved graphite-composite inner torsion spring, in accordance with Section III, paragraph H., of the Boeing service bulletin. Such installation constitutes terminating action for the requirements of this AD.

(ii) If no broken inner torsion spring is found, accomplish the procedures specified in either paragraph (b)(2)(ii)(A) or (b)(2)(ii)(B) of this AD:

(A) Repeat the operational check at intervals not to exceed 425 flight hours; or

(B) Install an improved counterbalance assembly or an improved graphite-composite inner torsion spring, in accordance with Section III, paragraph H., of the Boeing service bulletin. Such installation constitutes terminating action for the requirements of this AD.

(c) Installation of a counterbalance assembly using a titanium inner torsion spring, a counterbalance assembly rated for escape slides, an improved counterbalance assembly, or an improved graphite-composite inner torsion spring, in accordance with Section III, paragraph H., of Boeing Service Bulletin 767–52A0053, Revision 2, dated April 30, 1992, constitutes terminating action for the requirements of this AD.

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

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

(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) The operational checks and replacement procedures shall be done in accordance with Boeing Service Bulletin 767–52A0053, Revision 2, dated April 30, 1992. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(g) This amendment becomes effective on March 10, 1993.

Issued in Renton, Washington, on January 13, 1993.

James V. Devany,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–2549 Filed 2–2–93; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 92–NM–99–AD; Amendment 39–8480; AD 93–01–26]

Airworthiness Directives; De Havilland, Inc., Model DHC–8–300 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD),

applicable to certain de Havilland Model DHC–8–300 series airplanes, that currently requires repetitive external and internal inspections to detect fuel leaks in the wing dry bay. Such leaking, if not corrected, could result in the accumulation of fuel vapors in the dry bay area, presenting a potential risk of an in-flight explosion in the event of a lightning strike. This amendment requires modification of the wing dry bay which, when accomplished, constitutes terminating action for the requirements of this AD. This action also adds airplanes to the applicability of the AD. This amendment is prompted by the development of a modification that eliminates potential sources of combustible vapors within the wing dry bay.

DATES: Effective March 10, 1993.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 10, 1993.

Incorporation by reference of de Havilland Alert Service Bulletin S.B. A8–28–16, Revision "B", dated June 24, 1991, was approved previously by the Director of the Federal Register as of September 26, 1991 (56 FR 46228, September 11, 1991).

ADDRESSES: The service information referenced in this AD may be obtained from de Havilland, Inc., Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, 181 South Franklin Avenue, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Raymond Reinhardt, Aerospace Engineer, Propulsion Branch, ANE–174, FAA, New York Aircraft Certification Office, 181 South Franklin Avenue, room 202, Valley Stream, New York 11581; telephone (516) 791–7421; fax (516) 791–9024.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations by superseding AD 91–19–04, Amendment 39–8031 (56 FR 46228, September 11, 1991), which is applicable to certain de Havilland Model DHC–8–300 series airplanes, was published in the **Federal Register** on August 27, 1992 (57 FR 38791). The action proposed to add a requirement to install an improved modification which, when accomplished, constitutes terminating action for the requirements of the AD. In addition, the action proposed to remove the optional terminating action referenced in the existing AD, since that modification does not provide lightning strike protection, which the new modification provides. The action also proposed to add airplanes to the applicability of the AD.

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

The commenter supports the proposed rule. However, the commenter notes that many of the systems on the airplanes addressed in the proposed rule are similar to the systems on Model DHC–8–100 series airplanes. The commenter requests that the FAA conduct a review to determine if Model DHC–8–100 series airplanes should have been subject to the proposal.

The FAA is cognizant that certain design similarities exist between Model DHC–8–100 and DHC–8–300 series airplanes. The FAA is currently investigating the possibility of fuel leakage in the wing dry bay on Model DHC–8–100 series airplanes and may consider further rulemaking if this unsafe condition is found to be likely to exist or develop on these airplanes.

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

The FAA estimates that 6 airplanes of U.S. registry will be affected by this AD, that it will take approximately 136 work hours per airplane to accomplish the required actions, and that the average labor rate is $55 per work hour. Required parts will be supplied by the manufacturer at no cost to operators. The FAA has confirmed that all 6 airplanes of U.S. registry have been modified with the terminating modification specified in paragraph (d) of this AD. Based on this information, the AD will impose no cost impact on U.S. operators.

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 final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption "**ADDRESSES**."

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 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 removing amendment 39–8031(56 FR 46228, September 11, 1991), and by adding a new airworthiness directive (AD), amendment 39–8480, to read as follows:

93–01–26. De Havilland, Inc.: Amendment 39–8480. Docket 92–NM–99–AD. Supersedes AD 91–19–04, Amendment 39–8031.

Applicability: Model DHC–8–300 series airplanes; serial numbers 202, 210, 216, 221, 224, 230, 232, 234, 236, 238, 240, 242, 244, 246, 248, 250, 252, 254, 256, 257, 259, 261, 262, 264, 266, 267, 269, 271, 272, 274, 276, 278, 279, 281, 283, 284, 286, 288, and 307; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent the accumulation of fuel vapors in the dry bay area, presenting a potential risk of an in-flight explosion in the event of a lightning strike, accomplish the following:

(a) For those airplanes listed in de Havilland Alert Service Bulletin S.B. A8–28–16, dated May 30, 1991, accomplish the following:

(1) Within 24 hours after August 26, 1991 (the effective date of AD 91–12–51, Amendment 39–7076), and thereafter at intervals not to exceed 300 hours time-in-service or 30 days, whichever occurs first, perform an external visual inspection of the wing dry bay drains for blockage in

accordance with the service bulletin. If drain blockage is found, prior to further flight, repair in accordance with paragraph B.1. of the Accomplishment Instructions of the service bulletin.

(2) Within 24 hours after August 26, 1991, and thereafter at daily intervals, perform an external visual inspection of the wing dry bay drains to detect evidence of fuel leaks in accordance with the service bulletin.

(3) Within 7 days after August 26, 1991, unless accomplished within the previous 14 days; or prior to further flight if evidence of fuel leaks is detected at the wing dry bay drains as a result of the inspection required by paragraph (a)(2) of this AD; perform an internal visual inspection of the wing dry bay in accordance with the service bulletin.

(i) If no leakage is found as a result of the inspection required by paragraph (a)(3) of this AD, repeat the internal visual inspection of the wing dry bay required by paragraph (a)(3) of this AD at intervals not to exceed 14 days.

(ii) If the leakage is within the limits specified in the service bulletin, within 14 days, perform the local re-sealing repair procedure described in paragraph C.7. of the Accomplishment Instructions of the service bulletin. The airplane may be returned to service within this 14-day period, subject to the following conditions:

(A) Perform the internal visual inspection of the wing dry bay required by paragraph (a)(3) of this AD at intervals not to exceed 7 days to ensure that the leakage remains within the specified limit; and

(B) Prior to further flight, incorporate the following into the Limitations Section of the Airplane Flight Manual (AFM), which may be accomplished by including a copy of this airworthiness directive in the AFM:

"Flight is prohibited in areas where lightning or thunderstorms are observed or reported within 5 nautical miles of the flight path, or when the existing weather conditions may reasonably be expected to result in a lightning strike."

(iii) If leakage exceeds the limit specified in the service bulletin, prior to further flight, repair in accordance with paragraph C.7. of the Accomplishment Instructions of the service bulletin.

(iv) Application of a fuel vapor barrier coating in accordance with paragraph D. of the Accomplishment Instructions of the service bulletin constitutes terminating action only for the repetitive internal visual inspections required by paragraph (a)(3)(i) of this AD.

(b) For those airplanes listed in de Havilland Alert Service Bulletin S.B. A8–28–16, Revision 'B', dated June 24, 1991, that are not subject to paragraph (a) of this AD, accomplish the following:

(1) Within 24 hours after September 26, 1991 (the effective date of AD 91–19–04, Amendment 39–8031), and thereafter at intervals not to exceed 300 hours time-in-service or 30 days, whichever occurs first, perform an external visual inspection of the wing dry bay drains for blockage in accordance with the service bulletin. If drain blockage is found, prior to further flight, repair in accordance with paragraph B.1. of the Accomplishment Instructions of the service bulletin.

(2) Within 24 hours after September 26, 1991, and thereafter at daily intervals, perform an external visual inspection of the wing dry bay drains to detect evidence of fuel leaks in accordance with the service bulletin.

(3) Within 7 days after September 26, 1991, unless accomplished within the previous 14 days; or prior to further flight if evidence of fuel leaks is detected at the wing dry bay drains as a result of the inspection required by paragraph (b)(2) of this AD; perform an internal visual inspection of the wing dry bay in accordance with the service bulletin.

(i) If no leakage is found as a result of the inspection required by paragraph (b)(3) of this AD, repeat the internal visual inspection of the wing dry bay required by paragraph (b)(3) of this AD at intervals not to exceed 14 days.

(ii) If the leakage is within the limits specified in the service bulletin, within 14 days, perform the local re-sealing repair procedure described in paragraph C.7. of the Accomplishment Instructions of the service bulletin. The airplane may be returned to service within this 14-day period, subject to the following conditions:

(A) Perform the internal visual inspection of the wing dry bay required by paragraph (b)(3) of this AD at intervals not to exceed 7 days to ensure that the leakage remains within the specified limit; and

(B) Prior to further flight, incorporate the following into the Limitations Section of the Airplane Flight Manual (AFM), which may be accomplished by including a copy of this airworthiness directive in the AFM:

"Flight is prohibited in areas where lightning or thunderstorms are observed or reported within 5 nautical miles of the flight path, or when the existing weather conditions may reasonably be expected to result in a lightning strike."

(iii) If leakage exceeds the limit specified in the service bulletin, prior to further flight, repair in accordance with paragraph C.7. of the Accomplishment Instructions of the service bulletin.

(iv) Application of a fuel vapor barrier coating in accordance with paragraph D. of the Accomplishment Instructions of the service bulletin constitutes terminating action only for the repetitive internal visual inspections required by paragraph (b)(3)(i) of this AD.

(c) For airplane serial numbers 279, 281, 283, 284, 286, 288, and 307, accomplish the following in accordance with de Havilland Alert Service Bulletin S.B. A8–28–16, Revision 'C', dated January 31, 1992:

(1) Within 7 days after the effective date of this AD, and thereafter at intervals not to exceed 300 hours time-in-service or 30 days, whichever occurs first, perform an external visual inspection of the wing dry bay drains for blockage in accordance with the service bulletin. If drain blockage is found, prior to further flight, repair in accordance with paragraph B.1. of the Accomplishment Instructions of the service bulletin.

(2) Within 7 days after the effective date of this AD, and thereafter at daily intervals, perform an external visual inspection of the wing dry bay drains to detect evidence of fuel leaks in accordance with the service bulletin.

(3) Within 7 days after the effective date of this AD, unless accomplished within the previous 14 days; or prior to further flight if evidence of fuel leaks is detected at the wing dry bay drains as a result of the inspection required by paragraph (c)(2) of this AD; perform an internal visual inspection of the wing dry bay in accordance with the service bulletin.

(i) If no leakage is found as a result of the inspection required by paragraph (c)(3) of this AD, repeat the internal visual inspection of the wing dry bay required by paragraph (c)(3) of this AD at intervals not to exceed 14 days.

(ii) If the leakage is within the limits specified in the service bulletin, within 14 days, perform the local re-sealing repair procedure described in paragraph C.7. of the Accomplishment Instructions of the service bulletin. The airplane may be returned to service within this 14-day period, subject to the following conditions:

(A) Perform the internal visual inspection of the wing dry bay required by paragraph (c)(3) of this AD at intervals not to exceed 7 days to ensure that the leakage remains within the specified limit; and

(B) Prior to further flight, incorporate the following into the Limitations Section of the Airplane Flight Manual (AFM), which may be accomplished by including a copy of this airworthiness directive in the AFM:

"Flight is prohibited in areas where lightning or thunderstorms are observed or reported within 5 nautical miles of the flight path, or when the existing weather conditions may reasonably be expected to result in a lightning strike."

(iii) If leakage exceeds the limit specified in the service bulletin, prior to further flight, repair in accordance with paragraph C.7. of the Accomplishment Instructions of the service bulletin.

(iv) Application of a fuel vapor barrier coating in accordance with paragraph D. of the Accomplishment Instructions of the service bulletin constitutes terminating action only for the repetitive internal visual inspections required by paragraph (c)(3)(i) of this AD.

(d) Within 6 months after the effective date of this AD, accomplish Modification No. 8/1776 in accordance with de Havilland Service Bulletin S.B. 8–57–20, Revision A, dated January 31, 1992. Accomplishment of this modification constitutes terminating action for the requirements of this AD.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, New York Aircraft Certification Office (ACO), ANE–170, FAA, Engine and Propeller Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, New York ACO.

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

(f) 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.

(g) Certain inspections, repairs, and modification shall be done in accordance

with de Havilland Alert Service Bulletin S.B. A8–28–16, dated May 30, 1991; de Havilland Alert Service Bulletin S.B. A8–28–16, Revision 'C', dated January 31, 1992; and de Havilland Service Bulletin S.B. 8–57–20, Revision 'A', dated January 31, 1992; as indicated. 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. Certain other inspections, repairs, and modifications shall be done in accordance with de Havilland Alert Service Bulletin S.B. A8–28–16, Revision 'B', dated June 24, 1991. Incorporation by reference of de Havilland Alert Service Bulletin S.B. A8–28–16, Revision 'B', dated June 24, 1991, was approved previously by the Director of the Federal Register as of September 26, 1991 (56 FR 46228, September 11, 1991). Copies may be obtained from de Havilland, Inc., Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, 181 South Franklin Avenue, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(h) This amendment becomes effective on March 10, 1993.

Issued in Renton, Washington, on January 20, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–2545 Filed 2–2–93; 8:45 am]

BILLING CODE 4910–13–P

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14 CFR Part 71

[Airspace Docket No. 91–AWA–8]

Establishment of Jet Route J–488 and Alteration of Jet Route J–559; NY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Jet Route J–488 and alters the description of Jet Route J–559 located in the State of New York and Canada. These actions will simplify the routings, facilitate the flow of air traffic in the Ottawa terminal airspace, and improve the operations of transborder flights between the United States and Canada.

EFFECTIVE DATE: 0901 UTC, April 1, 1993.

FOR FURTHER INFORMATION CONTACT: Patricia P. Crawford, Airspace and Obstruction Evaluation Branch (ATP–240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–9255.

SUPPLEMENTARY INFORMATION:

History

On October 31, 1991, the FAA proposed to amend part 75 of the Federal Aviation Regulations (14 CFR part 75) to establish J–488 and to alter the description of J–559 located in the State of New York and Canada (56 FR 56041). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. FAR part 75 was merged into FAR part 71, Subpart M, effective December 17, 1991 (56 FR 65638). Jet Routes are published in Section 71.607 of FAA Order 7400.7A dated November 2, 1992, and effective November 27, 1992, which is incorporated by reference in 14 CFR 71.1. The Jet Routes listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations establishes Jet Route J–488 and modifies Jet Route J–559 located in the State of New York and Canada. These modifications were requested by the Canadian Government to simplify the routings and facilitate the flow of air traffic in the Ottawa terminal airspace.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "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) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Incorporation by reference, Jet routes.

Adoption of the Amendment

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

PART 71—[AMENDED]

1. The authority citation for 14 CFR Part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.7A, Compilation of Regulations, dated November 2, 1992, and effective November 27, 1992, is amended as follows:

Section 71.607 Jet Routes.

* * * * *

J–488 [New]

From Watertown, NY; to Uplands NDB, Ontario, Canada, excluding the airspace within Canada.

* * * * *

J–559 [Revised]

From Syracuse, NY; Watertown, NY; to Ottawa, Ontario, Canada, excluding the airspace within Canada.

* * * * *

Issued in Washington, DC, on January 25, 1993.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 93–2499 Filed 2–2–93; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Parts 71 and 73

[Airspace Docket No. 90–ASO–5]

Establishment of Restricted Area R–2938 Horseshoe Beach, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: These amendments establish Restricted Area R–2938 located in the vicinity of Horseshoe Beach, FL. The U.S. Customs Service will install an aerostat-borne radar system in R–2938. The aerostat-borne radar system will provide surveillance to detect suspected illegal drug transportation into the United States. The aerostat balloon will fly up to 15,000 feet mean sea level (MSL). This action supports the Drug Interdiction Program. In addition, the Continental Control Area is amended to reflect the 15,000-foot MSL altitude of R–2938.

EFFECTIVE DATE: 0901 UTC, April 1, 1993.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Obstruction Evaluation Branch (ATP–

240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–9250.

SUPPLEMENTARY INFORMATION:

History

On May 21, 1991, the FAA proposed to amend parts 71 and 73 of the Federal Aviation Regulations (14 CFR parts 71 and 73) to establish Restricted Area R–2938 in the vicinity of Horseshoe Beach, FL, and to amend the Continental Control Area to reflect the 15,000-foot MSL altitude of R–2938 (56 FR 23255). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. Four comments were received objecting to the proposal. The Florida Department of Transportation recommended that the tether cable and hull be marked with suitable high intensity strobes for day and night operations. Three other commenters' primary concern was the possible danger to visual flight rules (VFR) aircraft operating in reduced visibility situations. FAA regulations under part 73 state, in part, that restricted areas shall be designated when it has been determined necessary to confine or segregate activities considered hazardous to nonparticipating aircraft. Flight within a restricted area is prohibited without prior permission. We agree that flashing white lights on the aerostat and the tether would make the structure more conspicuous and would permit visual recognition at greater distances. However, for the following reasons, the FAA believes that by locating the system within the lateral and vertical limits of the restricted area, a safe environment for flight operations can be maintained without the use of lights on the tether.

The United States Customs Service states that the aerostat itself will be lighted at all times with three flashing strobes. One will be mounted on the chin of the hull, one on top of the hull at the highest/widest point, and one at the tail of the underside of the hull.

The location of the restricted area in relation to prominent landmarks, specifically the Suwanee River and the town of Cross City, makes it easy to locate. In addition, the restricted area can be readily circumnavigated to the west by adhering to a course just offshore, or to the east, by directly overflying the Cross City very high frequency omnidirectional radio range.

Consideration was given for the impact of requiring strobes on the tether. Secure mounting of strobes requires high clamping forces on the tether. Strumming of the tether is increased by wind forces on the strobes. Either of these conditions may damage the tether. During the threat of thunderstorms or lightning, there is a need to rapidly inhaul the aerostate. Stopping and starting the winch to detach the strobes greatly delays the recovery of the aerostat, placing personnel and the system at increased risk. Based on all of these considerations, we will not require the tether to be illuminated. Except for editorial changes, these amendments are the same as those proposed in the notice. The airspace of certain restricted areas included in the Continental Control Area is published in Section 71.151 of FAA Order 7400.7A, dated November 2, 1992, and effective November 27, 1992, which is incorporated by reference in 14 CFR 71.1. Section 73.29 of part 73 of the Federal Aviation Regulations was republished in FAA Order 7400.8 dated November 1, 1991. The coordinates in the proposal were North American Datum 27; however, these coordinates have been updated to North American Datum 83.

The Rule

These amendments to parts 71 and 73 of the Federal Aviation Regulations establish Restricted Area R–2938 to contain an aerostat-borne system located at Horseshoe Beach, FL. The restricted area will provide airspace for the operation of a tethered aerostat-borne radar system. This system will provide surveillance of airspace to detect low-flying aircraft attempting to penetrate U.S. airspace undetected. The restricted area will encompass a 3-nautical-mile radius of geographical lat. 29°30'00"N., long. 83°16'16"W., from the surface up to and including 15,000 feet MSL. The system will increase the probability of the interception and interdiction of suspect aircraft and provide low-altitude radar coverage for the Customs Service. The Continental Control Area is also amended to reflect R–2938.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "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) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Analysis

In compliance with the National Environmental Policy Act of 1969 (NEPA), the U.S. Customs Service evaluated the environmental impacts resulting from the establishment of Restricted Area R–2938. On the basis of the Environmental Assessment developed by the U.S. Customs Service, which has been placed in the public docket, the FAA finds that there will be no significant impact on the environment as a result of this action.

List of Subjects in 14 CFR Parts 71 and 73

Aviation safety, Continental control area, Incorporation by reference, Restricted areas.

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR parts 71 and 73, as follows:

PART 71—[AMENDED]

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

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.7A, Compilation of Regulations, dated November 2, 1992, and effective November 27, 1992, is amended as follows:

Section 71.151 Restricted Areas included.

* * * * *

R–2938 Horseshoe Beach, FL [New]

* * * * *

PART 73—[AMENDED]

3. The authority citation for part 73 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510, 1522; E.O. 10854; 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 73.29 [Amended]

4. § 73.29 is amended as follows:

R-2938 Horseshoe Beach, FL [New]

Boundaries. That airspace within a 3-nautical-mile circle, centered at lat. 29°30'00"N., long. 83°16'16"W.

Designated altitudes. Surface to and including 15,000 feet MSL.

Time of designation. Continuous.

Controlling agency. FAA, Jacksonville ARTCC.

Using agency. United States Customs Service.

Issued in Washington, DC, on January 25, 1993.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 93-2498 Filed 2-2-93; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 91-AEA-17]

Alteration of Jet Route J-37

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters a segment of Jet Route J-37 between the States of South Carolina and Virginia. Modifying this jet route between the Spartanburg, SC, VHF Omnidirectional Range/Tactical Air Navigation (VORTAC) via Lynchburg, VA, VORTAC to the Gordonsville, VA, VORTAC will improve navigation. This action will enhance air traffic procedures and serve to expedite the flow of air traffic.

EFFECTIVE DATE: 0901 u.t.c., April 1, 1993.

FOR FURTHER INFORMATION CONTACT: Patricia P. Crawford, Airspace and Obstruction Evaluation Branch (ATP-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9255.

SUPPLEMENTARY INFORMATION:

History

On March 25, 1992, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by altering a segment of Jet Route J-37 between the States of South Carolina and Virginia (57 FR 10305). This action proposed to realign the jet route over the Lynchburg, VA, VORTAC. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Jet routes are published in FAA Order 7400.7A dated November 2, 1992, and effective November 27, 1992, which is incorporated by reference in 14 CFR 71.1. The jet route listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations alters a segment of Jet Route J-37 between the States of South Carolina and Virginia. Jet Route J-37 will be realigned over the Lynchburg, VA, VORTAC. Modifying J-37 will enhance navigation, improve air traffic procedures, and expedite the flow of traffic using the airspace.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "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) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Incorporation by reference, Jet routes.

Adoption of the Amendment

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

PART 71—[AMENDED]

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

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.7A, Compilation of Regulations, dated November 2, 1992, and effective November 27, 1992, is amended as follows:

Section 71.607 Jet Routes.

* * * * *

J-37 [Revised]

From Hobby, TX, via INT of the Hobby 090° and New Orleans, LA, 257° radials; New Orleans; Semmes, AL; Montgomery, AL; Spartanburg, SC; Lynchburg, VA; Gordonsville, VA; Brooke, VA; INT Brooke 067° and Coyle, NJ, 226° radials; to Coyle. From Kennedy, NY; Kingston, NY; Albany, NY; Massena, NY, to the INT of the Massena 037° radial and the United States/Canadian Border.

* * * * *

Issued in Washington, DC, on January 25, 1993.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 93-2504 Filed 2-2-93; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 92-AGL-8]

Modification of Control Zone; Wilmington, OH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule, correction.

SUMMARY: This document contains corrections to the final rule published on Monday, December 7, 1992. This final rule expanded the existing control zone's effective hours. This correction describes the vertical limit of the control zone, which was inadvertently omitted from the final rule.

EFFECTIVE DATE: 0901 UTC, February 4, 1993.

FOR FURTHER INFORMATION CONTACT: Douglas F. Powers, Air Traffic Division, System Management Branch, AGL-530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-7568.

SUPPLEMENTARY INFORMATION: On Monday, December 7, 1992, the Federal Aviation Administration (FAA) published a final rule that modified the Wilmington, Ohio control zone (57 FR 57663). A part of the description of the control zone was inadvertently omitted and should be included to define the vertical limit of the control zone. The omitted portion is in the beginning of the description and should read, "That airspace extending upward from the surface to and including 3,600 feet MSL * * *".

Correction of Final Rule

Accordingly, pursuant to the authority delegated to me, the publication on Monday, December 7,

1992, Federal Register Document No. 92–29583 and the description in FAA Order 7400.7A, which is incorporated by reference in 14 CFR 71.1, are corrected as follows:

§71.1 [Corrected]

On page 57664, in the first column, the description for the Wilmington, Ohio control zone is corrected to read as follows:

Section 71.171 Designation of Control Zones

* * * * *

AGL OH CZ Wilmington, OH [Revised]
Wilmington, Airborne Airpark Airport, OH
(lat. 39°25'52" No., long. 83°47'52" W.)
Wilmington, Hollister Field Airport, OH
(lat. 39°26'15" N., long. 83°42'30" W.)
Midwest VOR/DME (lat. 39°25'47" N., long. 83°48'05" W.)

That airspace extending upward from the surface to and including 3,600 feet MSL within a 4.2-mile radius of the Airborne Airpark, and within 3.7-miles each side of the Midwest VOR/DME 215° radial, extending from the 4.2-mile radius to 7 miles southwest of the Airborne Airpark and within 3.7-miles each side of the Midwest VOR/DME 041° radial extending from the 4.2-mile radius to 7-miles northeast of the Airborne Airpark, excluding that portion of airspace within a 1-mile radius of Hollister Field Airport. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Des Plaines, Illinois on, January 20, 1993.

John P. Cuprisin,

Manager, Air Traffic Division.

[FR Doc. 93–2502 Filed 2–2–93; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 95

[Docket No. 27116; Amdt. No. 374]

IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rules) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. These regulatory actions are needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

EFFECTIVE DATE: February 4, 1993.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS–420), Technical Programs Division, Flight Standards Service Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 95 of the Federal Aviation Regulations (14 CFR part 95) amends, suspends, or revokes IFR altitudes governing the operation of all aircraft in flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in part 95. The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference. The reasons and circumstances which create the need for this amendment involve matters of flight safety, operational efficiency in the National Airspace System, and are related to published aeronautical charts that are essential to the user and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment are unnecessary, impracticable, and contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "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) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 95

Aircraft, Airspace.

Issued in Washington, DC on January 12, 1993.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, part 95 of the Federal Aviation Regulations (14 CFR part 95) is amended as follows effective at 0901 GMT: 1. The authority citation for part 95 continues to read as follows:

Authority: 49 U.S.C. 1348, 1354, and 1510; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1993); and 14 CFR 11.49(b)(2).

PART 95—[AMENDED]

Part 95 is amended to read as follows:

REVISIONS TO MINIMUM ENROUTE IFR ALTITUDES AND CHANGEOVER POINTS

[Amendment 374 Effective Date, February 4, 1993]

From	To	MEA
§95.1001 DIRECT ROUTES-U.S.		
BAHAMA ROUTES		
Is Amended by Adding		
49		
Andrew, FL NDB/DME	Junur, FL FIX	2000
Junur, FL FIX	Clami, FL FIX	6000
49V		
Clami, FL FIX	Wired, BF FIX	6000
Wired, BF FIX	Tinky, BF FIX	6000

REVISIONS TO MINIMUM ENROUTE IFR ALTITUDES AND CHANGEOVER POINTS—Continued

[Amendment 374 Effective Date, February 4, 1993]

From	To	MEA
Tinky, BF FIX	Nicko, BF FIX	4000
Nicko, BF FIX	Looks, BF FIX	2000
Looks, BF FIX	Nassau, BF VOR/DME	2000
Is Amended to Delete		
Biscayne Bay, FL VORTAC	Eeons, FL FIX	2000
Eeons, FL FIX	Int BSY VORTAC 120 & ZQA VORTAC 278	3000
Int BSY VORTAC 120 & ZQA VORTAC 278	Rumba, BF FIX	3000
Rumba, BF FIX *1400–MOCA	Nassau, BF VOR/DME	*2000
Is Added to Read		
53LIMA		
Andrew, FL NDB/DME	Reefe, FL FIX	2000
Reefe, FL FIX	Bkene, BF FIX	4000
Bkene, BF FIX	Swimm, BF FIX	4000
Swimm, BF FIX	Wooze, BF FIX	4000
Wooze, BF FIX	Rajay, BF FIX	4000
Is Deleted		
53V		
Biscayne Bay, FL VORTAC *1200–MOCA	Reefe, FL FIX	*2000
Reefe, FL FIX *1200–MOCA	INT BSY VORTAC 094 & ZBV VORTAC 111	*4000
INT BSY VORTAC 094 & ZBV VORTAC 111 *1300–MOCA	Prune, BF FIX	*2000
Prune, BF FIX *1400–MOCA	Nassau, BF VOR/DME	*2000
Is Amended by Adding		
55V		
Rajay, BF FIX	Prune, BF FIX	4000
Is Amended to Read in Part		
Bimini, BF VORTAC	Rajay, BF FIX	4000
ATLANTIC ROUTES		
Is Amended by Adding		
A555		
Looks, BF FIX	Jymms, BF FIX	2000
Jymms, BF FIX	Resin, BF FIX	2000
Resin, BF FIX	Gerot, BF FIX	2000
Gerot, BF FIX	Stella Maris, BF NDB	2000
Is Amended to Read		
Bimini, BF NDB VIA BIMINI NDB 121.00/132.56	Wooze, BF FIX	2000
Wooze, BF FIX *1300–MOCA	Looks, BF FIX	*2000
§ 95.6001 VOR FEDERAL AIRWAY 1		
Is Amended to Read in Part		
Drone, NC FIX	Norfolk, VA VORTAC	6000
Norfolk, VA VORTAC	Cape Charles, VA VORTAC	4000
Coyle, NJ VORTAC *1600–MOCA	Kennedy, NY VORTAC	*2500
§ 95.6003 VOR FEDERAL AIRWAY 3		
Is Amended to Delete		
Ranco, FL FIX	Biscayne Bay, FL VORTAC	2000
Biscayne Bay, FL VORTAC	Fort Lauderdale, FL VOR/DME	2000
§ 95.6005 VOR FEDERAL AIRWAY 5		
Is Amended to Read in Part		
Chattanooga, TN VORTAC	McMin, TN FIX	4000
McMin, TN FIX *3500–MOCA	Harme, TN FIX	*6000
Harme, TN FIX *2200–MOCA	Bowling Green, KY VORTAC	*2800
Bowling Green, KY VORTAC *2300–MOCA	New Hope, KY VOR/DME	*2900
§ 95.6006 VOR FEDERAL AIRWAY 6		
Is Amended to Read in Part		
Allentown, PA VORTAC	Solberg, NJ VORTAC	6000

REVISIONS TO MINIMUM ENROUTE IFR ALTITUDES AND CHANGEOVER POINTS—Continued

[Amendment 374 Effective Date, February 4, 1993]

From	To	MEA
§ 95.6007 VOR FEDERAL AIRWAY 7		
Is Amended to Read in Part		
Tyson, FL FIX *1500–MOCA	Swags, FL FIX	*6000
Is Amended to Delete		
Biscayne Bay, FL VORTAC *1500–MOCA	Swags, FL FIX	*6000
§ 95.6011 VOR FEDERAL AIRWAY 11		
Is Amended to Read in Part		
Holly Springs, MS VORTAC *2000–MOCA	Dyersburg, TN VORTAC	*2500
§ 95.6016 VOR FEDERAL AIRWAY 16		
Is Amended to Read in Part		
Pine Bluff, AR VORTAC *2000–MOCA	Holly Springs, MS VORTAC	*5000
Jacks Creek, TN VORTAC *2400–MOCA	Shelbyville, TN VOR/DME	*3000
Shelbyville, TN VOR/DME	Hinch Mountain, TN VORTAC	5000
Hinch Mountain, TN VORTAC	Bucky, TN FIX	5000
Coyle, NJ VORTAC *1600–MOCA	Kennedy, NY VORTAC	*2500
§ 95.6020 VOR FEDERAL AIRWAY 20		
Is Amended to Read in Part		
South Boston, VA VORTAC *9000–MRA **2300–MOCA	*Nutts, VA FIX	**3000
Nutts, VA FIX *2300–MOCA	Melia, VA FIX	*3000
§ 95.6035 VOR FEDERAL AIRWAY 35		
Is Amended by Adding		
Curve, FL FIX *4000–MRA **1300–MOCA	*Deeds, FL FIX	**5000
Is Amended to Delete		
*Drown, FL FIX *5000–MRA **1500–MOCA	Coote, FL FIX	**5000
Coote, FL FIX	Biscayne Bay, FL VORTAC	2000
Biscayne Bay, FL VORTAC *1500–MOCA	Dormy, FL FIX	*5000
Dormy, FL FIX *4000–MRA **1300–MOCA	*Deeds, FL FIX	**5000
§ 95.6037 VOR FEDERAL AIRWAY 37		
Is Amended to Read in Part		
Pulaski, VA VORTAC	Hawki, WV FIX	8000
§ 95.6051 VOR FEDERAL AIRWAY 51		
Is Amended to Delete		
Biscayne Bay, FL VORTAC	Miami, FL VORTAC	2000
§ 95.6052 VOR FEDERAL AIRWAY 52		
Is Amended to Read in Part		
Central City, KY VORTAC	Bowling Green, KY VORTAC	2400
Bowling Green, KY VORTAC	Livingston, TN VORTAC	2900
§ 95.6054 VOR FEDERAL AIRWAY 54		
Is Amended to Read in Part		
Walet, MS FIX *2000–MOCA	Holly Springs, MS VORTAC	*2500
Chattanooga, TN VORTAC *4500–MCA Crand FIX, E BND	Crand, GA FIX	3000
Mells, GA FIX *5200–MOCA	Harris, GA VORTAC	*6000
Harris, GA VORTAC *7000–MCA DILLA FIX, W BND	Dilla, GA FIX	7000
Dilla, GA FIX	Sunet, SC FIX	6000
§ 95.6084 VOR FEDERAL AIRWAY 84		
Is Amended to Read in Part		
Kubbs, IL FIX *3500–MRA **1900–MOCA	*Story, IL FIX	**2500

REVISIONS TO MINIMUM ENROUTE IFR ALTITUDES AND CHANGEOVER POINTS—Continued

[Amendment 374 Effective Date, February 4, 1993]

From	To	MEA
Story, IL FIX *1900–MOCA	Pullman, MI VORTAC	*2500
§ 95.6103 VOR FEDERAL AIRWAY 103		
Is Amended to Read in Part		
U.S. Canadian Border	Pontiac, MI VORTAC	3000
Pontiac, MI VORTAC	Lansing, MI VORTAC	3000
§ 95.6114 VOR FEDERAL AIRWAY 114		
Is Amended to Read in Part		
Vasty, TX FIX	Wichita Falls, TX VORTAC	3200
§ 95.6124 VOR FEDERAL AIRWAY 124		
Is Amended to Read in Part		
Jacks Creek, TN VORTAC	Graham, TN VORTAC	2500
§ 95.6136 VOR FEDERAL AIRWAY 136		
Is Amended to Delete		
Nashville, TN VORTAC *2400–MOCA	Grill, TN FIX	*3000
Grill, TN FIX	Hinch Mountain, TN VORTAC	5000
§ 95.6139 VOR FEDERAL AIRWAY 139		
Is Amended to Read in Part		
Pears, NC FIX *5000–MCA SUNNS FIX, SE BND	*Sunns, NC FIX	10000
Sunns, NC FIX	Norfolk, VA VORTAC	6000
Norfolk, VA VORTAC	Cape Charles, VA VORTAC	4000
§ 95.6149 VOR FEDERAL AIRWAY 149		
Is Amended to Read in Part		
Mazie, PA FIX	Allentown, PA VORTAC	6000
§ 95.6154 VOR FEDERAL AIRWAY 154		
Is Amended to Read in Part		
Lotts, GA FIX	Savannah, GA VORTAC	2000
§ 95.6158 VOR FEDERAL AIRWAY 158		
Is Amended to Read in Part		
Pound, IA FIX *2600–MOCA	Dubuque, IA VORTAC	*6000
§ 95.6216 VOR FEDERAL AIRWAY 216		
Is Amended to Read in Part		
Ottumwa, IA VORTAC	Iowa City, IA VORTAC	3000
§ 95.6229 VOR FEDERAL AIRWAY 229		
Is Amended to Read in Part		
Panze, NJ FIX *8000–MRA	*Dixie, NJ FIX	8000
§ 95.6266 VOR FEDERAL AIRWAY 266		
Is Amended to Read in Part		
Lawrenceville, VA VORTAC	Franklin, VA VORTAC	2000
Mazon, VA FIX *1500–MOCA	Franklin, VA VORTAC	*4000 *2000
Franklin, VA VORTAC *5000–MCA SUNNS FIX, SE BND	*SUNNS, NC FIX	8500
§ 95.6267 VOR FEDERAL AIRWAY 267		
Is Amended to Read in Part		
Gremm, FL FIX *1400–MOCA	Pahokee, FL VORTAC	*2000

REVISIONS TO MINIMUM ENROUTE IFR ALTITUDES AND CHANGEOVER POINTS—Continued

[Amendment 374 Effective Date, February 4, 1993]

From	To	MEA
Is Amended to Delete		
Biscayne Bay, FL VORTAC *2000–MOCA	Dougs, FL FIX	*5000
Dougs, FL FIX	Pahokee, FL VORTAC	1500
§ 95.6286 VOR FEDERAL AIRWAY 286		
Is Amended to Read in Part		
Elkins, WV VORTAC	Derin, WV FIX	6000
Derin, WV FIX	Teakk, VA FIX	6500
Teakk, VA FIX	Casanova, VA VORTAC	6700
§ 95.6294 VOR FEDERAL AIRWAY 294		
Is Amended to Read in Part		
Nasal, IA FIX *2100–MOCA	Cedar Rapids, IA VORTAC	*2700
§ 95.6322 VOR FEDERAL AIRWAY 322		
Is Amended by Adding		
Cape Newenham, AK NDB *4300–MOCA	King Salmon, AK VORTAC	*5000
§ 95.6362 VOR FEDERAL AIRWAY 362		
Is Amended to Delete		
Chattanooga, TN VORTAC	Shelbyville, TN VOR/DME	4000
Shelbyville, TN VOR/DME	Nashville, TN VORTAC	3000
Nashville, TN VORTAC	Bridy, TN FIX	3000
Brady, TN FIX *2000–MOCA	Bowling Green, KY VORTAC	*2600
§ 95.6397 VOR FEDERAL AIRWAY 397		
Is Amended to Read in Part		
Walet, MS FIX *2000–MOCA	Holly Springs, MS VORTAC	*2500
§ 95.6434 VOR FEDERAL AIRWAY 434		
Is Amended to Read in Part		
Ottumwa, IA VORTAC *2500–MOCA	Moline, IL VORTAC	*3000
§ 95.6437 VOR FEDERAL AIRWAY 437		
Is Amended to Read in Part		
Gremm, FL FIX *1400–MOCA	Pahokee, FL VORTAC	*2000
Is Amended to Delete		
Biscayne Bay, FL VORTAC *2000–MOCA	Dougs, FL FIX	5000
Dougs, FL FIX	Pahokee, FL VORTAC	1500
§ 95.6445 VOR FEDERAL AIRWAY 445		
Is Amended to Read in Part		
Bettles, AK VORTAC	*Kanut, AK FIX	#3500
	NW BND	#7000
	SE BND	

*4400–MCA Kanut FIX, SE BND
#COP Is 85 NM From and Utilizes Nenana (ENN) VORTAC

§ 95.6454 VOR FEDERAL AIRWAY 454		
Is Amended to Read in Part		
King Salmon, AK VORTAC *4300–MOCA	Dillingham, AK VOR/DME	*5000
§ 95.6511 VOR FEDERAL AIRWAY 511		
Is Amended to Delete		
Mikki, FL FIX *1400–MOCA	Biscayne Bay, FL VORTAC	*6000

REVISIONS TO MINIMUM ENROUTE IFR ALTITUDES AND CHANGEOVER POINTS—Continued

[Amendment 374 Effective Date, February 4, 1993]

From	To	MEA
§ 95.6515 VOR FEDERAL AIRWAY 515		
Is Deleted		
Chattanooga, TN VORTAC	Nashville, TN VORTAC	4000
Nashville, TN VORTAC *2500–MOCA	Barry, KY FIX	*4000
Barry, KY FIX *2400–MOCA	New Hope, KY VOR/DME	*3000
New Hope, KY VOR/DME	Louisville, KY VORTAC	2700
§ 95.6521 VOR FEDERAL AIRWAY 521		
Is Amended to Read In Part		
*Cross City, FL VORTAC *5000–MCA Cross City VORTAC, W BND **1300–MOCA.	Hevvn, FL FIX	**5000
*Hevvn, FL FIX *7000–MCA Hevvn Fix, W BND *1300–MOCA	Teres, FL FIX	**7000
§ 95.6529 VOR FEDERAL AIRWAY 529		
Is Amended to Read In Part		
Famin, FL FIX *1500–MOCA	Swags, FL FIX	*5000
Is Amended to Delete		
Biscayne Bay, FL VORTAC	Famin, FL FIX	2000
§ 95.6532 VOR FEDERAL AIRWAY 532		
Is Amended to Read In Part		
Little Rock, AR VORTAC *3500–MRA	*Paron, AR FIX	2600

From	To	MEA	MAA
§ 95.7042 Jet Route No. 42 Is Amended to Read In Part			
Nashville, TN VORTAC	Bosey, KY FIX	18000	45000
Bosey, KY FIX	Beckley, WV VORTAC	18000	35000
§ 95.7053 Jet Route No. 53 Is Amended to Read In Part			
Dougs, FL FIX	Orlando, FL VORTAC	18000	
§ 95.7058 Jet Route No. 58 Is Amended to Read In Part			
Lee County, FL VORTAC	Jazzi, FL FIX	18000	45000
§ 95.7075 Jet Route No. 75 Is Amended to Read In Part			
Jazzi, FL FIX	Lee County, FL VORTAC	19000	45000
Gordonsville, VA VORTAC	Modena, PA VORTAC	19000	45000

Airway segment		Changeover points	
From	To	Distance	From
–§ 95.8003 VOR Federal Airways Changeover Points			
V–37 Is Amended to Delete			
Pulaski, VA VORTAC	Elkins, WV VORTAC	45	Pulaski.
V–140 Is Amended to Delete			
Dyersburg, TN VORTAC	Nashville, TN VORTAC	92	Dyersburg.
V–286 Is Amended to Delete			
Elkins, WV VORTAC	Casanova, VA VORTAC	45	Elkins.
V–329 Is Amended by Adding			
Andalusia, AL VOR	Montgomery, AL VORTAC	10	Andalusia.
V–428 Is Amended to Delete			
Ithaca, NY VOR/DME	Georgetown, NY VORTAC	25	Ithaca.

Airway segment		Changeover points	
From	To	Distance	From
V§ 95.8005 Jet Routes Changeover Points			
J–5 Is Amended to Delete			
Lakeview, OR VORTAC	Seattle, WA VORTAC	176	Lakeview.

[FR Doc. 93–2500 Filed 2–2–93; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 157

[Docket No. RM81–19–000]

Project Cost and Annual Limits

January 28, 1993.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: Pursuant to the authority delegated by 18 CFR 375.307(e)(1), the Director of the Office of Pipeline and Producer Regulation computes and publishes the project cost and annual limits specified in Table I of § 157.208(d) and Table II of § 157.215(a) for each calendar year.

EFFECTIVE DATE: January 1, 1993.

FOR FURTHER INFORMATION CONTACT: Martin A. Burless, Jr., Chief, Pipeline Certificates and Projects Branch, Division of Pipeline Certificates, OPPR (202) 208–0581.

SUPPLEMENTARY INFORMATION:

Order of the Director, OPPR

Publication of Project Cost Limits Under Blanket Certificates

Section 157.208(d) of the Commission's Regulations provides for project cost limits applicable to construction, acquisition, operation and miscellaneous rearrangement of facilities (Table I) authorized under the blanket certificate procedure (Order No. 234, 19 FERC ¶61,216). Section 157.215(a) specified the calendar year dollar limit which may be expended on underground storage testing and development (Table II) authorized under the blanket certificate. Section 157.208(d) requires that the "limits specified in Tables I and II shall be adjusted each calendar year to reflect the 'GNP implicit price deflator' published by the Department of Commerce for the previous calendar year."

Pursuant to § 375.307(e)(1) of the Commission's Regulations, the authority for the publication of such costs limits, as adjusted for inflation, is delegated to the Director of the Office of Pipeline and Producer Regulation. The cost limits for calendar years 1982 through 1993, as published in Table I of § 157.208(d) and Table II of § 157.215(a), are hereby issued.

Note that these inflation adjustments are based on the Gross Domestic Product (GDP) Implicit Price Deflator rather than the Gross National Product (GNP) Implicit Price Deflator, which is not yet available for 1992. The Commerce Department advises that in recent years the annual change has been virtually the same for both indices. Further adjustments will be made, if necessary.

List of Subjects in 18 CFR Part 157

Natural gas.

Robert J. Cupina,

Deputy Director, Office of Pipeline and Producer Regulation.

Accordingly, 18 CFR part 157 is amended as follows:

PART 157—[AMENDED]

1. The authority citation for part 157 continues to read as follows:

Authority: 15 U.S.C. 717–717w, 3301–3432; 42 U.S.C. 7101–7352.

§ 157.208 [Amended]

2. Table I in § 157.208(d) is revised to read as follows:

TABLE I

Year	Limit	
	Auto. Proj. Cost Limit (Col. 1)	Prior Notice Proj. Cost Limit (Col. 2)
1982	$4,200,000	$12,000,000
1983	4,500,000	12,800,000
1984	4,700,000	13,300,000
1985	4,900,000	13,800,000
1986	5,100,000	14,300,000
1987	5,200,000	14,700,000
1988	5,400,000	15,100,000
1989	5,600,000	15,600,000
1990	5,800,000	16,000,000
1991	6,000,000	16,700,000
1992	6,200,000	17,300,000
1993	6,400,000	17,700,000

§ 157.215 [Amended]

3. Table II in § 157.215(a) is revised to read as follows:

TABLE II

Year	Limit
1982	$2,700,000
1983	2,900,000
1984	3,000,000
1985	3,100,000
1986	3,200,000
1987	3,300,000
1988	3,400,000
1989	3,500,000
1990	3,600,000
1991	3,800,000
1992	3,900,000
1993	4,000,000

[FR Doc. 93–2583 Filed 2–2–93; 8:45 am]
BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300253A; FRL–4174–2]

RIN 2070–AB78

Propionic Acid; Exemptions From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document establishes exemptions from the requirement of a tolerance for residues of propionic acid in or on meat and meat byproducts of cattle, sheep, hogs, goats, horses and poultry, milk, and eggs as a result of application to livestock drinking water, poultry litter, and storage areas for silage and grain. EPA is issuing this rule on its own initiative. Propionic acid is a normal component of metabolism in the human body. Humans ordinarily consume propionic acid as a natural component of common food and as an added ingredient. Dietary exposure from pesticidal use of propionic acid is expected to be very low.

EFFECTIVE DATE: This regulation becomes effective February 3, 1993.

ADDRESSES: Written objections, identified by the document control number, [OPP-300253A], may be

submitted to: Hearing Clerk (A-110), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: By mail: Cynthia Giles-Parker, Product Manager (PM) 22, Registration Division (H7505C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 229, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)-305-5540.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 24, 1992 (57 FR 28157), upon his own initiative, the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act (FFDCA) (21 U.S.C. 346a(e)), proposed that an exemption from the requirement of a tolerance under 40 CFR 180.1023 be established for residues of propionic acid in or on meat and meat byproducts of cattle, sheep, hogs, goats, horses and poultry, milk, and eggs, as a result of application to livestock drinking water, poultry litter, and storage areas for silage and grain.

In response to the proposed rule, one comment was received from Union Carbide Chemicals & Plastics Co. This document proposed that the Agency amend the proposed exemptions to include the proposed exemptions, notice of which appeared in the **Federal Register** of June 21, 1989 (54 FR 26056), for residues of propionic acid in or on the following raw agricultural commodities: cottonseed, peanuts, rice grain, and soybeans, when used as a fungicide in postharvest application. The Agency has determined to not include this proposed amendment in the final rule. Pesticide petition 8F3634 requesting these exemptions was submitted by Stop-Shock, Inc., of Dallas, TX, and is pending the satisfactory completion of certain requirements for the registration of its product under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Generally, EPA will not establish a tolerance until an associated FIFRA registration is ready for approval. Premature establishment of the tolerance may encourage misuse of the pesticide. The commenter gave no reason why EPA should deviate from this policy.

There were no requests for referral to an advisory committee received in response to the proposed rule.

Data reviewed by the Agency were discussed in the proposed rule. Based on the data and information considered, the Agency concludes that the tolerance exemptions will protect the public health. Therefore, the tolerance exemptions 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 fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

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, Reporting and recordkeeping requirements.

Dated: January 25, 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. By revising § 180.1023, to read as follows:

§ 180.1023 Propionic acid; exemptions from the requirement of a tolerance.

(a) Propionic acid is exempt from the requirement of a tolerance for residues in or on alfalfa, barley grain, Bermuda grass, bluegrass, brome grass, clover, corn grain, cowpea hay, fescue, lespedeza, lupines, oat grain, orchard grass, peanut hay, peavine hay, rye grass, sorghum grain, soybean hay, sudan grass, timothy, vetch, and wheat grain from postharvest application of propionic acid or a mixture of methylene bispropionate and oxy(bis-methylene) bisproprionate when used as a fungicide.

(b) Propionic acid is exempt from the requirement of a tolerance for residues in or on meat and meat byproducts of cattle, sheep, hogs, goats, horses and poultry, milk, and eggs when applied as a bactericide/fungicide to livestock drinking water, poultry litter, and storage areas for silage and grain.

[FR Doc. 93-2367 Filed 2-2-93; 8:45 am]

BILLING CODE 6560-50-F

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40 CFR Part 281

[FRL-4560-2]

Rhode Island; Final Approval of State Underground Storage Tank Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of final determination on Rhode Island's application for final approval.

SUMMARY: The State of Rhode Island has applied for final approval of its underground storage tank program under subtitle I of the Resource Conservation and Recovery Act (RCRA). The Environmental Protection Agency (EPA) has reviewed Rhode Island's application and has reached a final determination that Rhode Island's underground storage tank program satisfies all the requirements necessary to qualify for final approval. Thus, EPA is granting final approval to the State of Rhode Island to operate its program.

EFFECTIVE DATE: Final approval for Rhode Island shall be effective at 1 p.m. on March 5, 1993.

FOR FURTHER INFORMATION CONTACT: Andrea Beland, Office of Underground Storage Tanks, HPU-7, U.S. EPA, Region I, JFK Federal Building, Boston, MA 02203, 617/573-9604.

SUPPLEMENTARY INFORMATION:

A. Background

Section 9004 of RCRA enables EPA to approve state underground storage tank programs to operate in a state in lieu of the Federal underground storage tank program. To qualify for final authorization, a state's program must: (1) Be "no less stringent" than the Federal program, and (2) provide for adequate enforcement [Section 9004(a) of RCRA, 42 U.S.C. 6926(b)].

On July 2, 1992, EPA acknowledged receiving from the State of Rhode Island a complete official application to obtain final approval to administer its underground storage tank program. On November 13, 1992, EPA published a tentative decision announcing its intent to grant Rhode Island final approval of its program. Further background on the tentative decision to grant approval appears at 57 FR 220, November 13, 1992.

Along with the tentative determination, EPA announced the availability of the application for public comment and the date of a public hearing on the application. EPA requested advance notice for testimony and reserved the right to cancel for lack of public interest. In light of EPA receiving only one letter from a petroleum distributor expressing general support for EPA's approval of Rhode Island's underground storage tank program, no public hearing was held.

B. Decision

I conclude that the State of Rhode Island's application for final approval meets all of the statutory and regulatory requirements established by subtitle I of RCRA. Accordingly, Rhode Island is granted final approval to operate its underground storage tank program. The State of Rhode Island now has the responsibility for managing all regulated underground storage tank facilities within its borders and carrying out all aspects of the Federal underground storage tank program. Rhode Island also has primary enforcement responsibility, although EPA retains the right to conduct enforcement actions under section 9006 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 the approval will not have a significant economic impact on a substantial number of small entities. This approval effectively suspends the applicability of certain federal regulations in favor of the State of Rhode Island's program, thereby eliminating duplicative requirements for owners and operators of underground storage tanks within the State. It does not impose any new burdens on small entities. This rule, therefore, does not require flexibility analysis.

List of Subjects in 40 CFR Part 281

Administrative practice and procedure, Hazardous substances, Insurance, Intergovernmental relations, Oil pollution, Reporting and recordkeeping requirements, Surety bonds, Water pollution control, Water supply.

Authority: Section 9004 of the Solid Waste Disposal Act as amended, 42 U.S.C. §§ 6912(a), 6974(b), and 6991c.

Dated: January 11, 1993.

Julie Belaga,

Regional Administrator.

[FR Doc. 93–2533 Filed 2–2–93; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[FCC 93–12]

Forfeiture Proceedings

In the Matter of Amendment of § 1.80 of the Commission's Rules

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: By this action, the Commission amends § 1.80(c) of the rules, 47 CFR 1.80(c), to reflect amendments to section 503(b)(6) of the Communications Act of 1934, as amended. Section 503(b)(6) of the Act was recently amended by Congress to extend the statute of limitations for issuing forfeitures to broadcast station licensees. The amendment to § 1.80(c) merely restates the statutory language of amended section 503(b)(6) to conform the Commission's forfeiture rules to the statute. In addition, the Commission is taking this opportunity to make typographical corrections and make updates to several citations to sections of the Communications Act contained in §§ 1.80(a)(3) and (a)(4), and to update the forfeiture payment procedures in § 1.80(h) to state the correct address for submitting payments.

EFFECTIVE DATE: February 3, 1993.

FOR FURTHER INFORMATION CONTACT: Douglas Cooper, Office of General Counsel, Federal Communications Commission, (202) 632-6990.

SUPPLEMENTARY INFORMATION:

Order

Adopted: January 11, 1993.

Released: January 28, 1993.

By the Commission:

1. Congress recently amended section 503(b)(6) of the Communications Act of 1934, as amended, 47 U.S.C. 503(b)(6), to extend the statute of limitations for issuing forfeitures to broadcast station licensees. Pub. L. No. 102–538, 106 Stat. 3543, enacted October 27, 1992. The amendment extended the statute of limitations to encompass the entire current license term and clarified the meaning of the term "current license term." By this Order, we amend § 1.80(c)(1) of our rules, 47 CFR 1.80(c)(1), to reflect the amended statute.

2. In addition, we are taking this opportunity to make typographical corrections and updates to several citations to sections of the Communications Act contained in §§ 1.80(a)(3) and (a)(4) of our rules, and to update the forfeiture payment procedures in § 1.80(h) of the rules to state the correct address for submitting payments.

3. The change to § 1.80(c)(1) of our rules adopted herein merely restates in our rules the statutory language of 47 U.S.C. 503(b)(6) and the changes to §§ 1.80(a)(3) and (a)(4) simply correct or update citation references that are not controversial and are matters in which the public is not likely to be interested. Therefore, the Commission for good cause finds that compliance with the notice and comment and effective date provisions of the Administrative Procedure Act (APA) is unnecessary for these amendments. See 5 U.S.C. 553(b)(B), 553(d)(3). The change to § 1.80(h) of our rules is a matter of agency organization, practice or procedure. Accordingly, the notice and comment and effective date provisions of the APA do not apply. See 5 U.S.C. 553(b)(A), 553(d).

4. Accordingly, pursuant to sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(r), *it is ordered*, That 47 CFR 1.80(a)(3) and (a)(4), 1.80(c)(1), and 1.80(h) are amended as set forth in the Rule Changes, effective upon publication in the **Federal Register.**

List of Subjects in 47 CFR Part 1

Penalties.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

Rule Changes

Title 47 of the Code of Federal Regulations, part 1, is amended to read as follows:

PART 1—PRACTICE AND PROCEDURE

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

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303; Implement, 5 U.S.C. 552, unless otherwise noted.

2. Section 1.80 is amended by revising the introductory text of paragraph (a) and paragraphs (a)(3), (a)(4), (c)(1), (h), and the concluding text to paragraph (a) to read as follows:

Miscellaneous Proceedings

§ 1.80 Forfeiture proceedings.

(a) *Persons against whom and violations for which, a forfeiture may be assessed.* A forfeiture penalty may be assessed against any person found to have:

* * * * *

(3) Violated any provision of section 317(c) or 508(a) of the Communications Act; or

(4) Violated any provision of section 1304, 1343, or 1464 of title 18, United States Code.

A forfeiture penalty assessed under this section is in addition to any other penalty provided for by the Communications Act, except that the penalties provided for in paragraphs (b)(1), (b)(2) and (b)(3) of this section shall not apply to conduct which is subject to a forfeiture penalty under sections 202, 203, 205, 214(d), 219, 220, 223, 364, 386, 506 of the Communications Act. The remaining provisions of this section are applicable to such conduct.

* * * * *

(c) *Limits on the time when a proceeding may be initiated.* (1) In the case of a broadcast station, no forfeiture penalty shall be imposed if the violation occurred more than 1 year prior to the issuance of the appropriate notice or prior to the date of commencement of the current license term, whichever is earlier. For purposes of this paragraph, "date of commencement of the current license term" means the date of commencement of the last term of license for which the licensee has been granted a license by the Commission. A separate license term shall not be deemed to have commenced as a result of continuing a license in effect under section 307(c) pending decision on an application for renewal of the license.

* * * * *

(h) *Payment.* The forfeiture should be paid by check or money order drawn to the order of the Federal Communications Commission. The Commission does not accept responsibility for cash payments sent through the mails. The check or money order should be mailed to: Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673–7482.

* * * * *

[FR Doc. 93–2453 Filed 2–2–93; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 1

[OST Docket No. 1; Amdt. 1–254]

Organization and Delegation of Powers and Duties; Secretarial Succession

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule.

SUMMARY: The purpose of this amendment is to alter the order of Secretarial succession for the Department of Transportation.

EFFECTIVE DATE: The effective date of this amendment is January 14, 1993.

FOR FURTHER INFORMATION CONTACT: Robert I. Ross, Office of the General Counsel, Department of Transportation, Washington, DC (202) 366–9154.

SUPPLEMENTARY INFORMATION: In 49 CFR 1.26, the order of succession to act as Secretary of Transportation is set forth: The Deputy Secretary, General Counsel, Assistant Secretary for Policy and International Affairs, Assistant Secretary for Governmental Affairs, Assistant Secretary for Budget and Programs, Assistant Secretary for Public Affairs, Assistant Secretary for Administration, Associate Deputy Secretary, and Saint Lawrence Seaway Development Corporation Administrator, in that order. For the purpose of the upcoming transition, we deem it preferable to reverse the order of the positions of the Saint Lawrence Seaway Development Corporation Administrator and the Assistant Secretary for Administration in the order of succession.

Analysis of Regulatory Impacts

This amendment has been reviewed under Executive Order 12291, and it has been determined that this is not a major rule. It will not result in an annual effect on the economy of $100 million or more. There will be no increase in production costs or prices for consumers, individual industries, Federal, State, or local governments, agencies, or geographic regions. Furthermore, it will not adversely affect competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Accordingly, a regulatory impact analysis is not required.

This amendment is not significant within the definition in DOT's Regulatory Policies and Procedures, 49 FR 11034 (1979), in part because it does not involve any change in important Departmental policies. Because the economic impact should be minimal, further regulatory evaluation is not necessary. Moreover, I certify that this amendment will not have a significant economic impact on a substantial number of small entities.

This amendment does not significantly affect the environment, and therefore an environmental impact statement is not required under the National Environmental Policy Act of 1969. It has also been reviewed under Executive Order 12612, Federalism, and it has been determined that it does not have sufficient implications for federalism to warrant preparation of a Federalism Assessment.

Finally, the amendment does not contain any collection of information requirements. Accordingly, review by the Office of Information and Regulatory Affairs of the Office of Management and Budget under section 3504(h) of the Paperwork Reduction Act of 1980 is not required.

Since this amendment relates to Departmental management, procedures, and practice, notice and comment on it are unnecessary, and it may be made effective in less than 30 days after publication in the Federal Register.

List of Subjects in 49 CFR Part 1

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

In consideration of the foregoing, part 1 of title 49, Code of Federal Regulations, is amended as follows:

PART 1—[AMENDED]

1. The authority citation continues to read as follows:

Authority: 49 U.S.C. 322.

2. Section 1.26 is amended by revising paragraphs (a) (7), (8), and (9) to read as follows:

§ 1.26 Secretarial succession.

(a) * * *

(7) Associate Deputy Secretary.

(8) Saint Lawrence Seaway Development Corporation Administrator.

(9) Assistant Secretary for Administration.

* * * * *

Issued in Washington, DC, on January 14 1993.

Andrew H. Card, Jr.,

Secretary of Transportation.

[FR Doc. 93–1368 Filed 2–2–93; 8:45 am]

BILLING CODE 4910–62–M

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49 CFR Part 1

[OST Docket No. 1; Amdt. 1–253]

Organization and Delegation of Powers and Duties; Secretarial Succession

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule.

SUMMARY: This final rule amends agency regulations on Secretarial Succession. The Associate Deputy Secretary is added to the line of succession to act as Secretary of Transportation, in case of the absence or disability of the Secretary, until the absence or disability ceases, or in cases of a vacancy, until a successor is appointed. This final rule also adds provisions concerning the new Office of Intermodalism, as established by the Intermodal Surface Transportation Efficiency Act of 1991.

EFFECTIVE DATE: January 14, 1993.

FOR FURTHER INFORMATION CONTACT: Steven B. Farbman, Office of the Assistant General Counsel for Regulation and Enforcement, C–50, (202) 366–9307, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION: Title 49 U.S.C. 102(a) established the Department of Transportation. (b) placed the Secretary as head of the Department, (c) put the Deputy Secretary as first in line of succession to be Acting Secretary, and (d) established the General Counsel and the Assistant Secretaries and included them in the order of succession to be Acting Secretary "in the order prescribed by the Secretary." Section 102 was amended in 1984 by the addition of a new subsection (d) which created the position of Associate Deputy Secretary and redesignating the original (d) as (e). This amendment did not change the provision that, after the Deputy Secretary, the order of succession would be the General Counsel and the Assistant Secretaries, in the order prescribed by the Secretary. Under 49 U.S.C. 322, the Secretary may issue regulations governing the organization of the Department and the conduct of its business. Under this authority, the Secretary can extend the order of succession beyond the General Counsel and the Assistant Secretaries, and has done so by including the Administrator of the Saint Lawrence Seaway Development Corporation. This authority allows the Secretary to include the associate Deputy Secretary in the order of succession either before or after the Saint Lawrence Seaway Administrator.

This final rule also amends § 1.22(a) and § 1.23(q) of this part to include references to the Office of Intermodalism in the Office of the Secretary. Section 5002 of the Intermodal Surface Transportation Efficiency Act of 1991 (Pub. L. 102–240) established the Office of Intermodalism within the Office of Secretary. As discussed in § 1.23(q) of this Part, the Office of Intermodalism coordinates Federal policy on intermodal transportation.

Since this amendment relates to departmental management, organization, procedure, and practice, notice and comment on it are unnecessary and it may be made effective in fewer than 30 days after publication in the **Federal Register.** Therefore, this final rule is effective upon publication in the **Federal Register**.

List of Subjects in 49 CFR Part 1

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

In consideration of the foregoing, part 1 of title 49, Code of Federal Regulations, is amended as follows:

PART 1—[AMENDED]

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

Authority: 49 U.S.C. 322.

2. Section 1.22(a) is revised to read as follows

§ 1.22 Structure.

* * * * *

(a) *Secretary and Deputy Secretary.* The Secretary and Deputy Secretary are assisted by the Associate Deputy Secretary, Executive Secretariat, the Board of Contract Appeals, the Departmental Office of Civil Rights, the Office of Small and Disadvantaged Business Utilization, the Office of Commercial Space Transportation, the Office of Intelligence and Security, and the Office of Intermodalism all of which report to the Secretary. The Assistant Secretaries, the General Counsel, and the Inspector General also report directly to the Secretary.

3. Section 1.23(i) is revised to read as follows:

§ 1.23 Spheres of primary responsibility.

* * * * *

(i) *Associate Deputy Secretary.* Assists the Secretary and Deputy Secretary in carrying out a variety of executive and managerial policies, programs, and initiatives.

4. Section 1.23(p) is added and reserved and (q) is added to read as follows:

§ 1.23 Spheres of primary responsibility.

* * * * *

(p) [Reserved]

(q) *Office of Intermodalism.* Focal point within the Federal Government for coordination of intermodal transportation policy which brings together Departmental intermodal perspectives, advocates intermodal interests, and provides Secretarial leadership and visibility on issues that involve or affect more than one operating administration.

5. Section 1.26 is amended by redesignating paragraph (a)(8) as (a)(9) and adding a new (a)(8) to read as follows:

§ 1.26 Secretarial succession.

(a) * * *

(8) Associate Deputy Secretary.

* * * * *

Issued at Washington, DC this 24th day of December, 1992.

Andrew H. Card, Jr.,

Secretary of Transportation.

[FR Doc. 93–1412 Filed 2–2–93; 8:45 am]

BILLING CODE 4910–62–M

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49 CFR Parts 1 and 89

[OST Docket No 1; Amdt. 1–256]

Organization and Delegation of Powers and Duties; Delegations to All Administrators and the Assistant Secretary for Administration

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule.

SUMMARY: This document amends the delegations to all DOT Administrators and the Assistant Secretary for Administration by increasing the amount by which they are authorized to compromise claims from "not more than $20,000 (excluding interest)" to "not more than $100,000 (excluding interest)." The increased amount reflects the increase in the Secretary's statutory authority to compromise claims. It also reflects authority that has

been delegated to the Secretary by the Attorney General relating to the administrative settlement of Federal tort claims.

EFFECTIVE DATE: This rule becomes effective February 3, 1993.

FOR FURTHER INFORMATION CONTACT: Paul B. Larsen, Office of the Assistant General Counsel for Environmental, Civil Rights and General Law (202) 366–9167, or Steven B. Farbman, Office of the Assistant General Counsel for Regulation and Enforcement (202) 366–9306, Department of Transportation, 400 7th Street SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION: The Administrative Dispute Resolution Act, Public Law 101–552, section 8(b), 31 U.S.C. 3711(a)(2), enacted on November 15, 1990, increased the authority of the heads of executive agencies to settle claims from $20,000 to $100,000. The delegations of the Secretary's authority to the Assistant Secretary for Administration and the heads of each of the Department's Operating Administrations are being revised to reflect the change in the Secretary's authority. Although 49 CFR 89.5 delegates, in part, the Secretary's authority to the heads of the Operating Administrations, 49 CFR 1.45, "Delegations to all Administrators," does not contain this delegation. Accordingly, a new 49 CFR 1.45(a)(15) has been added to reflect this delegation. On April 8, 1992, the Attorney General delegated to the Secretary authority to compromise and settle administrative claims involving the Department under the Federal Tort Claims Act if the amount of the proposed compromise does not exceed $100,000. The Attorney General's delegation also requires that if the claim presents a novel question of law of fact, then the Secretary of Transportation should obtain the advice of the Assistant Attorney General in charge of the Civil Division of the Department of Justice; and further that for claims in excess of $50,000 but not exceeding $100,000, the Secretary shall prepare a memorandum explaining the basis for its action and forward it to the Director of the Torts Branch of the Civil Division. This additional authority is reflected in a new 49 CFR 1.45(a)(16).

Since this rule relates to departmental management, organization, procedure, and practice, notice and public comment are unnecessary. For the same reason, good cause exists for not publishing this rule at least 30 days before its effective date, as is ordinarily required by 5 U.S.C. 553(d). Therefore, this rule is effective on the date of its publication.

List of Subjects

49 CFR Part 1

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

49 CFR Part 89

Administrative practice and procedure, Debt collection.

In consideration of the foregoing, Parts 1 and 89 of Title 49, Code of Federal Regulations, are amended as follows:

PART 1—[AMENDED]

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

Authority: 40 U.S.C. 322; Pub. L. 101–552, 28 U.S.C. 2672, 31 U.S.C. 3711(a)(2).

2. Section 1.59 is amended by revising "$20,000" to read "$100,000 (excluding interest)" in paragraph (c)(6).

3. Section 1.45 is amended by revising "$25,000" to read "$100,000 (excluding interest)" in paragraph (a)(3).

4. Section 1.45 is amended by adding paragraphs (a)(15) and (a)(16) as follows:

§ 1.45 Delegations to all Administrators.

(a) * * *

(15) Compromise, suspend collection action on, or terminate claims of the United States not exceeding $100,000 (excluding interest) that are referred to, or arise out of the activities of, his or her Operating Administration;

(16) Compromise, suspend collection action on, or terminate claims against the United States not exceeding $100,000 (excluding interest) that are referred to, or arise out of the activities of, his or her Operating Administration; *provided that* when the Administrator believes that a claim against the United States presents a novel question of law or of policy, he or she shall obtain the advise of the Assistant Attorney General in charge of the Civil Division; and *provided further that* whenever he or she settles any administrative claim against the United States for an amount in excess of $50,000, the Administrator shall prepare a memorandum fully explaining the basis for the action taken and send a copy of the memorandum to the Director, Federal Torts Claims Act Staff, Torts Branch of the Civil Division, U.S. Department of Justice.

* * * * *

PART 89—[AMENDED]

1. The authority citation for part 89 is revised to read as follows:

Authority: Pub. L. 89–508; Pub. L. 89–365, secs. 3, 10, 11, 13(b), 31 U.S.C. 3701–3720A; Pub. L. 98–167; Pub. L. 98–369; Pub. L. 99–578; Pub. L. 101–552, 31 U.S.C. 3711(a)(2).

2. Section 89.5 introductory text is amended by revising "$20,000" to read "$100,000 (excluding interest)".

Issued at Washington, DC this 14th day of January 1993.

Andrew H. Card, Jr.,

Secretary of Transportation.

[FR Doc. 93–1607 Filed 2–2–93; 8:45 am]

BILLING CODE 4910–62–M

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49 CFR Part 1

[Docket 1; Amdt. 1–258]

Organization and Delegation of Powers and Duties Delegations to All Administrators

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule.

SUMMARY: This document amends the delegations to all DOT Administrators by adding a delegation to all Administrators to enter into memoranda of understanding (MOUs) with the Occupational Safety and Health Administration (OSHA), Department of Labor. This rule is necessary to enable the Administrators to discuss and negotiate with OSHA the particular characteristics of their safety regulatory programs and the structure and operations of the industry or industries they regulate.

EFFECTIVE DATE: This rule becomes effective February 3, 1993.

FOR FURTHER INFORMATION CONTACT: Paul B. Larsen, Office of the Assistant General Counsel for Environmental Rights and General Law (202) 366–9161, Department of Transportation, 400 7th Street SW., Washington DC 20590.

SUPPLEMENTARY INFORMATION: In section 4(b)(1) of the Occupational Safety and Health Act of 1970, 29 U.S.C. 653(b)(1), Congress provided that nothing in the Occupational Safety and Health Act "shall apply to working conditions of employees with respect to which other Federal agencies * * * exercise statutory authority to prescribe or enforce standards or regulations affecting occupational safety or health." DOT, in accordance with 49 U.S.C. subtitle I (recodified DOT Act), through its operating administrations, exercises statutory authority to prescribe and enforce occupational safety and health standards with respect to employees in DOT-regulated industries.

The Administrators of the DOT operating administrations are most familiar with the safety and health problems regarding the industries which they regulate. It is most efficient that they discuss with OSHA the particular characteristics of their safety regulatory

programs and the structure and operations of the industry or industries they regulate. Therefore, the Administrators are delegated the function of negotiating and concluding MOUs directly with OSHA regarding the particulars of each modal program with regard to memoranda of understanding that may be entered into with OSHA.

To insure consistency throughout the Department, the General Counsel shall concur in each memorandum of understanding with OSHA prior to its execution by the Administrator of the operating administration concerned.

Since this rule relates to departmental management, organization, procedure, and practice, notice and public comment are unnecessary. For the same reason, good cause exists for not publishing this rule at least 30 days before its effective date, as is ordinarily required by 5 U.S.C. 553(d). Therefore, this rule is effective on the date of its publication.

List of Subjects in 49 CFR Part 1

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

In consideration of the foregoing, part 1 of title 49, Code of Federal Regulations, is amended as follows:

PART 1—[AMENDED]

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

Authority: 49 U.S.C. 322.

2. Section 1.45 is amended by adding paragraph (a)(17) as follows:

§1.45 Delegations to all administrators.

(a) * * *

* * * * *

(17) Enter into memoranda of understanding with the Occupational Safety and Health Administration (OSHA) in regard to setting and enforcing occupational safety or health standards for employees in DOT-regulated industries. The General Counsel shall concur in each memorandum of understanding with OSHA prior to its execution by the Administrator of the operating administration concerned.

* * * * *

Issued at Washington DC, the 15th day of January 1993.

Andrew H. Card, Jr.,

Secretary of Transportation.

[FR Doc. 93–1772 Filed 2–2–93; 8:45 am]

BILLING CODE 4910–62–M

Federal Railroad Administration

49 CFR Part 229

[FRA Docket No. RSGC–2, Notice No. 5]

RIN 2130–AA80

Locomotive Conspicuity; Minimum Standards for Auxiliary External Lights

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Interim rule with request for comments.

SUMMARY: As required by statute, FRA is establishing interim standards regarding locomotive lighting to enhance the conspicuity of trains. This rule identifies several auxiliary external lighting arrangements as acceptable interim locomotive conspicuity measures. The purpose of this rule is to encourage the installation on locomotives of such lighting arrangements as are now widely used and available. Lighting devices installed in conformance to acceptable current practice will not be immediately rendered obsolete when FRA issues final standards in this area. The effect of this rule would be to help alert motorists and pedestrians of an approaching train. This action is intended to reduce the number of accidents that occur at points where highways cross railroad tracks.

DATES: This interim rule is effective February 3, 1993; written comments must be received on or before April 1, 1993. Comments received after that date will be considered so far as possible without incurring additional expense or delay.

ADDRESSES: *Written Comments:* Written comments and petitions for reconsideration should identify the docket number and the notice number and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, FRA, 400 Seventh Street SW., Washington, DC 20590. *Public Hearing:* Given the limited scope of this interim rule and the statutory exception from public proceedings, FRA does not believe that a public hearing is warranted at this time. However, FRA will consider any request for an opportunity to make an oral presentation that is filed by the deadline for written comments.

FOR FURTHER INFORMATION CONTACT: Gordon Davids, Bridge Engineer, Office of Safety, FRA, 400 Seventh Street SW., Washington, DC 20590 (telephone: 202–366–9186); Edward R. English, Director, Office of Safety Enforcement, Office of Safety, FRA, 400 Seventh Street SW., Washington, DC 20590 (telephone: 202–366–9252); or Marina C. Appleton, Trial Attorney, Office of Chief Counsel, FRA 400 Seventh Street SW., Washington, DC 20590 (telephone: 202–366–0628).

SUPPLEMENTARY INFORMATION: FRA is issuing this interim rule on locomotive conspicuity to fulfill the requirements mandated by section 14 of the recently enacted Amtrak Authorization and Development Act (Pub. L. 102–533). In an effort to reduce further the number of accidents at highway-rail crossings, this rule attempts to enhance the visibility of trains at such crossings by encouraging installation and use of an auxiliary external lighting arrangement on railroad locomotives. Before discussing the specific details of this interim rule, an overview of past regulatory proposals to enhance locomotive conspicuity is warranted.

Background

On March 7, 1978, the FRA published an advance notice of proposed rulemaking (ANPRM). The purpose of the ANPRM was to determine whether Federal regulations should require locomotives to be equipped with lighted devices, in addition to the standard headlight, intended to alert motorists that a train is approaching a highway-rail grade crossing (43 FR 9324). See provision on headlights at 49 CFR 229.125.

Although the comments were largely negative, FRA determined that the alerting light concept warranted further exploration. Hence, FRA issued a notice of proposed rulemaking (NPRM) on June 18, 1979 (44 FR 34982). This NPRM proposed to require the display by railroad locomotives of dual alternating electronic flash tube lights (strobe lights) at public highway-rail crossings at grade.

The response to the strobe light NPRM was overwhelmingly negative. Substantial questions were raised about the effectiveness of the strobe light (and alerting lights generally), the costs involved, and the operational reliability of the strobe devices. As a result, the FRA withdrew the strobe light NPRM on April 15, 1982 (47 FR 16189).

On October 12, 1982, FRA issued a second NPRM (47 FR 44791). This notice proposed the installation of a single alerting light on railroad locomotives, with a wide variety of light types qualifying as an alerting light. By removing the concerns expressed by the commenters to the earlier NPRM that related solely to the strobe type light, FRA sought to focus attention on the critical question whether alerting lights were effective at all.

Once again, the comments were largely negative. In view of the practical

experience of the commenters with alerting lights and the depth of the technical analysis, the working hypothesis of the proposed rule was substantially undermined. FRA concluded that the information collected at that point did not support the proposition that alerting lights were effective in reducing the incidence of grade-crossing accidents. FRA thus withdrew this NPRM on May 5, 1983 (48 FR 20257).

On October 27, 1992, the Amtrak Authorization and Development Act (Pub. L. 102–533) was signed into law. This legislation added new subsection (u) to section 202 of the Federal Railroad Safety Act of 1970 ("Safety Act") (45 U.S.C. 431). Subsection 202(u)(1) requires the Secretary to complete locomotive conspicuity research no later than December 31, 1993. Subsection 202(u)(2) provides that the Secretary shall issue interim regulations identifying ditch lights, crossing lights, strobe lights, and oscillating lights as interim locomotive conspicuity measures, and authorizing and encouraging installation and use of such measures. This subsection also provides that any locomotive equipped with such interim conspicuity measures on the date of issuance of the final regulations shall be considered in full compliance with such final regulations until four years after issuance of such final regulations.

Subsection 202(u)(3) directs the Secretary to commence rulemaking for the final regulations no later than June 30, 1994. This subsection lists various factors that FRA is to consider when issuing the final regulations. Further, subsection 202(u)(4) provides that any category of train or rail operation may be excluded from any specific locomotive conspicuity requirement provided that such an exclusion is in the public interest and is consistent with rail safety, including highway-rail grade crossing safety.

Subsection 202(u)(5) provides that such final regulations requiring enhanced locomotive conspicuity measures shall be issued no later than June 30, 1995. This subsection also requires that all locomotives not excluded from the regulations be equipped with either the interim conspicuity lighting arrangements identified in this rule or the conspicuity arrangements mandated by the final regulations, no later than December 31, 1997.

Thus, conspicuity measures that comply with this interim rule, or any amendment thereto, will be deemed to comply with the final rule for four years after its issuance, whenever that may be. That is, the final rule could be issued prior to June 30, 1995, the deadline for its issuance, and, if so, the four-year grace period would begin on that earlier date. Likewise, although this interim rule does not require that any train be equipped with conspicuity measures, the final rule may require such equipping even prior to December 31, 1997, which is the latest date for requiring such measures.

Subsection 202(u)(6) defines the term "locomotive conspicuity" to mean "the enhancement of day and night visibility of the front-end unit of a train, by means of lighting, reflective materials, or other means, with particular consideration to the visibility and perspective of drivers of motor vehicles at grade crossings."

Substantial data have been gathered and analyses have been developed and continue to be developed to determine means of enhancing visibility of trains at highway-rail grade crossings. In 1991, FRA initiated additional research into locomotive conspicuity through the Volpe National Transportation Systems Center. That research is scheduled to continue into 1994.

Several types of lighting devices are currently available and installed on a large number of locomotives. FRA recognizes the concern of locomotive owners that lighting devices now used might be rendered obsolete by further regulations. This interim rule is intended to reduce the inhibiting effects of those concerns by promoting the installation and use of currently available lighting devices. Such use has the potential to reduce near-term losses from highway-rail grade crossing accidents.

FRA also believes that the quality of future regulations will be enhanced by the consideration of data on the performance of a variety of lighting arrangements for enhancement of locomotive conspicuity. Data gathered by the more widespread use of currently available lighting devices encouraged by this rule will be used in conjunction with existing FRA studies to find the most effective lighting arrangement(s) to increase locomotive conspicuity.

Public Participation in the Rulemaking

Subsection 202(u)(2) of the Federal Railroad Safety Act of 1970 provides that this interim rule and any amendment to it shall be adopted without regard to subchapter II of chapter 5 of title 5, United States Code. This subsection thus allows this interim rule to be issued without regard to the Administrative Procedure Act's general requirement of providing an opportunity for public participation in the rulemaking process or, by implication, the Safety Act's requirement that an opportunity for oral presentation be provided where notice and comment are necessary. Similarly, the normal requirement that a rule be effective no sooner than 30 days after issuance does not apply here. Given this statutory exception and the brief period of time for issuance of this interim rule, FRA has endeavored to describe acceptable interim lighting devices based upon information already available.

Although the enabling legislation suspended the requirements for notice and comment, FRA will consider written comments received on or before April 1, 1993. During this period, FRA will also consider petitions for amendment of this rule, provided that such petitions clarify the descriptions of devices addressed in this rule, or identify devices that perform the same function at least as effectively as those devices addressed in this rule.

FRA will not consider requests that would disqualify devices addressed in this rule. There need be no concern that a device acquired or installed in conformance with this rule would become obsolete earlier than the date specified in this rule.

Section-by-Section Analysis

Section 229.133

This section encourages the installation and use of external auxiliary lighting arrangements on locomotives at the front of a train or other movement. The most reasonable means of issuing the rule is by adding it as a section of the Railroad Locomotive Safety Standards. This interim rule will expire when it is no longer necessary to define compliance with the final rule. Section 229.133 is declaratory, rather than restrictive, in that nothing contained in this interim rule is to be interpreted as requiring or prohibiting any system of locomotive lights beyond the requirements of other Federal railroad safety regulations.

In general, § 229.133 provides that auxiliary external lighting types listed in that section shall be deemed acceptable devices if currently installed on railroad locomotives or installed at any time prior to issuance of a final rule. Further, such acceptable lighting devices shall be deemed in compliance with that final rule for a period of time not to exceed four years from the date of issuance of that final rule. Assuming the final regulation is issued on June 30, 1995, adherence to the interim locomotive conspicuity measures identified in this rule will constitute compliance with that final rule for a

period of four years, or until June 30, 1999.

FRA encourages installation of one of the auxiliary external lighting arrangements specified in this section on each locomotive subject to the Railroad Locomotive Safety Standards; however, FRA recommends that such lights be turned on only on a locomotive at the head of a train or other movement. The phrase "at the head of a train or other movement" is intended to encompass two situations. In the first situation, a locomotive, while coupled to one or more pieces of rolling equipment, is the first piece of rolling equipment to enter a crossing. If a locomotive is not the first piece of rolling equipment to enter a crossing, turning on one of the lighting arrangements is not encouraged. In the second situation, a locomotive is operated alone, without being coupled to other equipment. Thus, in the case where a locomotive enters a highway-rail crossing without any rolling equipment in front, turning on of one of the lighting arrangements is encouraged irrespective of whether it is pulling any other equipment.

Specifications for acceptable auxiliary external lighting devices are contained in paragraph (b) and list four types of lighting arrangements that are acceptable devices if currently installed or installed at any time prior to issuance of a final rule: ditch lights, strobe lights, crossing lights, and oscillating lights.

The list of external light arrangements in § 229.331 is based on FRA's knowledge of alerting light devices now being utilized. If other such devices are in use and should be included in the list, FRA would welcome a description of the devices and a brief summary of why their alerting qualities warrant inclusion in this rule. Since the purpose of this rule is to promote safety enhancements by encouraging installations of alerting lights during the period of research and regulatory development, FRA will not review at this time the status of existing installations, as such.

The performance standards listed for each type of lighting arrangement are based on an analysis by FRA of the characteristics of devices currently manufactured and available for railroad installation. The performance standards represent FRA's understanding of alerting light technology and the criteria for describing lighting devices in terms of operational characteristics. However, since they are intended to be descriptive of currently available devices, FRA has not analyzed the significance or function of each component of the performance standards in alerting motorists or making a locomotive conspicuous.

FRA therefore solicits comments from railroads, light manufacturers, railroad employees, and other interested persons regarding the specific performance standards and the concept of locomotive conspicuity generally.

In this section each qualifying arrangement of auxiliary external lights would have to be white in color. FRA believes that the color white is appropriate because it is the only brilliant color that does not hold particular significance in the railroad environment. The color white also offers the highest level of conspicuity at the specified levels of illumination and causes the least confusion with lights used on the railroad for other purposes. The intensity requirements correspond with current practice to the best knowledge of FRA.

Section 229.133 also requires that each light or light arrangement be capable of (i) operating continuously at speeds over 8 miles an hour or (ii) being displayed at least 20 seconds before the front of the locomotive passes over any public highway crossing at grade. This 20-second time frame reflects FRA's view of the period when the lighting arrangements will be effective in warning vehicles approaching the crossing of the presence of the locomotive. It should provide motorists with ample opportunity to take action to avoid an accident, while minimizing any adverse effects from the use of these lights. This section also provides for automatic operation of each auxiliary external light arrangement by activation of a locomotive audible warning device. In addition, each lighting arrangement has lateral and vertical mounting specifications to ensure that the lights are visible from a considerable distance. Based on current data and information, FRA believes that these specifications should accentuate the alerting quality of each arrangement of lights and improve overall locomotive conspicuity. Railroads remain free to utilize these alerting lights as they see fit and make such exceptions as may be warranted.

The flash rates specified for strobe lights and crossing lights were chosen to avoid disorientation of rail or highway users and to minimize the possibility of adversely affecting persons with seizure disorders related to photosensitivity. The flash rates are based on research conducted for FRA and on practical service experience by FRA.

This section does not address what action should be taken in the case of failure enroute because this interim rule does not require the use of an auxiliary lighting system. In any event, FRA believes the available evidence indicates that alerting lights will have a high level of reliability so that enroute failures should be infrequent.

Regulatory Impact

Executive Order 12291 and DOT Regulatory Policies and Procedures

This interim rule has been evaluated in accordance with existing regulatory policies and procedures and is considered to be nonmajor under Executive Order 12291. It is, however, considered to be significant under DOT policies and procedures (44 FR 11304) because of Congressional and public interest in promoting rail safety by reducing near-term losses from highway-rail grade crossing accidents.

Consequently, FRA has prepared a regulatory evaluation addressing the economic impact of the rule. The regulatory evaluation estimates the economic costs and consequencies of this interim rule, as well as its anticipated benefits and impacts. This regulatory evaluation has been placed in the docket and is available for public inspection and copying during normal business hours in room 8201, Office of Chief Counsel, FRA, 400 Seventh Street, SW., Washington, DC 20590. Copies may also be obtained by submitting a written request to the FRA Docket Clerk at the above address.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 et seq.) requires a review of rules to assess their impact on small entities, unless the Secretary certifies that a final rule will not have a significant economic impact on a substantial number of small entities. This interim rule will not have an adverse impact on any entity because it does not place any new requirements or burdens on the public. Therefore, it is certified that the interim rule will not have a significant economic impact on a substantial number of small entities under the provisions of the Regulatory Flexibility Act.

Paperwork Reduction Act

This rule does not contain a colllection of information requirement for purposes of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq.

Environmental Impact

FRA has evaluated these regulations in accordance with its procedures for ensuring full consideration of the environmental impact of FRA actions, as required by the National Environmental Policy Act (42 U.S.C. 4321 et seq.), other environmental

statutes. Executive Orders, and DOT Order 5610.1c. It has been determined that this rule will not have any effect on the quality of the environment.

Federalism Implications

This rule will not have a substantial effect on the states, on the relationship between the national government and the states, or on the distribution of power and responsibiilities among the various levels of government. Thus, in accordance with Executive Order 12612, preparation of a Federalism Assessment is not warranted.

Under section 205 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 434), issuance of this regulation preempts any State law, rule, regulation, order, or standard covering the same subject matter.

List of Subjects in 49 CFR Part 229

Railroad safety.

Adoption of the Amendment

In consideration of the foregoing, FRA amends part 229, title 49, Code of Federal Regulations to read as follows:

PART 229—RAILROAD LOCOMOTIVE SAFETY STANDARDS

1. The authority citation for part 229 is revised to read as follows:

Authority: 45 U.S.C. 22–34, as amended; 45 U.S.C. 431, 438, as amended; 49 App. U.S.C. 1655(e), as amended; Pub. L. 100–342; Pub. L. 102–533; 49 CFR 1.49 (c), (g) and (m).

2. Section 229.133 is added to read as follows:

§ 229.133 Interim locomotive conspicuity measures—auxiliary external lights.

(a) A locomotive at the head of a train or other movement is authorized to be equipped with auxiliary external lights, additional to the headlight required by § 229.125, for the purpose of improved conspicuity. A locomotive that is equipped with auxiliary external lights in conformance with the specifications or performance standards set forth in paragraph (b) of this section on the date of issuance of a final rule that requires additional or other external lights on locomotives for improved conspicuity, as required by section 202(u) of the Federal Railroad Safety Act of 1970, shall be deemed to conform to the requirements of the final rule for four years following the date of issuance of that final rule.

(b) Each qualifying arrangement of auxiliary external lights shall conform to one of the following descriptions:

(1) *Ditch lights.* (i) Ditch lights shall consist of two white lights, each producing a steady beam of not less than 200,000 candela, placed at the front of the locomotive, not less than 60 inches apart, and not less than 36 inches nor more than 84 inches above the top of the rail.

(ii) Ditch lights shall be focused horizontally within 45 degrees of the longitudinal centerline of the locomotive.

(iii) Ditch lights shall be capable of being operated:

(A) continuously while the locomotive is in motion at speeds above 8 miles per hour or

(B) automatically for at least 20 seconds before the front of the locomotive passes over any public highway crossing at grade. Automatic operation shall be activated by the sounding of the locomotive audible warning device.

(2) *Strobe lights.* (i) Strobe lights shall consist of two white stroboscopic lights, each with effective intensity, as defined by the Illuminating Engineering Society's Guide for Calculating the Effective Intensity of Flashing Signal Lights (November 1964), of not less than 500 candela.

(ii) The flash rate of strobe lights shall not be slower than one pulse every 1.3 seconds nor faster than one pulse every 1.0 seconds.

(iii) Strobe lights shall be placed at the front of the locomotive, not less than 60 inches apart, and not less than 36 inches above the top of the rail.

(iv) Strobe lights shall be capable of being operated:

(A) continuously while the locomotive is in motion at speeds above 8 miles per hour or

(B) automatically for at least 20 seconds before the front of the locomotive passes over any public highway crossing at grade. Automatic operation shall be activated by the sounding of the locomotive audible warning device.

(3) *Crossing lights.* (i) Crossing lights shall consist of two white lights, placed at the front of the locomotive, not less than 60 inches apart, and not less than 48 inches above the top of the rail.

(ii) Each crossing light shall produce not less than 200,000 candela, either steadily burning or alternatively flashing.

(iii) The flash rate of crossing lights shall not be faster than once every 1.0 seconds, nor slower than once every 1.3 seconds.

(iv) Crossing lights shall be focused horizontally within 15 degrees of the longitudinal centerline of the locomotive.

(v) Crossing lights shall be capable of being operated:

(A) continuously while the locomotive is in motion at speeds above 8 miles per hour or

(B) automatically for at least 20 seconds before the front of the locomotive passes over any public highway crossing at grade. Automatic operation shall be activated by the sounding of the locomotive audible warning device.

(4) *Oscillating light.* (i) An oscillating light shall consist of one steadily burning white light producing not less than 200,000 candela in a moving beam that depicts a circle or a horizontal figure 8 to the front, about the longitudinal centerline of the locomotive.

(ii) An oscillating light shall be capable of being operated:

(A) continuously while the locomotive is in motion at speeds above 8 miles per hour or

(B) automatically for a least 20 seconds before the front of the locomotive passes over any public highway crossing at grade. Automatic operation shall be activated by the sounding of the locomotive audible warning device.

(c) It is Federal policy to encourage the installation and use of an auxiliary external light arrangement specified in this section on each locomotive employed at the front of a train or other movement at highway-rail grade crossings. Failure to equip a locomotive with such lights or lighting arrangement does not render a locomotive unsafe or otherwise in noncompliance with this part or part 230 of this chapter.

Issued in Washington, DC, on January 22, 1993.

Perry A. Rivkind,

Acting Federal Railroad Administrator.

[FR Doc. 93–2014 Filed 2–2–93; 8:45 am]

BILLING CODE 4910–06–M

Proposed Rules

Federal Register
Vol. 58, No. 21
Wednesday, February 3, 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.

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Chapter III

Cost, Feasibility and Privacy Implications of Tracking Deposits

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Request for comment.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC) is required to conduct a study of the cost and feasibility of tracking any individual's insured and uninsured deposits across all insured depository institutions. The FDIC seeks public comment on the desirability, cost and feasibility of developing such a tracking system, as well as the privacy implications of such tracking.

DATES: Written comments must be received on or before April 5, 1993.

ADDRESSES: Written comments shall be addressed to Hoyle L. Robinson, Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429. Comments may be hand-delivered to room F–402, 1776 F Street, NW., Washington, DC on business days between 8:30 and 5 p.m. Comments may also be inspected in FDIC's Reading Room, room 7118, 550 17th Street, NW., between 8:30 a.m. and 5 p.m. on business days. [FAX number (202) 898–3838].

FOR FURTHER INFORMATION CONTACT: Jay W. Golter, Financial Analyst, Division of Research and Statistics, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429, (202) 898–3924.

SUPPLEMENTARY INFORMATION: Section 311(d) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA), Public Law No. 102–242, requires the FDIC to conduct a study of the cost and feasibility of tracking the insured and uninsured deposits of any individual [1] and the exposure of the Federal Government with respect to all insured depository institutions. The study must include detailed technical analysis of the costs and benefits associated with the least expensive manner of implementing the tracking system. As part of the study, the FDIC must investigate, review, and evaluate—

(A) The data systems that would be required to track deposits in all insured depository institutions;

(B) The reporting burdens of such tracking on individual depository institutions;

(C) The system which exist or which would be required to be developed to aggregate such data on an accurate basis;

(D) The implications such tracking would have for individual privacy; and

(E) The manner in which systems would be administered and enforced.

Pursuant to section 11(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(1)) and the FDIC's deposit insurance regulations (12 CFR part 330), deposit insurance coverage is based on the ownership "rights and capacities" in which deposit accounts are maintained in depository institutions insured by the FDIC. The FDIC's regulations categorize the ownership rights and capacities in which deposit accounts are maintained at insured depository institutions. All deposits maintained in the same right and capacity category (i.e., owned in the same manner) in the domestic offices of one insured depository institution are added together and insured up to $100,000 in the aggregate. All deposits maintained in different rights and capacities, as recognized under the FDIC's regulations, are separately insured from each other, provided that all of the requirements of the regulations are satisfied.

For example, if a depositor maintains two individual (single ownership) accounts at the same insured institution, those accounts are added together and insured up to $100,000 in the aggregate since they are maintained in the same right and capacity. However, if a depositor has an individual account and a joint account at the same insured institution, those accounts are insured separately, up to $100,000 each, provided that all regulatory requirements are satisfied, since the accounts are maintained in different rights and capacities (i.e., owned in different manners).

The different types of accounts which reflect the different rights and capacities in which funds are owned and may be separately insured under the regulations include the following:

(1) Individual accounts;
(2) Joint accounts;
(3) Some revocable trust accounts;
(4) Irrevocable trust accounts;
(5) Accounts of a corporation, partnership or unincorporated association;
(6) Accounts held by insured depository institutions in a fiduciary capacity;
(7) Employee benefit plan accounts;
(8) Individual Retirement Accounts & Keogh Plan accounts; and
(9) Public unit accounts.

Section 311 of FDICIA amended certain provisions of sections 3, 7, and 11 of the Federal Deposit Insurance Act (12 U.S.C. 1813, 1817, and 1821) governing the insurance coverage provided by the FDIC for deposits in insured depository institutions. The FDIC has proposed regulatory amendments to implement the statutory changes made by FDICIA (57 FR 49027, October 29, 1992).

Approach to Tracking

A tracking system would require each insured depository institution to determine the insurance coverage of each of its deposit accounts. Information concerning the insured and uninsured balances of each account at each institution would be submitted via an electronic medium to a central facility at which the information from all institutions would be aggregated. The final product of the tracking system would include the following information:

- The total amount of funds that are insured and uninsured at each insured depository institution.
- The total amount of funds that are insured and uninsured in all insured depository institutions combined.

The total amount of insured and uninsured deposits owned under any right and capacity by each depositor, at any insured depository institution, and across all institutions.

At present, there are nearly 390 million deposit accounts maintained at

[1] The FDIC recognizes that the term "individual" may be construed to limit the scope of the study to accounts in which a natural person has an ownership interest. The FDIC has determined to study the cost and feasibility of tracking the insured and uninsured deposits of any depositor and the total exposure of the Federal Government with respect to all insured depository institutions.

all depository institutions insured by the FDIC.

One approach to generating the above information would require each FDIC-insured depository institution to report the following information for each deposit account:

Field name	Description
Account Number	Customer's account number at institution.
Balance	Collected balance plus accrued interest.
Secured Deposit	Amount of deposit backed by collateral.
Ownership Right & Capacity.	Code to indicate insurance capacity (e.g. individual, joint).
Owner	Account title.
TIN	Social Security number for individuals, Taxpayer identification number for businesses and associations.

A social security number or taxpayer identification number would have to be reported for each ownership interest. Accounts receiving pass-through coverage [2] would have to be listed repeatedly, each time indicating a different beneficiary/depositor and each beneficiary's share of the account balance. On joint accounts, the same account number would have to be repeatedly listed, each time identifying one owner and that depositor's share of the balance, until all owners had been reported. Testamentary trust accounts would have to be reported as if each settlor/beneficiary relationship were a separate account with the same account number. For qualifying relationships, insured institutions would have to report the settlor's name and TIN, then repeat those fields for one of the beneficiaries. Relationships that do not qualify for separate insurance would have to be reported as individual accounts for the settlor.

Determining the insurance coverage of each deposit account could, at least initially, be a difficult task. The rules under which this coverage is provided are complex. Furthermore, some of the information depository instutitions would be required to report is not currently maintained on the computer systems of most depository institutions. For example, an institution may not have a social security number on file for each owner of funds in a joint account. In addition, institutions may not presently maintain records indicating whether a beneficiary of a testamentary trust account is within the qualifying degree of kinship for separate insurance coverage. Institutions which presently choose to maintain such records would probably have difficulty verifying the exact nature of the relationships as reported by the customer. The situation may be even more complicated for accounts which are covered by pass-through insurance. Regulations governing pass-through accounts (12 CFR 330.4(b)) require that certain record-keeping obligations be met by either the depository institution or the fiduciary trustee. However, at present, such records are often maintained by manual systems. Furthermore, at present, the records may not reflect all of the information that would be required by the tracking system. Not only would a new burden be placed on those trustee/depositors who might need to upgrade their record systems, methods would also have to be devised for transmitting the information to the FDIC.

Insurance Coverage Rules

The potential cost and difficulty of developing a tracking system might be reduced significantly if the rules governing insurance coverage were simplified. It should be noted that statutory changes would be required prior to most changes in the rules governing insurance coverage. Some of the changes to current coverage rules could be modest in nature. For example, current rules governing the insurability of joint accounts require that a two-step analysis take place. In the first step, all joint accounts with the same combination of owners are aggregated together. Any aggregate balances that exceed $100,000 are not insured. In the second step, the balances of those joint accounts within the insurance limit in the first step are assigned to each joint owner on a pro-rata basis (unless account documents indicate that some other basis is appropriate). The amounts assigned to each individual are then aggregated. Any funds assigned to an individual in excess of $100,000 are not insured. For example, suppose the following accounts were held at an insured institution:

Acct. No.	Owners	Balance
1	A+B	$100,000
2	B+C	100,000
3	B+A	100,000
4	A+B+C	150,000

The first step of determining insurance coverage would be to aggregate the balances held by the same combination of owners. Aggregate amounts in excess of $100,000 are not insured.

Ownership group	Acct. No.	Aggregate balance	Uninsured	Eligible
A+B	1, 3	$200,000	$100,000	$100,000
B+C	2	100,000	0	100,000
A+B+C	4	150,000	50,000	1000,000
		$450,000	$150,000	$300,000

$150,000 of the original $450,000 would not be insured because of the first step of the determination process. The insurance coverage of the remaining $300,000 is subject to the second step of the process. In the second step, the eligible funds are allocated to each owner on a pro-rata basis. Each individual is then eligible for a maximum of $100,000 of insurance coverage.

[2] Pass-through insurance coverage is applied to certain deposit accounts maintained by fiduciaries. Examples include some employee benefit plans; brokered deposits; escrow accounts maintained by lawyers, landlords, travel agents, mortgage servicing firms and others; and accounts maintained to facilitate the payments system, including credit card processing. Under the principle of pass-through insurance, coverage is provided to each principal or beneficiary for that individual's share of the account balance as if the funds were held in an individual account in that person's name.

Owner	Share of A+B	Share of B+C	Share of A+B+C	Total	Insured
A	$50,000	0	$33,333	$83,333	$83,333
B	50,000	$50,000	33,333	133,333	100,000
C	0	50,000	33,333	83,333	83,333

An additional $33,333 of the funds owned by B would lose insurance coverage because B exceeds the $100,000 maximum per depositor. Of the original $450,000 held in the four joint accounts, $266,666 would be insured.

Eliminating the first step of this analysis could make it easier to determine the insurance coverage of each depositor with jointly owned accounts. However, such a change would incrementally increase the FDIC's exposure to loss. Some funds in joint accounts at failed institutions which currently lose insurance coverage in the first step of the analysis would become eligible for insurance coverage. In the previous example, each of the three depositors would be insured for $100,000 under the joint ownership category. Thus, the FDIC's exposure to that group of depositors would increase from $266,000 to $300,000.

Determining the insurance coverage of testamentary accounts is complicated by the need to establish whether the beneficiary is within the qualifying degree of kinship that permits separate insurance under this category. It would be possible to simplify the coverage rules by eliminating the qualification requirement.

Under such rules, any combination of settlor and beneficiary could qualify for separate deposit insurance. However, the removal of all restrictions on separate insurance could result in an expansion of the amount of money that individual depositors could protect with deposit insurance. Such an expansion may or may not be desirable from a public policy perspective. Therefore, it may be advisable to maintain some form of restriction on the amount of insurance coverage available under this category, perhaps through a limit on the number of separate trustee/beneficiaries that depositors may use for insurance purposes or by establishing a cap on the total amount by which funds deposited by any one settlor may be covered by deposit insurance under this category at any one depository institution.

A more sweeping approach to simplifying the rules governing deposit insurance coverage would be to eliminate some or all categories of rights and capacities which are provided separate insurance coverage. However, such change could disrupt current banking relationships and possibly alter the role of deposit insurance in the banking system. Changes in the coverage rules which are motivated by a desire to ease the administration of the insurance system could have unforeseen economic consequences and must be considered carefully. Therefore, it may be beneficial to consider simplification of coverage rules in tandem with other rule changes which would serve to neutralize the overall impact on the scope of deposit insurance. For example, elimination of some or all insurance categories might be offset by an increase in the current insurance limit of $100,000.

Privacy

Various statutes currently protect privacy. The FDIC is aware that, if a tracking system were to be developed, certain statutory amendments may be necessary and desirable before the system could be implemented.

The Right to Financial Privacy Act (RFPA) (12 U.S.C. 3401 et seq.) generally prohibits a Federal agency or department from obtaining access to an individual's financial records with certain exceptions. The RFPA does not generally apply to the examination by or disclosure to any supervisory agency of financial records or information in the exercise of the agency's supervisory, regulatory, or monetary functions, including conservatorship or receivership functions, with respect to any financial institution, holding company, or subsidiary of a financial institution or holding company. The RFPA protects from disclosure financial records of individual customers and small partnerships. The Act does not protect the financial records of corporations. Under the RFPA, a "financial record" is an original of, a copy of, or information known to have been derived from, any record held by a financial institution pertaining to a customer's relationship with the financial institution.

The Privacy Act (5 U.S.C. 552a) generally prohibits an agency from disclosing any record contained in a system of records to any agency or person except with the written consent of the individual to whom the record pertains, unless the disclosure is permitted by one of the Act's twelve exceptions. The Privacy Act defines a "record" in relevant part as: any item, collection, or grouping of information about an individual that is maintained by an agency, including financial transactions and that contains his name, or the identifying number, symbol, or other identifying particular assigned to the individual.[3]

The Privacy Act permits disclosure of a record for a "routine use". The term "routine" is defined to mean "the use of [a] record for a purpose which is compatible with the purpose for which it was collected." 5 U.S.C. 552a(b)(3). The Privacy Act requires **Federal Register** publication of each routine use of a record contained in a system of records including categories of users and purpose of use. The Privacy Act also permits disclosure of a record to either House of Congress. 5 U.S.C. 552a(b)(9). This exception does not authorize disclosure of a record to an individual member of Congress acting on his or her own behalf or on behalf of a constituent. In addition, the Privacy Act permits disclosure of a record pursuant to the order of a court of competent jurisdiction. 5 U.S.C. 552a(b)(11).

Section 7 of the Privacy Act (5 U.S.C. 552a note) makes it unlawful for any Federal agency to deny to any individual any right, benefit, or privilege provided by law due to the individual's refusal to disclose his or her social security number. In addition, any Federal agency which requests an individual to disclose his or her social security number must inform that individual whether disclosure is mandatory or voluntary, by what authority the number is requested, and what uses will be made of it.

The Freedom of Information Act (FOIA) (5 U.S.C. 552) generally provides that any person has a right of access to Federal agency records, except to the extent that such record may be protected from disclosure by one of nine exemptions. Exemption 4 of the FOIA (5 U.S.C. 552(b)(4)) protects from disclosure by a Federal agency any financial information obtained from a person which is privileged or confidential. Exemption 6 of the FOIA (5 U.S.C. 552(b)(6)) protects from disclosure by a Federal agency all information about individuals in

[3] 5 U.S.C. 552a(a)(4).

personnel, medical, and "similar files" where the disclosure of such information "would constitute a clearly unwarranted invasion of personal privacy."

Nature of Comments

I General

The FDIC hereby requests comments on all aspects of the cost and feasibility of tracking insured and uninsured deposits. In addition to general comments, the FDIC seeks comments that address whether the tracking system described earlier in this request for comment would be the least expensive way to track deposits across all insured depository institutions. The FDIC invites specific suggestions as to the manner of implementing other systems for tracking deposits. The FDIC also seeks comments which discuss the extent to which the frequency of reporting would influence the costs and feasibility of developing a tracking system.

II Cost and Feasibility

The FDIC seeks comments on:

• The costs to the FDIC and to financial institutions associated with establishing and maintaining data systems that would be required to track deposits in all insured depository institutions, including:

(1) Systems development costs such as programming, file restructuring, and upgrading computer hardware, telecommunications equipment and data security systems;

(2) Costs associated with collecting necessary information and entering it on the data processing system including employee training, customer contact, data entry, and verification;

(3) Administrative costs that would be incurred including, for example, the cost of redesigning and replacing forms used in establishing and maintaining accounts;

(4) Costs of determining the ownership and insurance coverage of deposits from brokers, fiduciaries, benefit plans, and others, the identity of each depositor and that depositor's respective share of account balances insured under "pass-through" coverage, and the costs incurred by the brokers, and others in providing such information to the depository institution;

• The reporting burdens of tracking on individual depository institutions, including;

(5) On-going costs, including the costs of creating and transmitting reports, and the staffing requirements to maintain and operate the system;

• The systems which exist or would be required to be developed to aggregate the data necessary for tracking on an accurate basis, including;

(6) Limits in the current technology that would impair the FDIC's ability to receive and compile data from all institutions in a timely manner;

• Simplification of Insurance Rights and Capacities including;

(7) How might the current rules regarding ownership rights and capacities be simplified in order to reduce the effort required to determine the insurance coverage of each account at depository institutions?

(8) To what extent would such changes reduce the cost of developing a tracking system?

(9) What effect would such rule changes have on the role of deposit insurance in the banking system and the economy? How might such effects be offset by other modifications?

• The implications tracking would have for individual privacy, including;

(10) Would the maintenance of a database of information on deposits represent an unwarranted intrusion by government into private affairs?

(11) To what extent, if at all, would funds be deposited outside the banking system to avoid the tracking of deposits?

(12) What privacy safeguards, if any, should be incorporated into a system of tracking the insured and uninsured deposits of individuals and others?

(13) Who should have access to information on insured and uninsured deposits?

(a) What, if any, access to information on deposits should be provided to federal and state governmental authorities? Should such access, if any, vary based on the purpose for access to the information (for example, law enforcement, credit reporting, etc.)?

(b) What, if any, access to information on individual deposits should be provided to private parties?

(14) Should individuals be permitted access to information on their own deposits?

If individuals should be permitted such access,

(a) should a procedure be established to provide individuals an opportunity to supply information to correct or otherwise amend the information on their deposits and, if so, what specific procedures should be established?

(b) should a fee be charged for access, and if so, how should the amount of the fee be determined?

(15) What notification of reporting of deposit information should be provided to individuals?

(a) Should either the FDIC or depository institutions or both be required to notify individuals that information on their deposits will be or has been reported to the FDIC and, if so, when and by what means should such notification take place?

(b) Should the FDIC be required to notify individuals that information on their deposits will be or has been reported to third parties and, if so, when and by what means should such notification take place?

* The manner in which systems would be administered and enforced, including:

(16) What additional auditing and examination burdens on institutions would be created, and what sanctions would be appropriate for compliance violations.

* Miscellaneous issues, including:

(17) Any additional costs or issues which may not be described above.

(18) Any benefits that institutions could derive from the development of the necessary systems that would offset some of the costs that would be incurred.

By order of the Board of Directors. Dated at Washington, DC this 26th day of January, 1993.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 93–2481 Filed 2–2–93; 8:45 am]

BILLING CODE 6714–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 92–NM–241–AD]

Airworthiness Directives; Lockheed Model L–1011 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to Lockheed Model L–1011 series airplanes. This proposal would require the implementation of a corrosion prevention and control program either by accomplishing specific tasks or by revising the maintenance inspection program to include such a program. This proposal is prompted by reports of incidents involving corrosion and fatigue cracking in transport category airplanes that are approaching or have exceeded their economic design goal; these incidents have jeopardized the

airworthiness of the affected airplanes. The actions specified by the proposed AD are intended to prevent degradation of the structural capabilities of the airplane due to the problems associated with corrosion.

DATES: Comments must be received by March 30, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 92–NM–241–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Lockheed Western Export Company, Attn: Commercial and Customer Support, Dept. 693, Zone 0755, 86 South Cobb Drive, Marietta, Georgia 30063. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, 1669 Phoenix Parkway, suite 210C, Atlanta, Georgia.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas B. Peters, Aeronautical Engineer, Flight Test Branch, Atlanta Aircraft Certification Office, FAA, Small Airplane Directorate, 1669 Phoenix Parkway, suite 210C, Atlanta, Georgia 30349; telephone (404) 991–3915; fax (404) 991–3606.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 92–NM–241–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No 92–NM–241–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

In April 1988, a high-cycle transport category airplane (specifically, a Boeing Model 737) was involved in an accident in which the airplane suffered major structural damage during flight. Investigation of this accident revealed that the airplane had numerous fatigue cracks and a great deal of corrosion. Subsequent inspections conducted by the operator on other high-cycle transport category airplanes in its fleet revealed that other airplanes had extensive fatigue cracking and corrosion.

Prompted by the data gained from this accident, the FAA sponsored a conference on aging airplanes in June 1988, which was attended by representatives from the aviation industry and airworthiness authorities from around the world. It became obvious that, because of the tremendous increase in air travel, the relatively slow pace of new airplane production, and the apparent economic feasibility of operating older technology airplanes rather than retiring them, increased attention needed to be focused on the aging airplane fleet and maintaining its continued operational safety.

The Air Transport Association (ATA) of America and the Aerospace Industries Association (AIA) of America agreed to undertake the task of identifying and implementing procedures to ensure the continued structural airworthiness of aging transport category airplanes. An Airworthiness Assurance Task Force (AATF) was established in August 1988, with members representing aircraft manufacturers, operators, regulatory authorities, and other aviation industry representatives worldwide. The objective of the AATF was to sponsor "Working Groups" to:

1. Select service bulletins, applicable to each airplane model in the transport fleet, to be recommended for mandatory modification of aging airplanes;
2. Develop corrosion-directed inspections and prevention programs.
3. Review the adequacy of each operator's structural maintenance program;
4. Review and update the Supplemental Inspection Documents (SID); and
5. Assess repair quality.

The Working Group assigned to review the Lockheed Model L–1011 series airplanes completed its work on Item 1 (mandatory structural modifications), above, in June 1990. The Working Group's recommendations are contained in Lockheed Service Bulletin 093–51–035, "Structures—Aging Aircraft Structural Modifications and Inspections—Collector Service Bulletin," dated June 28, 1990. On March 22, 1991, the FAA issued AD 91–05–05, amendment 39–6878 (56 FR 6556, February 19, 1991), which mandates the installation of the modifications specified in that document.

The Working Group has now completed its work on Item 2 (corrosion-directed inspections) and has developed a baseline program for controlling corrosion problems that may jeopardize the continued airworthiness of the Lockheed Model L–1011 fleet. This program is contained in Lockheed Document Number LR 31889, "Corrosion Prevention and Control Program, TriStar L–1011," dated March 15, 1991, which the FAA has reviewed and approved. Lockheed has also issued "Errata Sheet, LR 31889, Corrosion Prevention and Control Program, TriStar L–1011," issued September 29, 1992, which contains a correction to section 7.2 of the Document. (Hereafter, these two publications are referred to as the "Document.")

Section 1.1 of the Document defines three levels of corrosion: Level 1 is corrosion which does not exceed certain limits. Level 2 corrosion is that which exceeds those limits. Level 3 corrosion is significant corrosion which is potentially an urgent airworthiness concern.

Section 3.1 of the Document provides guidelines to develop a corrosion prevention and control program. These guidelines address such things as a baseline program, implementation ages, access for inspection, repetitive inspection intervals, operating environment, newly acquired airplanes, general cleanliness of the airplane, and the fact that sampling is unreliable in effectively controlling corrosion.

Section 4.1 of the Document also sets forth the general implementation

requirements for the corrosion inspection/control program. As described in that section, each airplane is assigned an "Implementation Age" and a "Repetitive Interval." The program is applicable in each "airplane area" on all Model L–1011 airplanes that have reached or exceeded the Implementation Age for that area. For each airplane area, the program must be implemented on all affected airplanes within the period identified as the Repetitive Interval for that area. For airplanes that have already exceeded the applicable Implementation Age, this period is to be measured starting from the date the operator adopts the program. For airplanes whose age exceeds 20 years, the maximum period for implementing the program in any area is 6 years or the Repetitive Interval for that area, whichever is less. Finally, this section establishes a minimum implementation rate of one airplane per year for each task.

Section 4.2 of the Document describes the "Basic Task" to be accomplished in each defined airplane area as part of the Baseline Program. The task includes visual inspections of all primary and secondary structure, and may also include detailed visual and non-destructive inspections (NDI). Where NDI's are employed, adequate standards and procedures must be developed and properly recorded for the area inspected. Any corrosion or other damage found during these inspections must be repaired.

Section 4.3 of the Document identifies the specific corrosion task numbers, the airplane areas that are subject to the program, the "Implementation Age" and "Repeat Intervals" for each area, and other information necessary to carry out the program for each area.

Section 5.0 establishes the procedures for reporting the results of the inspections required by the corrosion prevention and control program.

Section 6.0 provides for periodic review and update of the data contained in the Document.

Section 7.0 lists existing AD's and service bulletins that are related to corrosion issues.

Since corrosion is likely to exist or develop on airplanes of this type design, an AD is proposed which would require adoption of a corrosion prevention and control program that is equivalent to or better than the program specified in the Document previously described. Operators would be permitted to accomplish this either by performing the specific corrosion tasks described in the Document (the "task-by-task method"), or by revising their FAA-approved maintenance program to include such a program.

Paragraph (a) of the proposal sets forth the proposed compliance times for the initial "corrosion task" of each airplane area. These compliance times are measured from a date one year after the effective date of the final rule. (Operators should note that the compliance times proposed in the AD differ from the compliance times recommended in the Document; the Document recommends that the compliance times begin with the effective date of the AD. The proposed compliance times are consistent with those of other similar AD's that the FAA has issued on this subject.) Generally, operators would be required to complete the initial corrosion task before reaching the "implementation age (IA)" plus one "repeat (R) interval" for the airplane area, as detailed in the Document. The corrosion task would be required to be repeated at a time interval not to exceed the R interval for that area, as detailed in the Document.

Paragraph (a) includes paragraph (a)(1)(iv), which states that performance of the initial tasks by each operator must occur at a minimum rate equivalent to one airplane per year (beginning one year after the effective date of the AD). While this provision is also consistent with the Document, the FAA recognizes that this may cause an undue hardship on some small operators. In those circumstances, the FAA anticipates evaluating requests for adjustment to the implementation rate on a case-by-case basis under the provisions of paragraph (h) of the proposed rule. (A note to this effect is included in the proposal.)

Operators should note that the proposal does not contain a paragraph specifically to address repair actions. The FAA considers that any repairs would be carried out necessarily as a part of each "corrosion task," as it is defined in the Document. "Corrosion task" is defined in the Document as including not only the pertinent inspection, but any necessary repairs, application of corrosion inhibitors, and other follow-on procedures, as well. Paragraph (a) contains a note to reference the portion of the Document that defines a "corrosion task," and to emphasize the importance of these corrective actions.

Paragraph (b) of the proposal provides for an optional method of complying with the rule. In lieu of performing the task-by-task requirements proposed in paragraph (a), operators may revise their FAA-approved maintenance/inspection programs to include the corrosion prevention and control program defined in the Document or an equivalent program approved by the FAA.

Paragraph (b) also would require that, subsequent to the accomplishment of the initial corrosion task, any extensions of R intervals specified in the Document must be approved by the FAA.

Any operator electing to comply with proposed paragraph (b) would be permitted to use an alternative recordkeeping method to that otherwise required by Federal Aviation Regulations (FAR) section 91.417 or section 121.380, provided it is approved by the FAA and is included in a revision to the FAA-approved maintenance/inspection program. In response to questions raised previously concerning recordkeeping and record retention requirements as they relate to the programmatic approach proposed in this AD action and other similar proposals that have been issued applicable to other airplane models, the FAA offers the following:

Sections 91.417(a)(2)(v) and 121.380(a)(2)(v) of the FAR require that a record be made of the current status of applicable AD's. With regard to proposed paragraph (b), such a record would be required to be made when the maintenance/inspection program is revised to incorporate the program specified in the Document; at that time, paragraph (b) of the AD would be fully complied with. Regarding paragraphs (d) through (g) of this proposal, those paragraphs would impose separate requirements; therefore, except as discussed below, separate entries would have to be made to reflect compliance with each of those paragraphs.

Section 121.380(a)(2)(iv) of the FAR concerns recording "the identification of the current inspection status of the aircraft." Section 91.417(a)(2)(iv) contains a similar requirement. Because proposed paragraph (b) would require operators to revise their maintenance/inspection program to include the program specified in the Document, each operator's program would be required to identify each inspection (e.g., "C" check) at which each corrosion task specified in the Document will be performed on each airplane. By recording the current inspection status of each airplane, and by maintaining a cross-reference system between these records and the maintenance/inspection program revision, it will be possible to determine the current status of each corrosion task on each airplane. Once this cross-reference system has been established, this recording provision of sections 91 and 121 requires no additional recording beyond what would otherwise be required normally

Section 121.380(a)(1) concerns "records necessary to show that all requirements for the issuance of an airworthiness release under section 121.709 have been met." Section 91.417(a)(1) contains a similar requirement. These are also referred to as "dirty fingerprint records." This provision of sections 91 and 121 requires most of the recording that would result from this proposed AD. Each time a corrosion task is performed, the operator would be required to make a "dirty fingerprint" record of the task, identifying what actions were accomplished. It should be noted, however, that these records are not different from the records made for any other actions taken under the operator's maintenance/inspection program.

In addition to the record making requirements, discussed above, sections 91 and 121 of the FAR impose requirements for record retention:

Section 121.380(b)(1) and section 91.417(b)(1) require that the "dirty fingerprint" records be retained until the work is repeated or superseded by other work, or for one year after the work is performed. Therefore, most of the records resulting from this proposed AD would not have to be retained indefinitely. However, such retention might facilitate subsequent transfers, or substantiate requests for repetitive interval escalations, and therefore, may be in the operator's interest.

Section 121.380(b)(2) requires that the records specified in paragraph 121.380(a)(2) [current status of AD's and current inspection status] be retained and transferred with the airplane at the time it is sold. Section 91.417(b)(2) contains a similar requirement.

These recording requirements are not considered to be unduly burdensome and are considered the minimum necessary to enable the cognizant FAA Maintenance Inspector to perform proper surveillance and to ensure that the objectives of the proposed rule are being fulfilled.

However, because of the numerous concerns expressed previously by operators regarding the recordkeeping obligations imposed by section 121.380 with regard to similar rulemaking on corrosion prevention and control programs, the FAA has included in this proposal certain provisions for alternative recordkeeping methods. Proposed paragraph (b)(1) would provide for the development and implementation of such alternative methods, which must be approved by the FAA. For example, operators may choose to submit proposals to record compliance with paragraphs (d) through (g) of the AD by a means other than they normally use to record AD status. (The FAA currently is developing guidance material that will contain information to be considered by PMI's when reviewing proposals for alternative recordkeeping methods.)

Paragraph (c) of the proposal provides for increasing a repetitive inspection interval by up to 10% in order to accommodate unanticipated scheduling requirements. Operators would be required to inform the FAA within 30 days of such increases.

Paragraph (d)(1) of the proposal sets forth the reporting actions that are necessary to be accomplished when Level 3 corrosion is determined to exist. Within 7 days after such a determination is made, an operator would be required to accomplish one of the following actions:

1. Submit a report of the determination to the FAA and complete the corrosion task in the affected area on the remainder of the Model L–1011 series airplanes in the operator's fleet; or

2. Submit a proposed schedule, for approval by the FAA, for performing the corrosion tasks in the affected area on the remainder of the operator's Model L–1011 series fleet; or

3. Submit data substantiating that the Level 3 corrosion was an isolated occurrence.

Once the FAA has received such a report, it may, in conjunction with normal surveillance activities, request additional information regarding the results of the corrosion tasks performed on the remainder of the operator's Model L–1011 series fleet.

Paragraph (d)(2) of the proposal specifies that the FAA may impose schedules different from what an operator has proposed under paragraph (d)(1), if it is found that changes are necessary to ensure that any other Level 3 corrosion in the operator's Model L–1011 series fleet is detected in a timely manner.

Paragraph (d)(3) of the proposal would require that, within the time schedule approved by the FAA, the operator must accomplish the corrosion tasks in the affected areas on the remaining airplanes in its Model L–1011 series fleet to ensure that any other Level 3 corrosion is detected.

Paragraph (e) would require that, upon finding corrosion exceeding Level 1 during a repetitive inspection, an operator must adjust its program to ensure that future corrosion findings are limited to Level 1 or better. Where corrective action is necessary to reduce corrosion to Level 1 or better, an operator must submit a proposal for a means of corrective action for the FAA's approval within 60 days after the determination of corrosion is made. That means, approved by the FAA, must then be implemented to reduce future findings of corrosion in that area to Level 1 or better.

With regard to paragraph (e), it should be noted that, if corrosion found is not considered representative of an operator's fleet, no further corrective action may be necessary, since a means to reduce any corrosion to Level 1 or better will have already been implemented in the operator's program in accordance with proposed paragraph (a) or (b). For example, if a finding of corrosion is attributable to a particular spill of mercury or other unique event, or if corrosion is found on an airplane recently acquired from another operator, the means specified in the existing program may be adequate for controlling corrosion in the remainder of the operator's fleet. Similarly, if an operator has already implemented means to reduce corrosion in an airplane area based on previous findings, no additional corrective action may be necessary. In reviewing the reports submitted in accordance with the AD, the FAA will monitor the effectiveness of the operator's means to reduce corrosion. If the FAA determines that an operator has failed to implement adequate means to reduce corrosion to Level 1 or better, appropriate action will be taken to ensure compliance with this paragraph.

Paragraph (f) of the proposal concerns adding airplanes to an operator's fleet, and the procedures that must be followed with regard to corrosion prevention and control. This paragraph differentiates between procedures applicable to added airplanes that previously were maintained in accordance with this AD and those that were not so maintained. For airplanes that previously have been maintained in accordance with the proposed requirements of this AD action, the first corrosion task in each airplane area to be performed by the new operator would be required to be performed in accordance with either the previous operator's or the new operator's inspection schedule, whichever would result in the earlier accomplishment date for that task. For airplanes that have not been maintained in accordance with the proposed requirements of this AD action, the first corrosion task in each airplane area to be performed by the new operator would be required to be performed before the airplane is placed in service, or in accordance with a schedule approved by the FAA.

With regard to the requirements of paragraph (f), the FAA considers it essential that operators ensure that

transferred airplanes are inspected in accordance with the baseline corrosion prevention and control program on the same basis as if there were continuity in ownership. Scheduling of the inspections for each airplane must not be delayed or postponed due to a transfer of ownership; in some cases, such postponement could continue indefinitely if an airplane is transferred frequently from one owner to another. The proposed rule would require that the specified procedures be accomplished before any operator places into service any airplane subject to the requirements of the proposed AD.

Paragraph (g) of the proposal would require that reports of Level 2 and Level 3 corrosion be submitted at least quarterly to Lockheed. A note has been included in this paragraph indicating that the reporting of Level 2 and Level 3 corrosion found as a result of any opportunity inspections is highly desirable. Operators are not relieved, however, from reporting corrosion findings as required by FAR section 121.703.

There are approximately 241 Model L–1011 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 117 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 20 work hours per task to accomplish the 226 corrosion tasks called out in the Document; this represents a total of 4,520 work hours. The average labor rate is $55 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators for the 6-year average inspection cycle is estimated to be $29,086,200, or $248,600 per airplane. This total cost figure assumes that no operator has yet accomplished the proposed requirements of this AD action.

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

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES."

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 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 airworthiness directive:

Lockheed: Docket 92–NM–241–AD.

Applicability: All Model L–1011 series airplanes, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

Note 1: This AD references Lockheed Document Number LR 31889, "Corrosion Prevention and Control Program, TriStar L–1011," dated March 15, 1991, including "Errata Sheet, LR 31889, Corrosion Prevention and Control Program, TriStar L–1011," issued September 29, 1992 (hereafter, both publications are referred to as "the Document"), for corrosion tasks, definitions of corrosion levels, compliance times, and reporting requirements. In addition, this AD specifies inspection and reporting requirements beyond those included in the Document. Where there are differences between the AD and the Document, the AD prevails.

Note 2: As used throughout this AD, the term "the FAA" is defined differently for different operators, as follows: For those operators complying with paragraph (a) of this AD, "the FAA" is defined as "the Manager of the Atlanta Aircraft Certification Office (ACO)." For those operators operating under Federal Aviation Regulation (FAR) part 121 or 129, and complying with paragraph (b) of this AD, "the FAA" is defined as "the cognizant Principal Maintenance Inspector (PMI)." For those operators operating under FAR part 91 or 125, and complying with paragraph (b) of this AD, "the FAA" is defined as "the cognizant Maintenance Inspector at the appropriate FAA Flight Standards office."

To preclude structural failure due to corrosion, accomplish the following:

(a) Except as provided in paragraph (b) of this AD, complete each of the corrosion tasks specified in section 4 of the Document in accordance with the procedures of the Document, and the schedule specified in paragraphs (a)(1) and (a)(2) of this AD.

Note 3: A "corrosion task," as defined in section 4 of the Document, includes inspections; procedures for a corrective action, including repairs, under identified circumstances; application of corrosion inhibitors; and other follow-on actions.

Note 4: Corrosion tasks completed in accordance with the Document before the effective date of this AD may be credited for compliance with the initial corrosion task requirements of paragraph (a)(1) of this AD.

Note 5: Where non-destructive inspection (NDI) methods are employed, in accordance with section 4 of the Document, the standards and procedures used must be acceptable to the Administrator in accordance with FAR § 43.13.

(1) Complete the initial corrosion task of each "airplane area" specified in section 4 of the Document as follows:

(i) For airplane areas that have not yet exceeded the "implementation age" (IA) for a corrosion task as of one year after the effective date of this AD: Initial compliance must occur no later than the IA plus the repeat (R) interval.

(ii) For airplane areas that have exceeded the IA for a particular corrosion task, as of one year after the effective date of this AD: Initial compliance must occur within one R interval for that task, measured from a date one year after the effective date of this AD.

(iii) For airplanes that are 20 years old or older as of one year after the effective date of this AD: Initial compliance must occur for all airplane areas within one R interval or within 6 years, measured from a date one year after the effective date of this AD, whichever occurs first.

(iv) In all cases, accomplishment of the initial corrosion tasks by each operator must occur at a minimum rate equivalent to one airplane per year, beginning one year after the effective date of this AD.

Note 6: This minimum rate requirement may cause an undue hardship on some small operators. In those circumstances, requests for adjustments to the implementation rate will be evaluated on a case-by-case basis under the provisions of paragraph (h) of this AD.

(2) Repeat each corrosion task at a time interval not to exceed the R interval specified in the Document for that task.

(b) As an alternative to the requirements of paragraph (a) of this AD: Prior to one year after the effective date of this AD, revise the FAA-approved maintenance/inspection program to include the corrosion prevention and control program specified in the Document; or to include an equivalent program that is approved by the FAA. In all cases, the initial corrosion task for each airplane area must be completed in accordance with the compliance schedule specified in paragraph (a)(1) of this AD.

(1) Any operator complying with paragraph (b) of this AD may use an alternative

recordkeeping method to that otherwise required by FAR section 91.417 or section 121.380 for the actions required by this AD, provided it is approved by the FAA and is included in a revision to the FAA-approved maintenance/inspection program.

(2) Subsequent to the accomplishment of the initial corrosion task, extensions of R intervals specified in the Document must be approved by the FAA.

(c) To accommodate unanticipated scheduling requirements, it is acceptable for an R interval to be increased by up to 10%, but not to exceed 6 months. The FAA must be informed, in writing, of any such extension within 30 days after such adjustment of the schedule.

(d)(1) If, as a result of any inspection conducted in accordance with paragraphs (a) or (b) of this AD, Level 3 corrosion is determined to exist in any airplane area, accomplish either paragraph (d)(1)(i) or (d)(1)(ii) within 7 days after such determination:

(i) Submit a report of that determination to the FAA and complete the corrosion task in the affected areas on all Model L–1011 series airplanes in the operator's fleet; or

(ii) Submit to the FAA for approval one of the following:

(A) A proposed schedule for performing the corrosion tasks in the affected areas on the remaining Model L–1011 series airplanes in the operator's fleet, which is adequate to ensure that any other Level 3 corrosion is detected in a timely manner, along with substantiating data for that schedule; or

(B) Data substantiating that the Level 3 corrosion found is an isolated occurrence.

Note 7: Notwithstanding the provisions of section 1 of the Document, which would permit corrosion that otherwise meets the definition of Level 3 corrosion (i.e., which is determined to be a potentially urgent airworthiness concern requiring expeditious action) to be treated as Level 1 if the operator finds that it "can be attributed to an event not typical of the operator's usage of other airplanes in the same fleet," this paragraph requires that data substantiating any such finding be submitted to the FAA for approval.

(2) The FAA may impose schedules other than those proposed, upon finding that such changes are necessary to ensure that any other Level 3 corrosion is detected in a timely manner.

(3) Within the time schedule approved under paragraph (d)(1) or (d)(2) of this AD, accomplish the corrosion tasks in the affected areas of the remaining Model L–1011 series airplanes in the operator's fleet.

(e) If, as a result of any inspection after the initial inspection conducted in accordance with paragraphs (a) or (b) of this AD, it is determined that corrosion findings exceed Level 1 in any area, within 60 days after such determination, implement a means, approved by the FAA, to reduce future findings of corrosion in that area to Level 1 or better.

(f) Before any operator places into service any airplane subject to the requirements of this AD, a schedule for the accomplishment of corrosion tasks required by this AD must be established in accordance with paragraph (f)(1) or (f)(2) of this AD, as applicable:

(1) For airplanes previously maintained in accordance with this AD, the first corrosion task in each airplane area to be performed by the new operator must be accomplished in accordance with the previous operator's schedule or with the new operator's schedule, whichever would result in the earlier accomplishment date for that task. After each corrosion task has been performed once, each subsequent task must be performed in accordance with the new operator's schedule.

(2) For airplanes that have not been previously maintained in accordance with this AD, the first corrosion task for each airplane area to be performed by the new operator must be accomplished prior to further flight or in accordance with a schedule approved by the FAA.

(g) Reports of Level 2 and Level 3 corrosion must be submitted at least quarterly to Lockheed Aeronautical Systems in accordance with Section 5 of the Document.

Note 8: Reporting of Level 2 and Level 3 corrosion found as a result of any opportunity inspections is highly desirable.

(h) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Atlanta Aircraft Certification Office (ACO), FAA, Small Airplane Directorate. Operators shall submit their requests through the cognizant Maintenance Inspector at the appropriate FAA Flight Standards office, who may concur or comment and then send it to the Manager, Atlanta ACO.

Note 9: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Atlanta ACO.

(i) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

(j) Reports of corrosion inspection results required by this AD have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

Issued in Renton, Washington, on January 28, 1993.

Ronald T. Wojnar,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–2546 Filed 2–2–93; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 93–AWP–1]

Proposed Modification of the Yuma MCAS (Marine Corps Air Station)–Yuma International Airport, AZ, Control Zone

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would modify the Yuma MCAS–Yuma International Airport, AZ, Control Zone. This action would modify the airspace exclusion over the Somerton Airport and increase the size of the control zone to provide additional controlled airspace for terminal instrument operations at Yuma MCAS–Yuma International Airport.

DATES: Comments must be received on or before March 4, 1993.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Attn: Manager, System Management Branch, AWP–530, Docket No. AWP–1, Air Traffic Division, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009.

The official docket may be examined in the Office of the Assistant Chief Counsel, Western-Pacific Region, Federal Aviation Administration, room 6W14, 15000 Aviation Boulevard, Lawndale, California. An informal docket may also be examined during normal business hours at the Office of the Manager, System Management Branch, Air Traffic Division at the above address.

FOR FURTHER INFORMATION CONTACT: Gene Enstad, Airspace Specialist, System Management Branch, AWP–530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (310) 297–0010.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 93–AWP–1." The postcard will be date/time stamped and returned to the commenter. All communications on or

before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the System Management Branch, Air Traffic Division, 15000 Aviation Boulevard, Lawndale, California, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, System Management Branch, AWP–530, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to modify the control zone at Yuma MCAS-Yuma International Airport, AZ. This action would modify the airspace excluded from the Yuma MCAS-Yuma International Airport control zone over the Somerton Airport, AZ, from the surface to 2,500 feet above ground level (AGL) to surface to 300 feet AGL. This action would provide continued access to the Somerton Airport and provide controlled airspace for terminal instrument operations at Yuma MCAS-Yuma International Airport. Enlarging the Yuma MCAS-Yuma International Airport control zone from a radius of 4.3 nautical miles to 5.2 nautical miles would also provide sufficient controlled airspace for terminal instrument operations. The coordinates for this airspace docket are based on North American Datum 83. Control zones are published in § 71.171 of FAA Order 7400.7A, dated November 2, 1992, and effective November 27, 1992, which is incorporated by reference in 14 CFR 71.1. The control zone listed in the document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "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) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones, Incorporation by reference.

The Proposed Amendment

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

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p.389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.7A, Compilation of Regulations, dated November 2, 1992, and effective November 27, 1992, is amended as follows:

Section 71.171 Designation of Control Zones

* * * * *

AWP AZ CZ Yuma, AZ [Revised]

Yuma MCAS—Yuma International Airport, AZ
(lat. 32°39'23" N, long. 114°36'22" W)
Somerton Airport, AZ
(lat. 32°36'03" N, long. 114°39'57" W)
Bard VORTAC, AZ
(lat. 32°46'05" N, long. 114°36'10" W)

That airspace extending upward from the surface to and including 2,700 feet MSL within a 5.2-mile radius of Yuma MCAS/Yuma International Airport and within 1.8 miles either side of the Bard VORTAC 181 degree radial extending from the Bard VORTAC to the 5.2-mile radius of the Yuma MCAS/Yuma International Airport and within 1.8 miles either side of the 044 degree bearing from the Yuma MCAS/Yuma International Airport extending from the 5.2-mile radius to 6 miles northeast of the Yuma MCAS/Yuma International Airport excluding that airspace from the surface up to and including 300 feet AGL within 1 mile of the Somerton Airport west of a line one-quarter mile northeast of and parallel to the Somerton Airport northwest-southeast runway.

* * * * *

Issued in Los Angeles, California, on January 26, 1993.

Richard R. Lien,

Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 93–2509 Filed 2–2–93; 8:45 am]

BILLING CODE 4910–13–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1056

[Ex Parte No. MC–19 (Sub-No. 42)]

Practices of Motor Common Carriers of Household Goods; Performance Reports

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission is proposing to modify the Annual Performance Report, Form OCP–101 (OCP–101), which sets forth the requirements that relate to carrier performance information given to prospective individual shippers of household goods. This proceeding is instituted to address concerns expressed by consumer groups and the moving industry regarding the quality and reliability of the information provided by household goods carriers in the OCP–101. The modified OCP–101 would require release of verified data.

DATES: Comments are due March 22, 1993.

ADDRESSES: Send an original and 10 copies of comments referring to Ex Parte No. MC–19 (Sub-No. 42) to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Charles E. Wagner (202) 927–5530 or John Fristoe (202) 927–5520. (TDD for hearing impaired: (202) 927–5721.)

SUPPLEMENTARY INFORMATION: For almost two decades, certain household goods carriers have been required to report to the Commission and provide each prospective shipper with a summary of their performance as required by Practices of Motor Common Carriers of Household Goods, 119 M.C.C. 585 (1974). Under existing rules, a household goods carrier that delivers 100 or more individual-type shipments during a calendar year is required to give prospective customers an Annual Performance Report or Form OCP–101, which reports the carrier's previous

year's performance, prior to the execution of a shipper's order for service. The OCP–101 must also be filed with the Commission's Office of Compliance and Consumer Assistance by March 31 of the following calendar year. The OCP–101 shows a carrier's performance in the areas of estimating, on-time performance, and claims handling in a calendar year for the three types of shippers (*i.e.*, Government, commercial, and individual).

Consumer groups and industry representatives have brought to the Commission's attention several concerns regarding the quality and reliability of the information provided by movers in the OCP–101. Some of the concerns expressed relate to: The lack of any audit of the OCP–101's, which detracts from the reliability of the data being reported; complaints that it is difficult to identify which carriers are required to file the OCP–101; allegations of inconsistent reporting of data between movers; criticism that instructions for completing the OCP–101 are unclear; and the evident use of the form as a competitive tool by movers, which, it is alleged, skew the data to show more favorable results.

We are seeking public comment on the continued viability of the OCP–101 and are proposing certain modifications of the reporting information to address the concerns expressed above. The proposed revision of OCP–101 is set forth below. Additional information is contained in the Commission's decision. To obtain a copy of the full decision, write to, call, or pick up in person from: Office of the Secretary, room 2215, Interstate Commerce Commission, Washington, DC 20423. Telephone: (202) 927–7428. [Assistance for the hearing impaired is available through TDD services (202) 927–5721.]

Energy and Environmental Consideration

We preliminarily conclude that modification of the regulations governing the OCP–101 would not significantly affect either the quality of the human environment or the conservation of energy resources.

Regulatory Flexibility Analysis

Pursuant to 5 U.S.C. 605(b), we preliminarily conclude that our action in this proceeding will not have a significant economic impact on a substantial number of small entities. No new regulatory requirements are imposed, directly or indirectly, on such entities. We are proposing to modify the OCP–101 requirements that relate to a carrier's performance information given to prospective individual shippers of household goods by motor common carriers of household goods transporting over 100 individual-type shipments per year. The modified form would require verification of the data in the report by a company official. Although the proposed regulations would have some impact on the administrative costs of preparing and duplicating the OCP–101 for smaller carriers (*i.e.*, Class II and III carriers) of household goods, it is unlikely that the economic impact on these small entities would be significant within the meaning of the Regulatory Flexibility Act.

Paperwork Burden

It is estimated that, on average, the current OCP–101 requires 25 burden hours per response to complete the collection of information. With the proposed modifications, it is estimated that 5 less burden hours per response are required to complete this collection of information. This estimate includes time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The information collection requirements contained in this proposal will be submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act of 1980 and 5 CFR 1320. Interested parties may direct comments concerning the paperwork burden and burden estimates to the OMB and ICC by addressing them to:

Office of Management & Budget, Office of Information and Regulatory Affairs, Desk Officer for ICC (Forms 3120–), Washington, DC 20503

Interstate Commerce Commission, Attn: Forms Clearance Officer, Room 1312, Washington, DC 20423

List of Subjects in 49 CFR Part 1056

Advertising, Consumer protection, Freight, Insurance, Motor carriers, Moving of household goods, Reporting and recordkeeping requirements.

Decided: January 28, 1993.

By the Commission, Chairman Philbin, Vice Chairman McDonald, Commissioners Simmons, Phillips, and Walden. Commissioner Walden did not participate in the disposition of this proceeding.

Sidney L. Strickland, Jr.,

Secretary.

For the reasons set forth in the preamble, title 49, chapter X, part 1056 of the Code of Federal Regulations is proposed to be amended as follows:

PART 1056—TRANSPORTATION OF HOUSEHOLD GOODS IN INTERSTATE OR FOREIGN COMMERCE

1. The authority citation for part 1056 continues to read as follows:

Authority: 49 U.S.C. 10321, 11109, 11110 and 5 U.S.C. 553.

2. In § 1056.2, paragraph (a)(3) is proposed to be revised to read as follows:

§ 1056.2 Information for shippers.

(a) * * *

(3) A copy of Form OCP–101, *Annual Performance Report*, most recently filed with the Commission, if the carrier prepares and files the report as prescribed in § 1056.18.

* * * * *

3. Section 1056.18 is proposed to be revised to read as follows:

§ 1056.18 Preparation and filing of annual performance report.

(a) *Minimum filing requirement.* Each motor common carrier for household goods as defined in § 1056.1(b)(1), which delivers 100 or more interstate shipments to individual shippers as defined in § 1056.1(b)(5), during any calendar year *shall*, on or before March 31 of the following year, file with the Office of Compliance and Consumer Assistance, Interstate Commerce Commission, Washington, DC 20423–0001, a report of the service performed during the report year. The report shall be submitted on Form OCP–101, and its accuracy must be verified by an official of the carrier.

(b) *Prescribed Annual Performance Report Form OCP–101.*

Interstate Commerce Commission, Office of Compliance and Consumer Assistance, Annual Performance Report for Year Ended December 31, 19_____

Carrier's Name _____
Carrier's Address _____
ICC number _____

Part A

With reference to shipments delivered for individual shippers as defined in § 1056.1(b)(5) during the calendar year:

1. Number of shipments delivered_____.
2. Number of shipments on which a binding estimate of charges was given_____.
3. Number of shipments on which a non-binding estimate of charges was given _____.
4. Number of shipments on which an estimate of charges was not given _____.

Part B

With reference to shipments delivered for individual shippers as defined in § 1056.1(b)(5) during the calendar year:

1. The number of shipments delivered upon payment of the amount of a binding estimate (§ 1056.3(a))_____.

2. Percent of shipments on which a non-binding estimate was furnished for which the final charges for the services included in the estimate did not exceed the amount of the estimate _____.

3. Percent of shipments delivered which were picked up on or before the last date for pickup specified in the order for service/bill of lading _____.

4. Percent of shipments delivered which were delivered on or before the last date for delivery as specified in the bill of lading contract_____.

5. Percent of shipments delivered which did not result in the filing of a claim by the shipper within 60 days following the date of delivery for property loss or damage in excess of $100 _____.

6. Percent of shipments delivered which did not result in the filing of a claim in excess of $100 by the shipper within 60 days following the date of delivery for damages and expenses arising out of the delayed pickup or delivery of the shipment _____.

7. The average number of days between the date of filing of a claim for property loss or damage or delay in excess of $100 and the date on which the carrier pays, declines payment, or makes a firm compromise offer of settlement in writing to the shipper _____.

8. The percent of all claims for amounts in excess of $100 filed for property loss or damage or for damages or expenses incurred as a result of delayed pickup or delivery:

a. Which were resolved through the use of a dispute settlement (arbitration) program maintained or participated in by the carrier _____.

b. Which were not referred to a dispute settlement program and which were concluded after the carrier received legal notice of suit by claimant to recover _____.

Carrier's Oath (Must be Completed by a Carrier Official)

I, *(name and title of company official)*, verify under penalty of perjury, under the laws of the United States of America, that all information supplied on this form or relative to the data contained in the form is true and correct. Further, I certify that I am qualified and authorized to certify the accuracy of the data. I know that willful misstatements or omission of material facts constitutes Federal crime violations punishable under 18 U.S.C. § 1001 by imprisonment up to five years and fines up to $10,000 for each offense.

Signature

Date

Title

(c) *Instructions for Preparation of Annual Performance Report, Form OCP–101.*

Instructions for Preparation

Part A

With reference to shipments delivered for individual shippers as defined in § 1056.1(b)(5) during the calendar year:

1. Enter the total number of shipments delivered that were transported for individuals as defined in § 1056.1(b)(5).

2. Enter the number of shipments delivered on which a binding estimate of charges was given.

3. Enter the number of shipments delivered on which a non-binding estimate of charges was given.

4. Enter the number of shipments delivered on which an estimate of charges was not given. (The sum of shipments reported in items 2, 3 and 4 must equal the total shipments delivered to individuals reported in item 1.)

Part B

With reference to shipments delivered for individual shippers as defined in § 1056.1(b)(5) during the calendar year:

1. Enter the number of shipments delivered on which a binding estimate was furnished where the final charges were the same or less then the binding estimate.

2. Enter the percent of the shipments on which a non-binding estimate of cost was furnished, which were delivered upon payment of an amount not exceeding the non-binding estimate.

3. Enter the percent of the shipments that were picked up on or before the last date for pickup specified in the order for service. For purposes of this report, all shipments picked up late shall be counted as late regardless of the reason or the party responsible for the delay.

4. Enter the percent of all shipments that were delivered on or before the last date for delivery as specified in the bill of lading. For purposes of this report, all shipments delivered late shall be counted as late regardless of the reason or the party responsible for the delay.

5. Enter the percent of all shipments that did not result in the filing of a claim by the shipper within 60 days following the date of delivery for property loss or damage in excess of $100. For the purposes of this report, a "claim filed" shall be considered as any claim otherwise meeting the minimum requirements of § 1005.2(b) and for an apparent loss in excess of $100.

6. Enter the percent of all shipments that did not result in the filing of a claim by the shipper within 60 days following the date of delivery for damages or expenses in excess of $100 incurred as a result of the delayed pickup and/or delivery of the shipment. For the purposes of this report, a "claim filed" shall be considered as any claim otherwise meeting the minimum requirements for § 1005.2(b) and for apparent damages or expenses in excess of $100.

7. Enter the average number of days required to pay, decline, or make a firm compromise offer of settlement of all claims for $100 or more relating to loss or damage or the delayed pickup and/or delivery of shipments during the report year. For the purposes of this report a claim shall be considered to be a "claim filed" if it meets the criteria set forth in items 5 and 6 and shall be considered as paid, declined, or compromised on the date on which a written offer is mailed or delivered in person to a claimant.

8a. Enter the percent of the loss and damage or delay claims for $100 or more arising out of the transportation of shipments entered under Part A item 1 which were settled during the report year through the use of a dispute resolution or arbitration procedure maintained or participated in by the carrier.

8b. Enter the percent of loss and damage or delay claims for $100 or more arising out of the transportation of shipments entered under Part A item 1 which were settled during the year on a date subsequent to the date of which legal notice of suit to recover was received by the carrier.

General Instructions

1. Data for completion of Form OCP–101 may be obtained by random sampling providing that in every instance the universe sampled is all shipments delivered for individual shippers during the report year or all claims arising out of the transportation of individual shipments which were received or settled, as appropriate, during the report year.

2. When random sampling is used, the minimum sample size in every instance shall be 400 shipments or claims, as appropriate, in replicates of 100 shipments or claims each. All samples must conform to standard deviation with a 95 percent confidence level.

3. Carriers submitting Form OCP–101 shall retain and make available for review by an authorized Commission employee all working papers, notes and other files relating to the preparation of each report for a period of not less than 24 months following the date of filing such a report.

4. The data in Form OCP–101 must be verified by a sworn statement signed by an official of the company.

[FR Doc. 93–2548 Filed 2–2–93; 8:45 am]
BILLING CODE 7035–01–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 625

[FHWA Docket No. 92–8, Notice No. 2]

RIN 2125–AC84

Design Standards for Highways; Requirements for Roadside Barriers and Safety Appurtenances

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The Federal Administration (FHWA) proposes to incorporate into the "Guides and References" section of 23 CFR part 625, for guidance on the acceptability of roadside barriers and other safety appurtenances for use on Federal-aid projects, the National Cooperative Highway Research Program (NCHRP) Report 350, "Recommended

Procedures for the Safety Performance Evaluation of Highway Features," 1993.

DATES: Comments must be received on or before March 29, 1993.

ADDRESSES: Submit written, signed comments to FHWA Docket No.92–8, Federal Highway Administration, room 4232, HCC–10, 400 Seventh Street, SW., Washington, DC 20590. All comments received will be available for examination at the above address between 8:30 a.m. and 3:30 p.m., e.t., Monday through Friday, except legal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. James H. Hatton, Jr., Office of Engineering (202) 366–1329, or Mr. Wilbert Baccus, Office of the Chief Counsel (202) 366–0780. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION: Section 1073 of Public Law 102–240, 105 Stat. 1914, The Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), enacted December 18, 1991, states that the Secretary [of Transportation] shall initiate a rulemaking proceeding to revise the guidelines and establish standards for installation of roadside barriers and other safety appurtenances, including longitudinal barriers, end terminals, and crash cushions. Such rulemaking shall reflect state-of-the-art designs, testing, and evaluation criteria contained in National Cooperative Highway Research Program Report 230 ["Recommended Procedures for the Safety Performance Evaluation of Highway Appurtenances"], relating to approval standards which provide an enhanced level of crashworthy performance to accommodate vans, mini-vans, pickup trucks, and 4-wheel drive vehicles.

The section further states that, not later than 1 year after the date of enactment of this Act, the Secretary shall complete the rulemaking proceeding and issue a final rule regarding the implementation of revised guidelines and standards for acceptable roadside barriers and other safety appurtenances, including longitudinal barriers, end terminals, and crash cushions. Such revised guidelines and standards shall accommodate vans, mini-vans, pickup trucks, and 4-wheel drive vehicles and shall be applicable to the refurbishment and replacement of existing roadside barriers and safety appurtenances as well as to the installation of new roadside barriers and safety appurtenances.

Currently, the FHWA recognizes guidance on the design and use of traffic barriers and safety appurtenances found in the American Association of State Highway and Transportation Officials (AASHTO) publications, "A Policy on Geometric Design of Highways and Streets," "Standard Specifications for Highway Bridges," "Standard Specifications for Structural Supports for Highway Signs, Luminaries and Traffic Signals," "Roadside Design Guide," and "Guide Specifications for Bridge Railings." None of these documents expressly addresses performance with the vehicles cited in the ISTEA except the "Guide Specifications for Bridge Railings," which does recommend testing bridge railings with a pickup truck (and larger and smaller vehicles).

The National Cooperative Highway Research Program (NCHRP) Report 230, which has been given tacit recognition by the FHWA, does not include guidance for testing or evaluating appurtenances with the vehicles cited in the ISTEA. However, under an NCHRP project a replacement for Report 230 has been developed. The replacement, NCHRP Report 350, "Recommended Procedures for the Safety Performance Evaluation of Highway Features," 1993, addresses testing and evaluating appurtenances with pickup trucks and with smaller and larger vehicles. The FHWA believes that following the testing and evaluation guidance contained in NCHRP Report 350, along with rational roadside features selection procedures, will result in highway design and upgrade practices that will be acceptably compatible with the vehicles cited in the ISTEA. The information and practices considered in reaching this conclusion are presented below. It should also be noted that the FHWA has contracted for a study to examine the crash characteristics of various types of vehicles and to recommend candidate vehicles to represent large or important segments of the vehicle population. Also, the NCHRP is undertaking a study to investigate the performance of existing roadside features relative to the ISTEA vehicles. Should the information from these two studies, or other sources, indicate a need for the FHWA to follow a different course than that described in this NPRM it will, of course, consider appropriate changes. (The NCHRP study is Project 22–11. It is titled, "An Evaluation of Current Roadside Barriers and Other Safety Appurtenances to Accommodate Vans, Mini-vans, Pickup Trucks, and 4-wheel Drive Vehicles as Described in the Intermodal Surface Transportation Efficiency Act (ISTEA) 1991".)

Light Trucks

The vehicles cited in the ISTEA constitute what the motor vehicle manufacturers call light trucks. Unless otherwise noted, this term will be used in the remainder of this NPRM to represent the vehicles cited in the ISTEA. Light trucks in 1991 accounted for about one quarter of the registered vehicles in the United States. They also accounted for a like proportion of the vehicle occupant fatalities. By comparison, automobiles accounted for about two-thirds of both the registered vehicles and the occupant fatalities. In the same year light trucks accounted for nearly one-third of the new vehicle sales in the country and automobiles accounted for a little less than two-thirds of these sales, indicating a trend toward an increasing portion of the vehicle fleet being light trucks, a trend that has existed for several years.

Between 1970 and 1988 the number of registered light trucks increased 161 percent, while automobile registrations increased only 56 percent. The increase in auto registrations between mid-1988 and mid-1991 was 1.5 percent, while that for light trucks was 17.8 percent. Over this same period the total increase in the sum of automobiles and light trucks was 5.4 percent, with light trucks contributing 78.9 percent of the increase.

From the foregoing observations it appears that light trucks, which serve largely as passenger vehicles, are tending toward becoming one-third of the vehicle fleet. It also appears that the overall occupant fatality record for light trucks is about the same per vehicle as that for automobiles. However, just as the safety record for automobiles is not homogeneous (most small automobiles have worse safety records than most large automobiles), there is considerable difference between the safety records of the various vehicle classifications that fall under the general classification of light trucks. For example, in an unpublished analysis done by the National Highway Traffic Safety Administration (NHTSA) on 1991 data it was shown that small vans had an occupant fatality rate per registered vehicle equal to 0.6 that for all registered automobiles and light trucks combined, standard vans had a rate 0.5 that of all automobiles and light trucks, small pickups 1.2, standard pickups 1.2, and utility vehicles 1.0. Comparable numbers for small, medium, and large cars were 1.1, 1.0, and 0.6, respectively. (A copy of the analysis is in the docket.)

In an attempt to get a different insight into the performance of light trucks and to specifically address the requirements of the ISTEA, the FHWA conducted an analysis comparing fatalities of automobile drivers with those of light truck drivers involved in fatal accidents where the first harmful event was reported as contact with an impact attenuator, bridge rail, concrete traffic barrier, sign support, luminaire support, or utility pole. This analysis indicated that the relative numbers of deaths of drivers of automobiles and light trucks from these types of accidents were approximately proportional to the relative number of registered automobiles and light trucks. It should also be noted that the results of unpublished studies (copies on file in the docket) done for the FHWA of two States' (North Carolina and Michigan) accident data bases on accidents involving highway features cited in the ISTEA did not reveal significant differences between the safety performance of light trucks and those of automobiles. Nevertheless, since light trucks are a significant, and growing, portion of the vehicle fleet, it is essential that all appropriate steps be taken to ensure the compatibility of roadside safety features with light trucks.

Testing

As previously stated, the FHWA believes that requiring new roadside feature designs to be evaluated and accepted through crash testing with both automobiles and pickup trucks (as well as with other vehicles in some instances) will provide adequate assurance that new roadside feature designs are reasonably compatible with light trucks. However, should the previously cited FHWA and NCHRP studies to examine the performance characteristics of ISTEA vehicles and the compatibility of existing roadside appurtenances with them show that the 3/4-ton pickup truck, recommended as a test vehicle in Report 350, is not suitable or sufficient as a test vehicle to represent the light truck segment of the vehicle fleet, the FHWA will look for another test vehicle or an additional test vehicle or vehicles.

Selection

The FHWA also believes that, along with appropriate test procedures, there need to be rational procedures for selecting roadside feature designs for new and rebuilt highways and for determining when to replace or retrofit obsolete roadside features on existing highways. NCHRP Project 22–9, Improved Procedures for Cost-Effectiveness Analysis of Roadside Safety Features, which is underway, is intended to produce such procedures. The objective of the project is to develop improved micro-computer based cost-effectiveness analysis procedures for use in:

1. Assessing alternative roadside safety treatments at both point locations and sections of roadway.
2. Developing warrants and guidelines, including those which consider performance levels of safety features.

It is likely that this project will develop a computer program that integrates the results of several vehicle types encroaching on the roadside at various speed and angle combinations. The FHWA has written to NCHRP to suggest that the researchers ensure that there are sufficient vehicles, with appropriate characteristics, to adequately cover the range of vehicles in the light truck category. (A copy of the letter is on file in the docket.)

NCHRP Report 350

The NCHRP Report 350 is scheduled for printing in February 1993. An unedited copy of the final draft has been placed in the docket and will be replaced with the published version when available. The report differs from NCHRP Report 230 in one fundamental way: it fully supports the concept of multiple test levels, detailing six test levels for longitudinal barriers and fewer levels for other features. Report 230 did recognize the concept under the name of "multiple performance levels," but was much much less explicit in its approach to the subject. The new report differs from Report 230 in two other important respects. All of its quantitative guidance is expressed in the International System of Units (SI), sometimes referred to as the modernized metric system. In converting to SI units most values were changed slightly from the imperial (English) values cited in Report 230. The other important change is in the test vehicles. Report 230 recognized eight test vehicles, a 1,800-pound (816-kg) sedan, a 2,250-pound (1021-kg) sedan, a 4,500-pound (2041-kg) sedan, a 20,000-pound (9072-kg) utility bus, a 32,000-pound (14 515-kg) intercity bus, a 40,000-pound (18 144-kg) intercity bus, an 80,000-pound (36 287-kg) tractor/van trailer, and an 80,000-pound (36 287-kg) tractor/fluid tanker. The new report makes a vehicle nearly identical to the Report 230 1,800-pound sedan the standard small car test vehicle, where the Report 230 vehicle had been treated as a special test vehicle. It also retains the two tractor/trailer vehicles, assigning the tractor/van trailer and the tractor/tank trailer vehicles the roles of barrier strength-test vehicles for test levels 5 and 6, respectively. All the other Report 230 vehicles were dropped and three others recognized. An optional light test car, with a mass of about 0.85 that of the standard small (light weight) test car is described for those wishing to explore the needs of this size vehicle, which, currently, makes up a very small portion of the vehicle fleet. The large sedan has been replaced by a ¾-ton pickup truck of approximately the same mass. This vehicle becomes the barrier strength-test vehicle for test levels 1, 2, and 3. The test vehicle designated for the strength test at test level 4 is an 8,000-kg (17,637-pound) single-unit, van-type truck. The nominal masses of the test vehicles recommended in the NCHRP Report 350 are shown in Table 1. The recommended test conditions for various highway features are shown in Tables 2 through 5. The safety evaluation guidelines given in the report are shown in Table 6.

TABLE 1.—NCHRP REPORT 350 TEST VEHICLES

Type	Designation	Mass
Small Car (optional)	700C	700 kg (1,543 lb)
Small Car	820C	820 kg (1,808 lb)
Pickup Truck (¾-ton)	2,000P	2,000 kg (4,409 lb)
Single-unit Van Body	8,000S	8,000 kg (17,637 lb)
Tractor w/Cargo Van Trailer	36,000V	36,000 kg (79,366 lb)
Tractor w/Tanker Trailer	36,000T	36,000 kg (79,366 lb)

TABLE 2.—NCHRP REPORT 350 TEST CONDITIONS FOR LONGITUDINAL BARRIERS AND TRANSITIONS

Test level	Test vehicle	Impact condition km/h (mph)/deg.
1	820C[2]	50 (31)/20
	700C[1]	50 (31)/20
	2000P	50 (31)/25
2	820C[2]	70 (43)/20
	700C[1]	70 (43)/20
	2000P	70 (43)/25
3	820C[2]	100 (62)/20
Basic level	700C[1]	100 (62)/20
	2000P	100 (62)/25
4	820C[2]	100 (62)/20
	700C[1]	100 (62)/20
	2000P[2]	100 (62)/25
	8000S	80 (50)/15
5	820C[2]	100 (62)/20
	700C[1]	100 (62)/20
	2000P[2]	100 (62)/25
	36000V	80 (50)/15
6	820C[2]	100 (62)/20
	700C[1]	100 (62)/20
	2000P[2]	100 (62)/25
	36000T	80 (50)/15

1. Optional test vehicle. If used, comparable test with 820C vehicle is not required.
2. Test may not be required for some transitions.

TABLE 3.—NCHRP REPORT 350 TEST CONDITIONS FOR TERMINALS AND CRASH CUSHIONS

Feature	Type[1] feature	Test vehicle	Test speed km/h (mph) test level			Test angle deg.	Impact point
			1	2	3[3]		
Terminals and redirective crash cushions	G/NG	820C	50 (31)	70 (43)	100 (62)	0	On nose, offset ¼ width of veh.
	G/NG	700C[2]	50 (31)	70 (43)	100 (62)	0	
	G/NG	2000P	50 (31)	70 (43)	100 (62)	0	Centered on nose.
	GO/NG	820C	50 (31)	70 (43)	100 (62)	15	
	GO/NG	700C[2]	50 (31)	70 (43)	100 (62)	15	Centered on nose.
	GO/NG	2000P	50 (31)	70 (43)	100 (62)	15	Centered on nose.
	G	820C	50 (31)	70 (43)	100 (62)	15	Contact corner of veh. at critical impact point.
	G	700C[2]	50 (31)	70 (43)	100 (62)	15	
	G	2000P	50 (31)	70 (43)	100 (62)	20	Contact corner of veh. at beginning of length of need.
	NG	820C	50 (31)	70 (43)	100 (62)	15	Contact corner of veh. at beginning of length of need.
	NG	700C[2]	50 (31)	70 (43)	100 (62)	15	
	NG	2000P	50 (31)	70 (43)	100 (62)	20	Contact corner of veh. at beginning of length of need.
	NG	2000P	50 (31)	70 (43)	100 (62)	20	Contact corner of veh. at critical impact point.
	G/NG	2000P	50 (31)	70 (43)	100 (62)	20	Reverse direction contact corner at mid-length.
Nonredirective crash cushions	G	820C	50 (31)	70 (43)	100 (62)	0	On nose, offset ¼ width of veh.
	G	700C[2]	50 (31)	70 (43)	100 (62)	0	
	G	2000P	50 (31)	70 (43)	100 (62)	0	
	G	820C	50 (31)	70 (43)	100 (62)	15	
	G	700C[2]	50 (31)	70 (43)	100 (62)	15	Centered on nose.
	G	2000P	50 (31)	70 (43)	100 (62)	15	
	G	2000P	50 (31)	70 (43)	100 (62)	20	Centered on side at mid-length.

[1] G/NG = Test applicable to gating and non-gating devices.
GO/NG = Test optional for gating devices but applicable to non-gating devices.
G = Test applicable to gating devices only.
NG = Test applicable to non-gating devices only.
[2] Optional test vehicle. If used, comparable test with 820C vehicle is not required.
[3] Basic test level.

TABLE 4.—NCHRP REPORT 350 TEST CONDITIONS FOR SUPPORT STRUCTURES, WORK ZONE TRAFFIC CONTROL DEVICES, AND BREAKAWAY UTILITY POLES

Feature	Impact conditions speed, km/h (mph) test level				Impact point
	Vehicle	2	3[2]	Angle[1] deg.	
Support	820C	35 (22)	35 (22)	0–22	Vehicle centered on center of pertinent element of feature.
	700C[3]				
	820C	70 (43)	100 (62)		
	700C[3]				
Work zone traffic control devices	820C	35 (22)	35 (22)		
	700C[3]				
	820C	70 (43)	100 (62)		
	700C[3]				

TABLE 4.—NCHRP REPORT 350 TEST CONDITIONS FOR SUPPORT STRUCTURES, WORK ZONE TRAFFIC CONTROL DEVICES, AND BREAKAWAY UTILITY POLES—Continued

Feature	Impact conditions speed, km/h (mph) test level				Impact point
	Vehicle	2	3[2]	Angle[1] deg.	
Breakaway utility poles	820C 700C[3]	50 (31)	50 (31)		
	820C 700C[3]	70 (43)	100 (62)		

[1] Within the given range, the critical impact angle is to be determined by tester.
[2] Basic level.
[3] Optional test vehicle. If used, comparable test with 820C vehicle is not required.

TABLE 5.—NCHRP REPORT 350 TEST CONDITIONS FOR TRUCK MOUNTED ATTENUATORS

Vehicle	Speed, km/h (mph) test level		Angle deg.	Impact point
	2[1]	3		
820C	70 (43)	100 (62)	0	
700C[2]	70 (43)	100 (62)	0	Vehicle centered on TMA.
2000P	70 (43)	100 (62)	0	
2000P	70 (43)	100 (62)	0	Vehicle, centerline offset ⅓ its width from centerline of TMA.
2000P	70 (43)	100 (62)	10	Vehicle centerline offset ¼ its width from centerline of TMA.

[1] Basic Level.
[2] Optional test vehicle. If used, comparable test with 820C vehicle is not required.

TABLE 6.—NCHRP REPORT 350 SAFETY EVALUATION GUIDELINES

Evaluation factors	Evaluation criteria	Applicable texts
Structural adequacy.	A. Test article should contain and redirect the vehicle; the vehicle should not penetrate, underride, or override the installation, although controlled lateral deflection of the test article is acceptable.	All tests on longitudinal barriers and transitions and all tests on the sides of "NG" redirective terminals and crash cushions and at or beyond the length-of-need of "G" redirective terminals and crash cushions.
	B. The test article should readily activate in a predictable manner by breaking away, fracturing, or yielding.	All tests on support structures, work zone traffic control devices, and utility poles.
	C. Acceptable test article performance may be by redirection, controlled penetration, or controlled stopping of the vehicle.	All tests on terminals and crash cushions except tests on the sides of "NG" redirective terminals and crash cushions and at or beyond the length-of-need of "G" redirective terminals and crash cushions.
Occupant risk ...	D. Detached elements, fragments, or other debris from the test article should not penetrate or show potential for penetrating the occupant compartment, or present an undue hazard to other traffic, pedestrians, or personnel in a work zone. Deformations of, or intrusions into, the occupant compartment that could cause serious injuries should not be permitted.	All.
	E. Detached elements, fragments or other debris from the test article, or vehicular damage should not block the driver's vision or otherwise cause the driver to lose control of the vehicle.	All work zone traffic control devices.
	F. The vehicle should remain upright during and after collision, although moderate roll, pitching, and yawing are acceptable.	All except those listed in Criterion G.
	G. It is preferable, although not essential, that the vehicle remain upright during and after collision.	Tests on longitudinal barriers and transitions with a single unit truck or with semis, and all tests on Test Level 1 crash cushions and terminals.
	H. Occupant impact velocities should satisfy the following:	

		Occupant Impact Velocity Limits m/s (ft/s)			
		Component	Preferred	Maximum	
	H.1.	Longitudinal and Lateral	9.0 (29.5)	12.0 (39.4)	All tests with small cars on longitudinal barriers and transitions; all tests on terminals and crash cushions, except tests into sides with pickup trucks.
	H.2.	Longitudinal	3.0 (9.8)	5.0 (16.4)	All tests on support structures and work zone traffic control devices.
	I. Occupant ridedown accelerations should satisfy the following:				

		Occupant Ridedown Acceleration Limits (G's)			
		Component	Preferred	Maximum	
		Longitudinal and Lateral	15	20	Same as criteria H.1. plus H.2.

	J. (Optional) Hybrid III dummy. Response should conform to evaluation criteria of Part 571.208 Title 49 of Code of Federal Regulations, Chapter V (10–1–88 Edition).	Same as criteria H.1. plus H.2.
Vehicular trajectory.	K. After collision it is preferable that the vehicle's trajectory not intrude into adjacent traffic lanes	All.
	L. The occupant impact velocity in the Longitudinal direction should not exceed 12 m/s and the occupant ridedown acceleration in the longitudinal direction should not exceed 20 g's.	All tests of longitudinal barriers and transitions with pickup trucks; all tests on the sides of terminals and crash cushons with pickup trucks, including reverse direction tests.
	M. The exit angle from the test article, preferably, should be less than 60 percent of test angle, measured at time of vehicle loss of contact with test device.	All tests on longitudinal barriers and transitions plus all impacts into the sides of redirective terminals and crash cushions, including reverse direction tests.
	N. Vehicle trajectory behind the test article is acceptable	All tests on "G/NG" and "GO/NG" redirective type terminals and crash cushions; angle hits on the noses of non-redirective terminals and crash cushions, and all tests on support structures, work zone traffic control devices, and breakaway utility poles.

Response to ANPRM

An advance notice of proposed rulemaking (ANPRM) on this proposed rule appeared at 57 FR 4941 on February 11, 1992. A total of seventeen commenters responded to that notice. Ten of the commenters were with state highway or transportation agencies (one of whom was writing as Chairman of the AASHTO Task Force for Roadside Safety), one was with a county department of public works (DPW), one is with a highway safety advocacy organization (safety advocate), three represented safety hardware suppliers (two with a manufacturer that currently supplies safety hardware (current supplier), and one an attorney for potential safety hardware suppliers (potential supplier)), and two are individuals with no indicated affiliations. However, one of these latter individuals is known to have had a long affiliation with the current supplier and the other (paired individual) provided, as a response, a corrected photocopy of the comments offered by one of the current supplier representatives. A summary of the comments follows:

In various ways commenters (four from highway agencies, two from the current supplier, and the individual paired with a current supplier representative) expressed concern about the lack of interface compatibility between the prevalent, existing barrier designs and light trucks. Specific items such as high vehicle centers of gravity and high bumpers were cited, with one highway agency representative specifically citing four-wheel drive vehicles as being particularly bad in these regards. At least one highway agency representative suggested that barrier hardware suitable for light trucks might not be available. Another expressed concern that barriers designed for light trucks would be incompatible with other vehicles. One current supplier, while not supplying supporting data, suggested that the driving public is not protected by current barrier designs, while two other commenters (a current supplier representative along with the paired individual) suggested that existing hardware may be giving the driving public a false sense of security. The safety advocate went further and recommended that the FHWA specifically disallow the use of specific hardware items because of alleged performance problems.

A current supplier representative and the paired individual pointed out the importance of taking soil conditions into account when designing foundations for barriers and other appurtenances.

The potential supplier representative advocated the use of special barriers described as being available from the potential supplier. However, no information on the barriers was supplied.

The safety advocate and one highway agency representative suggested expanding the rule to include vehicles larger than light trucks, with the highway agency representative specifically suggesting the inclusion of school buses. One the other hand, one highway agency representative pointed out that current designs offer protection to all vehicles under some conditions.

The safety advocate suggested the need for a systems approach to safety, with the FHWA and the NHTSA collaborating to see that highway and vehicle design requirements are compatible.

Eight commenters (four from highway agencies, the two current supplier representatives, the paired individual, and the formerly affiliated individual) directly or indirectly expressed views on crash testing procedures for light trucks. The paired commenter and the current supplier affiliate commented on the need to identify the special appurtenance performance requirements for light trucks. One highway agency representative suggested that the pickup truck test vehicle specified in the AASHTO "Guide Specifications for Bridge Railings" is not representative of typical pickup trucks. Four highway agency representatives and one current supplier representative expressly supported using the testing guidance resulting from the NCHRP's project to update Report 230 (the guidance in Report 350). Three highway agency representatives either expressed an expectation or a recommendation that crash testing be undertaken in developing a rule.

One highway agency representative and the safety advocate speculated on the possibility of incompatibility between light trucks and breakaway sign supports.

Representatives from seven highway agencies, the DPW, and the potential supplier, in one way or another, expressed concern over the potential cost a rule might have and/or a need to justify any increase in costs. Two highway agency representatives indicated there needs to be a showing of a problem to justify a rule. Three highway agency representatives and the potential supplier representative suggested the need to ensure the cost-effectiveness of any rule that might be issued. A representative from another highway agency suggested the application of a cost-effectiveness analysis program, citing the program being developed under NCHRP Project 22–9, while another cited the large investment in existing traffic barriers. Still another suggested a rule might be particularly burdensome on entities managing low volume roads. However, only the DPW representative provided any data or analysis of the potential impact a rule might have and, on the basis of the assumptions used in the analysis, suggested there is no need for a rule.

Representatives of five highway agencies, two from the current supplier, the paired individual, and the formerly affiliated individual discussed implementation of the rule. One from a highway agency suggested that upgrades of existing barriers be undertaken only with other planned improvements, that there be no mandated upgrades under maintenance operations, and "* * * that catch-up type improvements specifically to enhance the crashworthiness of roadside barrier should not be required * * *." Another highway agency representative expressed a desire for language in the rule that would protect a state from tort claims if its barriers did not conform to the resulting new standards. Three highway agency representatives, the two current supplier representatives, the paired individual, and the formerly affiliated individual either expressed support for, or recognition of the need for, developing a rule to ensure that roadside barriers and other roadside features are compatible with light trucks. One of the current supplier representatives went further, suggesting that such a rule should be adopted immediately. On the other hand, at least three highway agency representatives suggested waiting to issue a rule. One cited the need to develop barriers, another cited the need to test existing barriers, and the third suggested waiting until the NCHRP Report 230 update can be evaluated. One current supplier representative suggested the proposed rule would aid in risk management. The other current supplier representative and the paired individual suggested the possibility of lowering liability exposure and enhancing risk managment through rehabilitation of existing barrier systems.

Finally, for different reasons, one highway agency representative and the safety advocate suggest that the proposed rule should be considered significant.

FHWA Response to Comments

Most traffic barriers in use today have been developed to safely redirect or stop automobiles. Nevertheless, several of the longitudinal barriers developed to redirect automobiles have performed acceptably when tested with pickup trucks and light vans. In addition, several longitudinal barriers have proven effective in redirecting even larger vehicles in crash tests, and some have been developed specifically to contain large vehicles. While not confirmed through crash tests, the FHWA believes that these barriers will prove quite effective in redirecting all the vehicles in the light truck category. On the other hand, some barriers developed to redirect automobiles have not worked well when subjected to standard (albeit severe) containment crash tests run with light vans. The FHWA would also expect lower effectiveness from many barriers developed to redirect automobiles if tested with short wheelbase or four-wheel drive light trucks. To repeat, although not fully confirmed through crash tests, the FHWA believes there are longitudinal traffic barriers available that will reasonably safely redirect the full range of vehicles in the light truck category and that some longitudinal barriers developed to redirect automobiles will safely redirect a large majority of the vehicles in the light truck category. It must also be recognized that all traffic barriers will prove effective with all vehicles under some impact conditions, meaning that failure under crash test conditions does not necessarily mean a barrier is totally or even largely ineffective. Thus, the FHWA believes that the vast majority of the traveling public is well protected by the modern barriers currently in place and is not being given a false sense of security.

Admittedly, there are some predictable impact conditions that will exceed the capacities of most barriers but a majority of these will be with vehicles larger than light trucks. In all but rare locations it will be prohibitively expensive to protect against these impacts. Consider that, while 5 percent of vehicle occupant fatalities are the result of striking traffic barriers, only 0.34 percent of occupant fatalities result from medium and heavy trucks and buses striking barriers. Nevertheless, the guidelines being proposed in this rulemaking will give consideration to the full range of vehicles on our highways and will ensure that barriers will be installed to cover the maximum range of predictable impacts that is economically justifiable.

For those persons concerned that barriers developed to redirect light trucks will not prove safe for other vehicles, presumably automobiles, it should be pointed out that testing under NCHRP Report 350 guidelines will require testing with automobiles, thus ensuring safe performance for a wide range of vehicle types.

To the safety advocate who recommends that the FHWA disallow the use of specific barriers (cable guardrails, weak-post box-beam barrier systems, sand barrel crash cushions, bullnose median w-beam terminals (crash cushions), and the Oregon two-tube, curb-mounted bridge railing), the FHWA must respond that it has no evidence of serious service problems with these barrier systems. In fact, it believes that at least two of the systems, the cable guardrail and the sand barrel crash cushion, fill important niches in our needs for traffic barriers. The FHWA does not anticipate, as part of this rulemaking, disallowing the use of any specific barrier systems. It believes the guidelines being proposed will bring to light inappropriate practices and lead to needed changes.

The FHWA concurs with the safety advocate on the need for a systems engineering approach to highway safety and has been working to increase coordination between the NHTSA's activities and its own.

The FHWA believes the test requirements in the NCHRP Report 350 are basically responsive to the interests and concerns of those who commented on the test procedures. The one exception might be a question on how well the ¾-ton pickup truck represents the spectrum of vehicles in the light truck category. The researchers who developed Report 350 addressed this question directly, commenting in Report 350 as follows:

A ¾-ton pickup is recommended for the following reasons:

(1) Section 1073 of the Intermodal Surface Transportation Efficiency Act of 1991 mandated the development of standards for roadside barriers and other safety appurtenances ". . . which provide an enhanced level of crashworthy performance to accommodate vans, minivans, pickup trucks, and 4-wheel drive vehicles . . ." The ¾-ton pickup is believed to be representative of a large segment of the light-duty truck population. The light-duty truck population includes large numbers of conversion vans on ¾-ton chassis, Blazers, Broncos, and pickups with and without 4-wheel drive, pickups with campers, minivans, etc., whose mass and center of mass above ground approximate those of the ¾-ton pickup. However, the exact degree to which features designed to meet test and evaluation requirements recommended herein will satisfy the intent of Section 1073 is not known at this time. Impact performance of any given feature is known to be sensitive to small changes in test parameters, especially those associated with the test vehicle. It must also be noted that some 4-wheel drive vehicles, as well as some conventional-drive vehicles, are either manufactured or customized by their owners to have oversized tires, extended suspension systems, small track widths, etc. These design features can greatly diminish a vehicle's stability, i.e., its resistance to overturn. It is not economically feasible to design safety features to accommodate vehicles of this type.

(2) Very little, if any, ballast will be needed to meet the recommended test inertial mass.

(3) Use of a specific pickup type will enhance test standardization.

The FHWA is satisfied with the recommendation in Report 350 but, as stated earlier, will look to its own sponsored research and that being undertaken by the NCHRP for additional information on the compatibility of roadside features with light trucks.

Nobody has brought forward information indicating a unique incompatibility between light trucks and breakaway supports. Until the FHWA sees a problem, it will accept the recommendation in Report 350 that these features only be tested with small cars.

It is the intention of the FHWA to support the concept of multiple test levels as contained in Report 350. It also intends to see that this concept is coupled with a rational, economics-based evaluation and selection procedure that will ensure that the safety of the motoring public and the competing needs for available highway funds are properly addressed. Work currently underway on NCHRP Project 22–9 is expected to be a major input to this procedure. For the present, there is no basis for believing the evaluation and selection procedures likely to be developed will indicate a need for an immediate or massive replacement of existing, modern traffic barrier installations. In fact, because of the broad range of impact conditions for which most existing traffic barriers are effective, there will probably only be rare locations where replacement will be economically justified. The impact of recognizing the traffic barrier requirements of the full range of vehicles on our highways is likely to be greatest in the construction, reconstruction, upgrading, or major refurbishment of high-speed, high-volume highways, where some increase in barrier costs should be expected, and in the construction or major refurbishment of low-speed, low-volume highways, where lower unit cost barriers should be expected. At this time, however, it is unknown if the applicability of lower test level barriers on some highways will lead to the greater use of barriers. If it does, even though the unit costs are lower, there is a chance total barrier expenditures will increase. The FHWA believes, though, that the most likely outcome will be that, nationally, the net expenditure on traffic barriers will remain much as it is now, with an improvement in the protection afforded the motoring public. On the other hand, because of the character of the highways under their jurisdiction, some highway agencies will have to increase expenditures on traffic barriers to provide justified improvements in barrier protection.

For those state highway agencies concerned about an increase in tort liability resulting from changed recommended traffic barrier policies, it is more likely that their vulnerability to tort losses will be less if the rational traffic barrier evaluation and selection procedures contemplated here are followed in conjunction with a parallel, sound, ISTEA-mandated safety management system.

Implementation

At this time the FHWA does not believe there is sufficient knowledge nor adequate procedures upon which to base a prescription for practices related to the use of traffic barriers or other safety features to accommodate the range of vehicles on our highway. It does believe the guidance contained in NCHRP Report 350 represents a major step toward attainment of that goal. Therefore, it proposes to issue a rule to incorporate NCHRP Report 350 in the "Guides and References" section of 23 CFR part 625. The FHWA intends, contingent upon adoption of this rule, to immediately accept for consideration of acceptability any new or modified highway safety features that have been tested and evaluated according to the guidance in Report 350. And, nine months after adoption of the rule, the FHWA intends to consider for acceptability only newly proposed or modified highway safety features that have been tested and evaluated in accordance with the guidance in NCHRP Report 350, except for those features that, in the FHWA's view, have been subjected to more demanding requirements or have been subjected to testing and evaluation procedures designed to evaluate the suitability of a feature to meet a specific or special need. Also, contingent upon adoption of this rule, the results of ongoing research, and service performance information available at the time, the FHWA anticipates, approximately five years after adoption of the rule, requiring that all new installations of traffic barriers and other roadside safety features be shown to be acceptable under the testing and evaluation criteria in Report 350. At the same time, the FHWA anticipates requiring that the suitability of all traffic barriers and other roadside safety features be determined through an evaluation and selection procedure that considers the needs of all classes of vehicles and is acceptable to the FHWA. In the interim, the FHWA will work with the state highway agencies and the NCHRP to develop a model evaluation and selection procedure. It will also be vigilant for findings and new developments in the area of roadside safety features and, when warranted, will encourage their immediate application.

At this time the FHWA is requesting all interested parties with information or views on the subject of this NPRM to respond to the docket at the address given under the heading **ADDRESSES**.

Rulemaking Analyses and Notices

Executive Order 12291 (Federal Regulation) and DOT Regulatory Policies and Procedures

The action being considered by the FHWA in this document would amend requirements for traffic barriers and other safety appurtenances installed on the National Highway System. The FHWA has determined that, since this action basically will adopt crash test and evaluation guidance that approximately matches current practice, it does not constitute a major rule under Executive Order 12291. For the same reason, the FHWA does not consider this to be a significant regulation under the regulatory policies and procedures of the Department of Transportation. The potential economic impact of this rulemaking would be so minimal that no further evaluation is needed. Therefore, a full regulatory evaluation has not been prepared.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96–354), the agency has evaluated the effects of this proposal on small entities and certifies this proposed action will not have a significant economic impact on a substantial number of small entities. This certification is based on the guidance in NCHRP Report 350 being essentially a codification of current practice and the belief that application of that guidance will have only minor, if any, economic impact on a very few small entities developing or marketing roadside hardware.

Executive Order 12612 (Federalism Assessment)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612 and it has been determined it does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on

Federal programs and activities apply to this program.

Paperwork Reduction Act

This rule does not contain a collection of information requirement for purposes of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

National Environmental Policy Act

The agency has determined that this action will not, for the purpose of the National Environmental Policy Act of 1969, have any effect on the quality of the environment.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 23 CFR Part 625

Design standards, Grant programs—transportation, Highways and roads, Incorporation by reference.

In consideration of the foregoing, the FHWA proposes to amend chapter 1 of title 23, Code of Federal Regulations, part 625 as set forth below.

Issued on: January 14, 1993.

T.D. Larson,

Administrator.

PART 625—DESIGN STANDARDS FOR HIGHWAYS

1. The authority citation for part 625 is revised to read as follows:

Authority: 23 U.S.C. 109, 315, and 402; Sec. 1073 of Pub. L. 102–240, 105 Stat. 1914, 2012; 49 CFR 1.48 (b) and (n).

2. In § 625.5, paragraph (a)(13) is added to read as follows:

§ 625.5 Guides and references.

* * * * *

(a) * * *

(13) National Cooperative Highway Research Program Report 350, Recommended Procedures for the Safety Performance Evaluation of Highway Features, TRB 1993. [5]

* * * * *

[FR Doc. 93–1556 Filed 1–22–93; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[PS–100–88]

RIN 1545–AM81

Valuation Tables; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to proposed regulations.

SUMMARY: This document contains corrections to proposed regulations (PS–100–88), which were published in the Federal Register on Monday, November 2, 1992 (57 FR 49514). The proposed regulations relate to the valuation of certain partial interests in property under section 7520 of the Internal Revenue Code of 1986, as added by section 5031 of the Technical and Miscellaneous Revenue Act of 1988.

FOR FURTHER INFORMATION CONTACT: William L. Blodgett, telephone 202–622–3090 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The proposed regulations that are the subject of this correction amend regulations under section 7520 of the Internal Revenue Code.

Need for Correction

As published, the proposed regulations contain errors which may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of the proposed regulations (PS–100–88), which was the subject of FR Doc. 92–26052, is corrected as follows:

1. On page 49516, the table following instructional "Paragraph 1." is corrected by removing the entries for §§ 1.170A–12(b)(1), 1.170A–12(b)(2), 1.170A–12(e)(1) and 1.170A–12(e)(2); and adding an entry for § 1.170A–12(a)(3) to read as follows:

Section	Remove	Add
* * * * *		
1.170A–12(a)(3), 4th sentence.	or 25.2512–9, whichever is appropriate.	

Section	Remove	Add
* * * * *		

2. On page 49517, column 1, following the authority paragraph, an instructional paragraph 2a., and text for § 1.170A–12 is added to read as follows:

Par. 2a. Section 1.170A–12 is amended as follows:

1. Paragraphs (b), (e) (1) and (2) are revised as set forth below.

2. Paragraph (f) is removed.

§ 1.170A–12 Valuation of a remainder interest in real property for contributions made after July 31, 1969.

* * * * *

(b) *Valuation of a remainder interest following only one life*—(1) *General rule.* The value of a remainder interest in real property following only one life shall be determined under the rules provided in § 20.2031–7 of this chapter (or for certain prior periods, § 20.2031–7A of this chapter) using the interest rate and life contingencies prescribed for the date of the gift. However, if any part of the real property is subject to exhaustion, wear and tear, or obsolescence, the special factor determined under paragraph (b)(2) of this section shall be used in valuing the remainder interest in that part. Further, if any part of the property is subject to depletion of its natural resources, such depletion shall be taken into account in determining the value of the remainder interest.

(2) *Computation of depreciation factor.*—If the valuation of the remainder interest in depreciable property is dependent upon the continuation of one life, a special factor must be used. The special factor is to be computed on the basis of the interest rate and life contingencies prescribed in § 20.2031–7 of this chapter (or for certain prior periods, § 20.2031–7A of this chapter) of the regulations and the assumption that the property depreciates on a straight line basis over its estimated useful life. The factor determined under this paragraph (b)(2) is carried to the fifth decimal place. In the case of the valuation of a remainder interest following one life, the special factor may be obtained through use of the following formula:

$$(1 + r)\sum_{t=0}^{n-1} v^{(t+1)} \left[\left(1 - \frac{lx + t + 1}{lx}\right) - \left(1 - \frac{lx + t}{lx}\right)\right]\left(1 - \frac{1}{2n} - \frac{t}{n}\right)$$

Where:

r=the applicable interest rate under section 7520 of the Code divided by 2

n=estimated years of useful life

v=1 dividend by the sum of 1 plus the applicable interest rate under section 7520 of the Code

x=age of the life tenant

lx=number of persons living at age x set forth in Table LN of § 20.2031–7 of this chapter (or, for prior periods, in § 20.2031–7A of this chapter)

(3) The following example illustrates the provisions of this paragraph (b):

Example. In June 1992, A, who is 62, donates to Y University a remainder interest in a personal residence, consisting of a house and land, subject to a reserved life estate in A. At the time of the gift, the land has a value of $30,000 and the house has a value of $100,000 with an estimated useful life of 45 years, at the end of which the value of the house is expected to be $20,000. The portion of the property considered to be depreciable is $80,000 (the value of the house ($100,000) less its expected value at the end of 45 years). The portion of the property considered to be nondepreciable is $50,000 (the value of the land at the time of the gift ($30,000) plus the expected value of the house at the end of 45 years ($20,000)). The interest rate prescribed under section 7520 for June 1992 is 8.4 percent. Based on an interest rate of 8.4 percent, the remainder factor for $1.00 prescribed in § 20.2031–7 of this chapter for a person age 62 is 0.29567. The value of the nondepreciable remainder interest is $14,784 (0.29567 times $50,000). The value of the depreciable remainder interest is $17,387 (0.21734, computed under the formula, times $80,000).The value of the entire remainder interest is $32,171.

* * * * *

(e) * * * (1)(i) If the valuation of the remainder interest in the real property is dependent upon the continuation or the termination of more than one life or upon a term certain concurrent with one or more lives, a special factor must be used.

(ii) The special factor is to be computed on the basis of—

(A) Interest at the rate prescribed under § 25.2512–5 of this chapter (or, for certain prior periods, § 25.2512–5A of this chapter), compounded annually;

(B) Life contingencies determined from the values that are set forth in the mortality table in § 20.2031–7 of this chapter (or, for certain prior periods, § 20.2031–7A of this chapter); and

(C) If depreciation is involved, the assumption that the property depreciates on a straight line basis over its estimated useful life.

(iii) If any part of the property is subject to depletion of its natural resources, such depletion must be taken into account in determining the value of the remainder interest.

(2) In the case of the valuation of a remainder interest following two lives, the special factor may be obtained through use of the following formula:

$$(1 + r)\sum_{t=0}^{n-1} v^{(t+1)}$$

$$\left[\left(1 - \frac{lx + t + 1}{lx}\right)\left(1 - \frac{ly + t + 1}{ly}\right) - \left(1 - \frac{lx + t}{lx}\right)\left(1 - \frac{ly + t}{ly}\right)\right]\left(1 - \frac{1}{2n} - \frac{t}{n}\right)$$

Where:

r=the applicable interest rate under section 7520 of the Code divided by 2

n=estimated years of useful life

v=1 divided by the sum of 1 plus the applicable interest rate under section 7520 of the Code

x and y=ages of the life tenants

lx and ly=number of persons living at age x and y set forth in Table LN of § 20.2031–7 of this chapter (or, for prior periods, in § 20.2031–7A of this chapter)

* * * * *

3. On page 49531, § 1.664–4(e)(6), second table, the heading "Adjusted Payout Rate (in percentages)" appearing in the first column, is corrected to read "Years". In the same table, the heading "Years" appearing over the rates, is corrected to read "Adjusted payout rate (in percentages)".

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 93–1630 Filed 2–2–93; 8:45 am]

BILLING CODE 4830–01–M

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26 CFR Part 1

[EE–74–92]

RIN 1545–AR19

Taxation of Tax-Exempt Organizations' Income From Corporate Sponsorship; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to notice of proposed rulemaking.

SUMMARY: This document contains corrections to a notice of proposed rulemaking (EE–74–92), published in the **Federal Register** for Friday, January 22, 1993 (58 FR 5687), concerning whether sponsorship payments received by exempt organizations are unrelated business taxable income.

FOR FURTHER INFORMATION CONTACT:

Concerning the proposed regulations, Regina L. Oldak, at (202) 622–6080 (not a toll-free number); concerning the hearing, Carol Savage of the Regulations Unit, at (202) 622–8452 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The subject of this correction is the notice of proposed rulemaking that proposed amendments to the

regulations under § 1.512(a)–1 and the addition of § 1.513–4.

Need for Correction

As published, the notice of proposed rulemaking contains errors which may prove to be misleading and is in need of clarification.

Correction of Publication

Accordingly, the publication of the notice of proposed rulemaking (EE–74–92), which was the subject of FR Doc. 93–1402, is corrected as follows:

1. On page 5687, in the third column, the first sentence of the "DATES" portion of the preamble is corrected by removing the date "April 30, 1993" and adding "June 17, 1993" in its place.

2. On page 5689, in the first column, the fourth sentence of the "Comments and Requests to Appear at a Public Hearing" portion of the preamble is corrected by removing the date "April 30, 1993" and adding "June 17, 1993" in its place.

Dale D. Goode,

Federal Register Liaison Officer, Ass't Chief Counsel (Corporate).

[FR Doc. 93–2440 Filed 2–2–93; 8:45 am]

BILLING CODE 4830–01–M

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

36 CFR Part 1191

[Docket 93–1]

Americans With Disabilities Act Accessibility Guidelines for Buildings and Facilities; Children's Environments

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Architectural and Transportation Barriers Compliance Board is developing accessibility guidelines for newly constructed and altered children's environments under the Americans With Disabilities Act of 1990. The guidelines will address such places as day care centers; nursery, pre-school, kindergarten, elementary, and other school programs; and children's museums. This advance notice of proposed rulemaking seeks comments from the public on various issues relating to the development of accessibility guidelines for these children's environments.

DATES: Comments should be received by April 5, 1993. Comments received after this date will be considered to the extent practicable.

ADDRESSES: Comments should be sent to the Office of Technical and Information Services, Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., suite 1000, Washington, DC 20004–1111. Comments will be available for inspection at the above address from 9 a.m. to 5:30 p.m. on regular business days.

FOR FURTHER INFORMATION CONTACT: John Murdoch, Office of Technical and Information Services, Architectural and Transportation Barriers Compliance Board, 1331 F Street, NW., suite 1000, Washington, DC 20004–1111. Telephone number (202) 272–5434 (Voice); (202) 272–5449 (TDD). These are not toll-free numbers. This document is available in accessible formats (cassette tape, braille, large print, or computer disc) upon request.

SUPPLEMENTARY INFORMATION: The Architectural and Transportation Barriers Compliance Board (Access Board) is responsible for issuing accessibility guidelines for newly constructed and altered buildings and facilities under the Americans With Disabilities Act of 1990 (ADA). The Access Board has issued the Americans With Disabilities Act Accessibility Guidelines for Buildings and Facilities (ADAAG). See 36 CFR part 1191. ADAAG is to be applied during the design, construction, and alteration of buildings and facilities to the extent required by regulations issued by the Department of Justice and Department of Transportation which are responsible for implementing certain titles of the ADA. See 28 CFR parts 35 and 36; 49 CFR part 37.

Under the Department of Justice's regulations, ADAAG applies to newly constructed and altered places of public accommodation and commercial facilities. 28 CFR 36.406. Among the places of public accommodation covered are such children's environments as privately operated day care centers; nursery, pre-school, kindergarten, elementary, and other school programs; and children's museums. 28 CFR 36.104. State and local government programs currently have the option of applying ADAAG or the Uniform Federal Accessibility Standards (UFAS) when constructing or altering buildings or facilities. 28 CFR 35.151. The Access Board has recently proposed to revise ADAAG by adding new sections for certain State and local government facilities. See 57 FR 60612 (December 12, 1992). The Department of Justice is considering adopting the revised ADAAG as the accessibility standard for newly constructed and altered State and local government facilities and eliminating UFAS as an option. The Access Board is also considering adopting the revised ADAAG as the applicable guidelines for newly constructed, altered and leased Federal facilities under the Architectural Barriers Act of 1968. These actions will be the subject of future rulemaking. When completed, however, it is anticipated that ADAAG will be the single accessibility standard for places of public accommodation and commercial facilities, State and local government facilities, and Federal facilities.

ADAAG contains scoping provisions and technical specifications for making those elements and spaces that typically comprise a building readily accessible to and usable by individuals with disabilities. ADAAG's technical specifications are adopted from the American National Standard Institute (ANSI) A 117.1–1980 standard. That standard is based upon adult dimensions and anthropometrics and does not accommodate the needs of younger children with disabilities. For instance, although children's environments contain similar elements and features (e.g., ramps, handrails, water closets, storage) to those found in adult environments, specific guidelines are necessary to appropriately accommodate the needs of children with disabilities.

The Access Board has undertaken two activities which specifically address accessibility issues for children with disabilities. In 1986, the Access Board, in cooperation with the U.S. Department of Education, developed "Recommendations for Accessibility to Serve Physically Handicapped Children in Elementary Schools." These recommendations contain modifications and additions to the Uniform Federal Accessibility Standard (UFAS) and serve as a design guide when planning elementary schools for grades one through six. Where UFAS sections are not referenced by these recommendations, they are intended to apply without modification or addition.

In 1989, the Access Board contracted with the Center for Accessible Housing (CAH) at North Carolina State University's School of Design to develop recommendations for accessibility standards for children's environments. CAH prepared a report titled "Accessibility Standards for Children's Environments" which recommends standards that would supplement UFAS. The scope of the CAH recommended standards would not be

limited to elementary schools and special education facilities serving children with physical disabilities. Rather, the CAH recommended standards would apply to all environments where children with disabilities are the primary users.

The CAH report involved:

- A review of selected building codes, standards and guidelines;
- A review of ergonomic studies and new products and technologies;
- A review of recent evaluation literature on children's environments;
- On-site evaluations of existing children's facilities having accessible features;
- Development of draft recommendations for standards for children's environments; and
- A concluding technical report presenting the final recommendations.

Copies of the CAH report, and the recommendations developed in conjunction with the U.S. Department of Education, are available from the Access Board. As a result of the two activities, the Access Board is aware of a number of State accessibility standards that address the needs of children; State education agencies with accessibility standards for elementary schools; and literature, research and technologies relevant to accessibility for children with disabilities.

The Access Board requests comments on the following issues concerning accessibility for children's environments:

Scope and Application of the Intended Guidelines

What types of facilities should be covered by guidelines for accessible children's environments? Should application be limited to only those facilities where children make up the majority of the user population? Examples of these facilities would include day care centers; nursery, pre-school, kindergarten, elementary, and other school programs; children's museums; and temporary child care facilities in shopping malls. Should the guidelines also cover facilities used and occupied by both children and adults such as libraries, theaters, and multi-purpose community facilities? How should the guidelines apply to such facilities as children's day camps and camps requiring overnight stay?

Ages and Grades To Be Covered

What age groups should be covered by the guidelines? How do the needs of pre-schoolers differ from children in grades K–3 and 4–6? For example, should the guidelines call for a range in which to mount certain accessible elements depending on the user's age group? Should the guidelines discern between age groups and grades, and should the scoping and technical requirements reflect those differences? What grades and age groups are served by different school buildings (e.g., elementary and middle schools)? In some jurisdictions, middle schools enroll students in grades four through six, while in other jurisdictions middle schools enroll students in grades six through eight. How should these different grade groupings be addressed in the guidelines? To what extent, and in what situations are assistive services the only means of providing access? To what extent are children of widely varying ages (e.g., ages 5 through 21) served by the same facility, such as in certain special education facilities and developmental centers or small private schools? Should such facilities be required to provide accessible elements and features within various reach ranges to meet the needs of all users?

Other Standards and Guidelines for Children's Environments

What standards are currently being used by design professionals when designing for accessible children's environments? What accessibility guidelines are used by State and local education agencies for elementary schools? How do national and local plumbing codes address the type, placement and spacing of such features as accessible water closets for schools and other children's facilities? Have the needs of children with disabilities been properly served by current accessibility standards and guidelines when applied to children's environments? In environments designed and built to be accessible to adults, how have children with disabilities adapted or managed to safely utilize those accessible elements?

Accessible Building Products and Technologies

What accessible building products, such as water closets and grab bars, are available that may suit the needs of children with disabilities? What current or emerging technologies may be applied to the built environment and result in increasing access for children with disabilities?

Elements and Features Unique to Children's Environments

Children's environments contain unique elements and features (e.g., chalkboards and lockers) not typically addressed in accessibility guidelines. Should scoping and technical requirements be developed for such unique elements and features?

The Access Board intends to address accessibility issues regarding fixed play and recreation equipment for children with disabilities under separate guidelines to be developed for recreation facilities. Therefore, the scope of the intended guidelines for children's environments will not cover such equipment.

Authorized by vote of the Access Board on January 13, 1993.

Kathleen K. Parker,

Chairman, Architectural and Transportation Barriers Compliance Board.

[FR Doc. 93–2448 Filed 2–2–93; 8:45 am]

BILLING CODE 8150–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SW–FRL–4560–1]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Proposed Exclusion

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule and request for comment.

SUMMARY: The Environmental Protection Agency (EPA or Agency) today is proposing to grant a petition submitted by Marathon Oil Company (Marathon), Texas City, Texas, to exclude certain solid wastes generated at its facility from the lists of hazardous wastes contained in 40 CFR 261.31 and 261.32. This action responds to a delisting petition submitted under 40 CFR 260.20, which allows any person to petition the Administrator to modify or revoke any provision of parts 260 through 265 and 268 of title 40 of the Code of Federal Regulations, and under 40 CFR 260.22, which specifically provides generators the opportunity to petition the Administrator to exclude a waste on a "generator-specific" basis from the hazardous waste lists. Today's proposed decision is based on an evaluation of waste-specific information provided by the petitioner.

The Agency is also proposing the use of a fate and transport model to evaluate the potential impact of the petitioned waste on human health and the environment, based on the waste-specific information provided by the petitioner. This model has been used in evaluating the petition to predict the concentration of hazardous constituents that may be released from the petitioned waste, once it is disposed of.

DATES: EPA is requesting public comments on today's proposed decision

and on the applicability of the fate and transport model used to evaluate the petition. Comments will be accepted until March 22, 1993. Comments postmarked after the close of the comment period will be stamped "late".

Any person may request a hearing on this proposed decision by filing a request with the Director, Characterization and Assessment Division, Office of Solid Waste, whose address appears below, by February 18, 1993. The request must contain the information prescribed in 40 CFR 260.20(d).

ADDRESSES: Send three copies of your comments to EPA. Two copies should be sent to the Docket Clerk, Office of Solid Waste (OS–305), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. A third copy should be sent to Jim Kent, Delisting Section, Waste Identification Branch, CAD/OSW (OS–333), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. Identify your comments at the top with this regulatory docket number: "F–93–MOEP–FFFFF".

Requests for a hearing should be addressed to the Director, Characterization and Assessment Division, Office of Solid Waste (OS–330), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

The RCRA regulatory docket for this proposed rule is located at the U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, and is available for viewing (room M2427) from 9 a.m. to 4 p.m., Monday through Friday, excluding Federal holidays. Call (202) 260–9327 for appointments. The public may copy material from any regulatory docket at no cost for the first 100 pages, and at $0.15 per page for additional copies.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline, toll free at (800) 424–9346, or at (703) 920–9810. For technical information concerning this notice, contact Chichang Chen, Office of Solid Waste (OS–333), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 260–7392.

SUPPLEMENTARY INFORMATION:

I. Background

A. Authority

On January 16, 1981, as part of its final and interim final regulations implementing section 3001 of RCRA, EPA published an amended list of hazardous wastes from non-specific and specific sources. This list has been amended several times, and is published in 40 CFR 261 31 and 261.32. These wastes are listed as hazardous because they typically and frequently exhibit one or more of the characteristics of hazardous wastes identified in subpart C of part 261 (i.e., ignitability, corrosivity, reactivity, and toxicity) or meet the criteria for listing contained in 40 CFR 261.11 (a)(2) or (a)(3).

Individual waste streams may vary, however, depending on raw materials, industrial processes, and other factors. Thus, while a waste that is described in these regulations generally is hazardous, a specific waste from an individual facility meeting the listing description may not be. For this reason, 40 CFR 260.20 and 260.22 provide an exclusion procedure, allowing persons to demonstrate that a specific waste from a particular generating facility should not be regulated as a hazardous waste.

To have their wastes excluded, petitioners must show that wastes generated at their facilities do not meet any of the criteria for which the wastes were listed. See 40 CFR 260.22(a) and the background documents for the listed wastes. In addition, the Hazardous and Solid Waste Amendments (HSWA) of 1984 require the Agency to consider any factors (including additional constituents) other than those for which the waste was listed, if there is a reasonable basis to believe that such additional factors could cause the waste to be hazardous. Accordingly, a petitioner also must demonstrate that the waste does not exhibit any of the hazardous waste characteristics (i.e., ignitability, reactivity, corrosivity, and toxicity), and must present sufficient information for the Agency to determine whether the waste contains any other toxicants at hazardous levels. See 40 CFR 260.22(a), 42 U.S.C. 6921(f), and the background documents for the listed wastes. Although wastes which are "delisted" (i.e., excluded) have been evaluated to determine whether or not they exhibit any of the characteristics of hazardous waste, generators remain obligated under RCRA to determine whether or not their waste remains non-hazardous based on the hazardous waste characteristics.

In addition, residues from the treatment, storage, or disposal of listed hazardous wastes and mixtures containing listed hazardous wastes are also considered hazardous wastes. See 40 CFR 261.3 (a)(2)(iv) and (c)(2)(i), referred to as the "mixture" and "derived-from" rules, respectively. Such wastes are also eligible for exclusion and remain hazardous wastes until excluded. On December 6, 1991, the U.S. Court of Appeals for the District of Columbia vacated the "mixture/derived from" rules and remanded them to the Agency on procedural grounds (*Shell Oil Co. v. EPA*, 950 F.2d 741 (D.C. Cir. 1991)). On March 3, 1992, EPA reinstated the mixture and derived-from rules on an interim basis, and solicited comments on other ways to regulate waste mixtures and residues (57 FR 7628). The Agency is going to address issues related to waste mixtures and residues in a future rulemaking.

B. Approach Used to Evaluate This Petition

This petition requests a delisting for a listed hazardous waste. In making the initial delisting determination, the Agency evaluated the petitioned waste against the listing criteria and factors cited in 40 CFR 261.11 (a)(2) and (a)(3). Based on this review, the Agency agreed with the petitioner that the waste is non-hazardous with respect to the original listing criteria. (If the Agency had found, based on this review, that the waste remained hazardous based on the factors for which the waste was originally listed, EPA would have proposed to deny the petition.) EPA then evaluated the waste with respect to other factors or criteria to assess whether there is a reasonable basis to believe that such additional factors could cause the waste to be hazardous. The Agency considered whether the waste is acutely toxic, and considered the toxicity of the constituents, the concentration of the constituents in the waste, their tendency to migrate and to bioaccumulate, their persistence in the environment once released from the waste, plausible and specific types of management of the petitioned waste, the quantities of waste generated, and waste variability.

For this delisting determination, the Agency used such information to identify plausible exposure routes (i.e., ground water, surface water, air) for hazardous constituents present in the petitioned waste. The Agency determined that disposal in a landfill is the most reasonable, worst-case disposal scenario for Marathon's petitioned waste, and that the major exposure route of concern would be ingestion of contaminated ground water. Therefore, the Agency is proposing to use a particular fate and transport model to predict the maximum allowable concentrations of hazardous constituents that may be released from the petitioned waste after disposal and to determine the potential impact of the disposal of Marathon's petitioned waste on human health and the environment. Specifically, the Agency used the

maximum estimated waste volume and the maximum reported leachate concentrations as inputs to estimate the constituent concentrations in the ground water at a hypothetical receptor well downgradient from the disposal site. The calculated receptor well concentrations (referred to as compliance-point concentrations) were then compared directly to the health-based levels used in delisting decision-making for the hazardous constituents of concern.

EPA believes that this fate and transport model represents a reasonable worst-case scenario for disposal of the petitioned waste in a landfill, and that a reasonable worst-case scenario is appropriate when evaluating whether a waste should be relieved of the protective management constraints of RCRA subtitle C. The use of a reasonable worst-case scenario results in conservative values for the compliance-point concentrations and ensures that the waste, once removed from hazardous waste regulation, will not pose a threat to human health or the environment. Because a delisted waste is no longer subject to hazardous waste control, the Agency is generally unable to predict and does not control how a waste will be managed after delisting. Therefore, EPA currently believes that it is inappropriate to consider extensive site-specific factors when applying the fate and transport model. For example, a generator may petition the Agency for delisting of a metal hydroxide sludge which is currently being managed in an on-site landfill and provide data on the nearest drinking water well, permeability of the aquifer, dispersivities, etc. If the Agency were to base its evaluation solely on these site-specific factors, the Agency might conclude that the waste, at that specific location, cannot affect the closest well, and the Agency might grant the petition. Upon promulgation of the exclusion, however, the generator is under no obligation to continue to manage the waste at the on-site landfill. In fact, it is likely that the generator will either choose to send the delisted waste off site immediately, or will eventually reach the capacity of the on-site facility and subsequently send the waste off site to a facility which may have very different hydrogeological and exposure conditions.

The Agency also considers the applicability of ground-water monitoring data during the evaluation of delisting petitions. In this case, the Agency determined that, because Marathon is seeking an upfront delisting (i.e., an exclusion based on data from waste generated from a pilot-scale treatment process), ground-water monitoring data collected from the areas where the petitioner plans to dispose of the waste in the future are not necessary. Because the petitioned waste is not currently generated or disposed of, ground-water monitoring data would not characterize the effects of the petitioned waste on the underlying aquifer at the disposal sites and, thus, would serve no purpose. Therefore, the Agency did not request ground-water monitoring data.

Marathon petitioned the Agency for an upfront exclusion (for waste that has not yet been generated) based on descriptions of a pilot-scale thermal desorption system used to treat the filter cake of API separator bottom sludge and dissolved air flotation (DAF) float, characterization of untreated API/DAF wastes that will be treated in the future by the thermal desorption system, and results from the analysis of unstabilized and stabilized residual solids generated during treatability tests conducted (using samples of Marathon's API/DAF filter cake) at an off-site pilot-scale thermal desorption system.

Similar to other facilities seeking upfront exclusions, this upfront exclusion (i.e., an exclusion based on information characterizing the process and waste) would be contingent upon Marathon conducting analytical testing of representative samples of the petitioned waste once the treatment unit is on-line at the Texas City refinery. Specifically, Marathon will be required to collect representative samples from its full-scale thermal desorption treatment system, once it is operational, to verify that the treatment system is on-line and operating as described in the petition. The verification testing would require Marathon to demonstrate that the established thermal desorption system can render the petitioned waste non-hazardous (i.e., a waste that meets the Agency's verification testing conditions).

From the evaluation of Marathon's delisting petition, a list of constituents was developed for the verification testing conditions. Proposed maximum allowable leachable concentrations for these constituents were derived by back calculating from the delisting health-based levels through the proposed fate and transport model for a landfill management scenario. These concentrations (i.e., "delisting levels") are part of the proposed verification testing conditions of the exclusion.

The Agency encourages the use of upfront delisting petitions because they have the advantage of allowing the applicant to know what treatment levels for constituents will be sufficient to render specific wastes non-hazardous, before investing in new or modified waste treatment systems. Therefore, upfront delistings will allow new facilities to receive exclusions prior to generating wastes, which, without upfront exclusions, would unnecessarily have been considered hazardous. Upfront delistings for existing facilities can be processed concurrently during construction or permitting activities; therefore, new or modified treatment systems should be capable of producing wastes that are considered non-hazardous sooner than otherwise would be possible. At the same time, conditional testing requirements to verify that the delisting levels are achieved by the fully operational treatment systems will ensure that only non-hazardous wastes are removed from subtitle C control.

Finally, the Hazardous and Solid Waste Amendments of 1984 specifically require the Agency to provide notice and an opportunity for comment before granting or denying a final exclusion. Thus, a final decision will not be made until all public comments (including those at public hearings, if any) on today's proposal are addressed.

II. Disposition of Delisting Petition

Marathon Oil Company, Texas City, Texas

A. Petition for Exclusion

Marathon Oil Company's (Marathon) refinery, located in Texas City, Texas, produces fuels, aromatics, and petrochemical feedstocks from crude oil. Marathon petitioned the Agency to exclude residual solids resulting from thermal desorption treatment of API separator bottom sludge and dissolved air floatation (DAF) float. The residual solids are presently listed, in accordance with 40 CFR 261.3(c)(2)(i) (i.e., the "derived from" rule), as EPA Hazardous Waste No. K051—"API separator sludge from the petroleum refining industry" and EPA Hazardous Waste No. K048—"Dissolved air floatation (DAF) float from the petroleum refining industry". The listed constituents of concern for K048 and K051 wastes are hexavalent chromium and lead (see 40 CFR part 261, appendix VII).

Marathon petitioned the Agency to exclude its residual solids because it does not believe that the waste, once generated, will meet the listing criteria. Based on treatability studies using Marathon's API/DAF wastes, Marathon claims that its treatment process will generate a non-hazardous waste because the constituents of concern in the waste are either not present or are in an

essentially immobile form. Marathon also believes that the treated waste will not contain any other constituents that would render it hazardous. Review of this petition included consideration of the original listing criteria, as well as the additional factors required by the Hazardous and Solid Waste Amendments (HSWA) of 1984. See section 222 of HSWA, 42 U.S.C. 6921(f), and 40 CFR 260.22(d)(2)–(4). Today's proposal to grant this petition for delisting is the result of the Agency's evaluation of Marathon's petition.

B. Background

On June 28, 1991, Marathon petitioned the Agency to exclude its residual solids resulting from treatment of its API separator bottom sludge and DAF float by thermal desorption from the lists of hazardous wastes contained in 40 CFR 261.31 and 261.32, and subsequently provided additional information to complete its petition. Specifically, Marathon requested that the Agency grant an upfront exclusion (i.e., an exclusion that applies to waste not presently generated) for residual solids generated by the thermal desorption treatment system to be constructed at its Texas City, Texas refinery.

In support of its petition, Marathon submitted (1) detailed descriptions and schematics of its manufacturing process and the pilot-scale treatment process; (2) detailed descriptions of the proposed full-scale thermal desorption unit and its proposed operating parameters [1]; (3) total constituent analysis results for the eight Toxicity Characteristic (TC) metals listed in 40 CFR 261.24 and five other metals from representative samples of the thickened API/DAF sludge, untreated API/DAF filter cake, and residual solids; (4) results from the Toxicity Characteristic Leaching Procedure (TCLP, SW–846 Method 1311) for the TC constituents and other extractable metals, volatile organics and semi-volatile organics, pesticides, and herbicides from representative samples of residual solids; (5) total constituent analysis results for volatile and semi-volatile organic constituents from the thickened API/DAF sludge, untreated filter cake, and residual solids; (6) results from total oil and grease analyses from the untreated filter cake and residual solids; (7) total cyanide results and moisture content from the thickened API/DAF sludge, untreated filter cake, and residual solids; (8) test results and information regarding the hazardous waste characteristics of ignitability, corrosivity, and reactivity for the residual solids; (9) results from the Multiple Extraction Procedure (MEP, SW–846 Method 1320) for the TC and other metals from representative samples of the stabilized residual solids; (10) results from the TCLP for cyanide for the stabilized residual solids; and (11) reactive sulfide and cyanide results for the stabilized residual solids.

Marathon produces fuels, aromatics, and petrochemical feedstocks by processing crude oil at its Texas City, Texas refinery. The refinery also produces fuel blendstocks and partially refined feedstocks for other Marathon Oil facilities. Marathon's refinery is designed to process only light, low sulfur (less than 0.2 percent) crude oils which are low in metals and other impurities. The crude oil undergoes a series of processes including separation/distillation, fluid catalytic cracking conversion, alkylation, and blending. Wastewater streams are produced throughout the refining process. Specifically, wastewater originates from the Crude unit, Reformer/Udex units, Light Ends unit, Fluid Catalytic Cracking Unit, Cooling Towers, Boiler House, and spent caustic tanks, as well as from equipment cleaning. The various wastewater streams are transported to Marathon's on-site wastewater treatment plant. Marathon's wastewater treatment plant includes primary, intermediate, secondary, and tertiary treatment. The primary and intermediate treatment section consists of an American Petroleum Institute (API) separator and a Dissolved Air Floatation (DAF) Unit. The API separator and DAF unit allow for the continuous gravity separation of oil, oily sludge and grit from the wastewater. The oil and solids removed from the API/DAF waste are transferred to tanks for free water removal. This mixture is then dewatered in a recessed plate filter press. The water from the transfer tanks and filter press is recycled to the front of the API separator, the oil is returned to the refinery process, and the solids (filter cake) are transported off-site for disposal.

Prior to November 8, 1988, Marathon disposed of its API bottom sludge and DAF float at the Gulf Coast Waste Disposal Authority (GCWDA) land treatment unit located in Texas City, Texas. On November 8, 1988, GCWDA initiated closure of the unit. Marathon began dewatering operations on November 8, 1988 using an on-site recessed filter press to produce a combined API/DAF waste filter cake suitable for landfill disposal. Between November 8, 1988 and the promulgation of Land Disposal Restrictions (LDR) on November 8, 1990, Marathon disposed of dewatered API/DAF filter cake at the GCWDA landfill located in Texas City, Texas and the Chemical Waste Management, Inc. landfill located in Carlyss, Louisiana. (The promulgation of LDR required the treatment of API/DAF waste prior to land disposal using solvent extraction or incineration.) Marathon selected the Rhone-Poulenc Basic Chemical Company incinerator in Houston, Texas to meet LDR requirements for API/DAF wastes, with the larger Rhone-Poulenc incinerator in Baton Rouge, Louisiana as a backup incinerator should problems arise at the Houston facility. As the incinerators selected for treatment of these wastes only accept dilute sludges, Marathon discontinued the use of the recessed plate filter press and currently only generates a dilute sludge waste.

Marathon elected to investigate the feasibility of treating its API/DAF filter cake using a proprietary thermal desorption process developed by Remediation Technologies, Inc. Thermal desorption refers to the separation of volatile and semi-volatile constituents from a solid matrix through volatilization by an indirect heat source. Marathon believes that efficient removals can be achieved at relatively low treatment temperatures, making thermal desorption a cost effective technology for the remediation of solids contaminated with hazardous organic constituents.

Marathon chose to perform API/DAF sludge treatability studies on a 1,000 pound per hour thermal desorption treatment unit at an off-site facility. The system was designed and constructed to perform large scale treatability studies and to test and optimize system components. Marathon believes that the 1,000 pound per hour system provides pilot study capabilities with minimal field scale-up. Marathon's proposed full-scale thermal desorption unit will have the capacity to process 2,000 pounds per hour of API/DAF filter cake.

Marathon's pilot-scale thermal desorption treatability study was performed as described below. The raw filter cake was fed into the processor through a covered gravity feed hopper. The thermal desorption unit contained two 7-inch intermeshing counter-rotational screw conveyors and had the capacity to process 1,000 pounds of material per hour. The thermal screw processors are an indirect heat exchanger commonly used to dry solid and sludge materials. The thermal screws contain a non-contact circulating heat transfer fluid (a molten salt) to

[1] Marathon has claimed some treatment process descriptions as confidential business information (CBI). This information, therefore, is not available in the RCRA public docket for today's notice.

elevate the temperature of the solids in the processor. The heated media continuously circulates through the hollow flights of the screw augers, travels the length of the screws and returns through the center of the shaft to the heater. The molten salt raises the temperature of the solids, resulting in the volatilization of volatile and semi-volatile constituents. The heater for the molten salt was direct fired with natural gas as fuel. Because the filter cake was 40–50 percent water, during the treatability demonstration, the waste was put through an initial pass through the system to selectively remove water. The residence time during this phase was approximately 15–20 minutes with the solids attaining an exit temperature of approximately 212 °F. The material was then reprocessed for an additional 60 minutes using two consecutive 30 minute cycles, with molten salt temperatures of 850 °F to 900 °F. Therefore, all waste material were treated for 75–80 minutes (in three passes, including an initial 15- to 20-minute pass to remove moisture and two 30-minute passes to remove organics) and had an average exit temperature of 738 °F. A cooling screw is the final component in the solids handling system which is designed to cool the residual materials to a temperature of 140 °F for subsequent handling.

An inert atmosphere was maintained in the thermal desorption processor through the introduction of a nitrogen stream (preheated to 1,000 °F) at a flow rate of approximately 10 standard cubic feet per minute. This gas stream also enhances volatilization of organics. Vapors were removed from the thermal processor with a vacuum blower and treated in the off-gas handling system. Particulates entrained in the gas stream were collected using a cyclone. These particulates were combined with the residual solids as they exited the cooling screw and were included in the sampling of the waste. The volatilized moisture and organics are subsequently condensed in a two-stage system. Initial gas cooling takes place in a quench/settling chamber. This is followed by condensation in a shell and tube heat exchanger. Materials condensed are collected in an oil/water separator where most of the water is recycled as quench water and the oil phase is returned to the refinery for recycling. The remaining non-condensable gas stream is passed through an activated carbon unit to remove organic compounds prior to release to the atmosphere.

Marathon's proposed full-scale thermal desorption unit will treat the API/DAF filter cake by a very similar process. The process will vary from the pilot-scale process in the following areas: (1) The API/DAF filter cake will be fed to the processor from a hopper using a covered conveyor system equipped with a weigh bridge; (2) filter cake will be introduced to the thermal processor through a double dump air lock to minimize the introduction of ambient air into the system; (3) the full-scale thermal processor will consist of two 24-inch intermeshing counter-rotational screw conveyors and the unit will be designed to operate as a single pass treatment system (instead of the three passes used in the pilot-scale operation); and (4) the particulates collected in the cyclone will be recycled to the processor waste feed. If the exclusion is granted, Marathon plans to dispose of the residual solids at either an on-site or off-site non-hazardous waste landfill.

Marathon proposed to monitor metal concentrations in the residual solids. If metal concentrations do not meet delisting levels, then Marathon would follow the thermal desorption treatment with stabilization. The waste would be stabilized through the addition of water and a high concentration alkaline reagent, (i.e., portland cement). This addition would be accomplished with a twin ribbon screw mixer, pug mill, or twin screw conveyor which incorporates the water and alkaline reagent with the residual material as it exits the cooling screw. Addition rates of water and alkaline reagent would be achieved with an in-line weigh-feeder which controls separate actuators for each addition.

Marathon petitioned for an upfront delisting for residual solids generated from the thermal desorption treatment of its API/DAF filter cake. Therefore, Marathon initiated a sampling program in October 1990 to characterize untreated API/DAF filter cake and treated residual solids. Subsequently, the Land Disposal Restrictions (LDR) regulations for K048 and K051 nonwastewater wastes went into effect on November 8, 1990 (see 55 FR 22520; June 1, 1990). Marathon was able to collect three composite samples of the API/DAF waste filter cake, before Marathon ceased operation of the filter press in November of 1990 to comply with the LDR requirements. The dilute sludge generated prior to the filter press was more suitable for incineration. To supplement the treatability demonstration, Marathon obtained five additional representative API/DAF waste grab samples upstream of the inactive filter press. These grab samples were used to document the uniformity of Marathon's waste generation.

For Marathon's treatability study, three 55-gallon drums of API/DAF filter cake material were collected directly from Marathon's recessed-plate filter press. A minimum of four randomly selected grab samples of filter cake were collected from each cycle of the filter press. The filter press was cycled two to three times per day, providing a minimum of eight individual grab samples per composite. A 55-gallon volume of each sample of API/DAF filter cake was required to conduct a treatability demonstration that would be representative of the full-scale thermal desorption process.

In order to characterize the residual solids from the thermal desorption treatability study, samples of the filter cake and final residual solids were collected during the treatability demonstrations. An 8-ounce grab sample of feed material was collected at 10 minute intervals throughout each of the three individual treatability tests. Following each of the three individual treatability tests, the grab samples were combined to form composite samples.

The collection vessel for the residual solids forms an air tight seal with the processor during treatment. Therefore, after each of the three individual treatability tests, composite samples of residual solids were generated by collecting grab samples at increasing depths in the collection vessel. A minimum of eight grab samples were used for each composite. Each composite of residual solids corresponds to a composite of filter cake.

Each of the three composite samples of filter cake and residual solids were analyzed for total constituent concentrations of the TC metals, antimony, beryllium, nickel, vanadium, and zinc; total constituent concentrations of volatile and semi-volatile organic compounds; percent oil and grease content; percent moisture content; and total concentrations of cyanide. Each of the three composite samples of residual solids were also analyzed for Toxicity Characteristic Leaching Procedure (TCLP) leachate concentrations (i.e., mass of a particular constituent per unit volume of extract) of the TC metals, antimony, beryllium, nickel, vanadium, zinc, volatile and semi-volatile organic compounds, and pesticides and herbicides.

Marathon claims that due to consistent manufacturing and waste treatment, the analytical data obtained from the samples are representative of any variation in the residual solids constituent concentrations. To

demonstrate this, Marathon collected an additional five grabs of unfiltered, thickened API/DAF sludge upstream of the inactive filter press. To secure representative samples of the thickened API/DAF sludge, samples were taken from full 5,000-gallon tank trucks immediately following the transfer of waste from Marathon's thickening tanks. The samples were taken over a period of four weeks and analyzed for total constituent concentrations of the TC metals, antimony, beryllium, nickel, vanadium, zinc, volatile and semi-volatile organic compounds, and cyanide. The Agency believes that these samples are representative of the API/DAF waste that will be treated using the filter press and thermal desorption process.

Marathon also stabilized four samples of the residual solids resulting from the treatment of Marathon's API/DAF filter cake. Marathon used three composite samples of residual solids from the treatability demonstration, and a fourth composite, consisting of equal portions of the other three composites, to demonstrate the effectiveness of its stabilization process. Prior to final stabilization testing, a separate two-gallon composite of thermal desorption residual solids (a screening sample with similar physical and analytical properties to Marathon's four composite samples) was utilized for preliminary stabilization testing and reagent optimization. Reagents utilized for the stabilization treatability study included portland cement (Type I), fly ash, lime kiln residue, and quicklime. Bench-scale tests were performed on the screening samples to determine the optimum formulation of stabilization reagent(s) required to achieve maximum immobilization of inorganic constituents of concern. The recommended reagent formulation, based on the bench-scale test, was then used to stabilize Marathon's residual solids in the laboratory. Specifically, each of Marathon's four samples was stabilized with the addition of 0.25 parts of water and 0.15 parts of portland cement (Type I) per 1.00 part by weight of sample. The four stabilized residual solids were subjected to the TCLP-Multiple Extraction Procedure (TCLP–MEP)[2] to demonstrate long-term leaching characteristics. Marathon analyzed each of the four stabilized residual solids for TCLP–MEP leachate concentrations of the TC metals, antimony, beryllium, nickel, vanadium, and zinc; total organic carbon; TCLP leachate concentrations of cyanide; corrosivity and ignitability; reactive sulfide and cyanide; and strength, bulk density, and volume expansion.

[2] Per Agency instructions, Marathon modified the MEP (SW–846 Method 1320) by substituting the TCLP for the extraction procedure in Step 7.1 of the MEP.

C. Agency Analysis

Marathon used SW–846 Methods 7041 through 7950 to quantify the total constituent concentrations of the TC metals, antimony, beryllium, nickel, vanadium and zinc in the thickened sludge, untreated filter cake, and residual solids. Marathon used SW–846 Method 9010 to quantify the total constituent concentrations of cyanide in the same three materials. Marathon used SW–846 Method 1311 (TCLP) to quantify the leachable concentrations of the TC metals, antimony, beryllium, nickel, vanadium and zinc in the residual solids. Table 1 presents the maximum total constituent concentrations of the metals and cyanide for the thickened sludge, untreated filter cake, and residual solids. Table 2 presents the maximum leachate (TCLP) concentrations of the metals and cyanide in the residual solids.

TABLE 1.—MAXIMUM TOTAL CONSTITUENT CONCENTRATIONS (MG/KG)[1] (API/DAF WASTES)

Constituents	Unfiltered sludge	Untreated filter cake	Residual solids
Antimony	<2	<2	1.8
Arsenic	<2	48.0	38.0
Barium	750	673.0	1520.0
Beryllium	<2.5	<2.5	<2.5
Cadmium	<0.5	8.5	6.2
Chromium	1150	3370.0	3140.0
Lead	70	144.0	200.0
Mercury	10	.83	<0.05
Nickel	<10	42.0	94.0
Selenium	<3	<3	<3
Silver	<0.5	2.9	2.6
Vanadium	<10	110.0	117.0
Zinc	716	1280.0	1240.0
Cyanide	<0.2	15.0	.8

< Denotes that the constituent was not detected at the detection limit specified in the table.

[1] These levels represent the highest concentration of each constituent found in any sample of thickened sludge, untreated filter cake and residual solids collected by Marathon. These levels do not necessarily represent the specific levels found in one sample.

TABLE 2.—MAXIMUM TCLP LEACHATE CONCENTRATIONS (MG/L) (API/DAF WASTES)

Constituents	Residual solids[1]
Antimony	<0.05
Arsenic	.346
Barium	1.1
Beryllium	<0.02
Cadmium	.05
Chromium	.09
Lead	.46
Mercury	<0.005
Nickel	.40
Selenium	<0.05
Silver	<0.05
Vanadium	1.1
Zinc	.94
Cyanide	[2].04

< Denotes that the constituent was not detected at the detection limit specified in the table.

[1] These levels represent the highest concentration of each constituent found in any sample and do not necessarily represent the specific levels found in one sample.

[2] Calculated from the maximum total cyanide concentration of 0.8 mg/Kg, by assuming a dilution factor of twenty (based on 100 grams of sample and dilution with 2 liters of water) and a theoretical worst-case leaching of 100 percent.

Detection limits in Tables 1 and 2 represent the lowest concentrations quantifiable by Marathon when using the appropriate SW–846 analytical method to analyze its waste. (Detection limits may vary according to the waste and waste matrix being analyzed, i.e., the "cleanliness" of waste matrices varies and "dirty" waste matrices may cause interferences, thus raising the detection limits.)

Using SW–846 Method 9071, Marathon determined that its residual solids had a maximum oil and grease content of 0.0086 percent; therefore, the TCLP analysis did not have to be modified in accordance with the Oily Waste Extraction Procedure (i.e., wastes having more than one percent total oil and grease may either have significant concentrations of constituents of concern in the oil phase, which may not be assessed using the standard TCLP leachate procedure, or the concentration of oil and grease may be sufficient to coat the solid phase of the sample and interfere with the leaching of metals from the sample). See SW–846 Method 1330 for the Oily Waste Extraction Procedure.

Marathon provided information, pursuant to 40 CFR 260.22, indicating that the residual solids are not expected to demonstrate the characteristics of ignitability or corrosivity. See 40 CFR 261.21 and 261.22, respectively.

Marathon used SW–846 Methods 8240 and 8270 to quantify the total constituent concentrations of volatile and semivolatile organic compounds, respectively, in the thickened sludge, untreated filter cake, and residual solids. Marathon used the same methods to quantify the leachable concentrations of volatile organic compounds and semi-volatile organic compounds in the residual solids, following extraction by SW–846 Method 1311 (TCLP). Marathon used SW–846 Methods 8080 and 8150 to quantify the total leachable constituent concentrations of pesticides and herbicides, respectively, following extraction by SW–846 Method 1311

(TCLP) in the residual solids. Table 3 presents the maximum total concentrations of all detected organic constituents in Marathon's waste in the untreated filter cake and residual solids, as well as other toxic constituents found in the upstream sludge prior to filtering. Only benzene and toluene were detected in the total constituent analyses of the treated residuals. No organic constituents were detected in the leachate from the residual solids samples.

TABLE 3.—MAXIMUM TOTAL CONSTITUENT CONCENTRATIONS (MG/KG)[1] (API/DAF WASTES)

Constituents	Unfiltered sludge	Untreated filter cake	Residual solids
Acenaphthene	8.7	NA	NA
Benzene	29	9.9	0.71
Benzo(a)anthracene	<20	46	<0.330
Benzo(a)pyrene	<20	44	<0.330
Benzo(b)fluoranthene	<20	24	<0.330
Chrysene	15	93	<0.330
7,12-Dimethyl benz(a)anthracene	<20	44	<0.330
Ethyl benzene	24	9.1	<0.5
Fluoranthene	8.1	<5	<0.330
Fluorene	24	NA	NA
1-Methyl naphthalene	NA	704	<0.330
Naphthalene	305	300	<0.330
Phenanthrene	120	177	<0.330
Pyrene	15	98	<0.330
Toluene	62	37.0	0.84
Xylene	303	106	<1.0

<Denotes that the constituent was not detected at the detection limit specified in the table.
NA Not analyzed.

[1] These levels represent the highest concentration of each constituent found in any sample of unfiltered sludge, untreated filter cake, and residual solids collected by Marathon. No organic constituents were detected in the TCLP leachate from the residual solids. These levels do not necessarily represent the specific levels found in one sample.

Marathon used the modified SW–846 Method 1320 (TCLP–MEP, with the extraction procedure in Step 7.1 of the MEP replaced with the TCLP) to quantify the leachable concentrations of the TC metals, antimony, beryllium, nickel, vanadium and zinc in the stabilized residual solids. Marathon used SW–846 Method 9060 to quantify the total percent organic carbon for the stabilized residual solids.

Table 4 presents the maximum TCLP–MEP concentrations of the TC metals, antimony, beryllium, nickel, vanadium, and zinc.

TABLE 4.—MAXIMUM TCLP–MEP LEACHATE CONCENTRATIONS (MG/L) (API/DAF WASTES)

Constituents	Stabilized residual solids[1]
Antimony	0.017
Arsenic	<0.05
Barium	0.57
Beryllium	<0.02
Cadmium	<0.005
Chromium	0.12
Lead	0.011
Mercury	<0.002
Nickel	0.17
Selenium	<0.05
Silver	0.04
Vanadium	0.35
Zinc	0.11

<Denotes that the constituent was not detected at the detection limit specified in the table.

[1] These levels represent the highest concentration of each constituent found in any of the four stabilized residual solids samples (three individual samples and one composite of the three individual samples) collected by Marathon. These levels do not necessarily represent the specific levels found in one sample.

Marathon submitted a signed certification stating that, based on projected annual waste generation, the maximum annual generation rate of stabilized residual solids to be produced by Marathon's Texas City refinery will be 1,000 tons. The Agency may review a petitioner's estimates and, on occasion, has requested a petitioner to re-evaluate the estimated waste generation rate. EPA accepts Marathon's certified estimate of 1,000 tons (approximately 1,000 cubic yards) of stabilized residual solids for its Texas City refinery.

EPA does not generally verify submitted test data before proposing delisting decisions. The sworn affidavit submitted with this petition binds the petitioner to present truthful and accurate results. The Agency, however, has maintained a spot-check sampling and analysis program to verify the representative nature of the data for some percentage of the submitted petitions. A spot-check visit to a selected facility may be initiated before finalizing a delisting petition or after granting an exclusion.

D. Agency Evaluation

The Agency considered the appropriateness of alternative waste management scenarios for Marathon's residual solids and decided, based on the information provided in the petition, that disposal in a landfill is the most reasonable, worst-case scenario for this waste. Under a landfill disposal scenario, the major exposure route of concern for any hazardous constituents would be ingestion of contaminated groundwater. The Agency, therefore, evaluated Marathon's petitioned waste using the modified EPA Composite Model for Landfills (EPACML) which predicts the potential for groundwater contamination from wastes that are landfilled. See 56 FR 32993 (July 18, 1991), 56 FR 67197 (December 30, 1991), and the RCRA public docket for these notices for a detailed description of the EPACML model, the disposal assumptions, and the modifications made for delisting. This model, which includes both unsaturated and saturated zone transport modules, was used to predict reasonable worst-case contaminant levels in ground water at a compliance point (i.e., a receptor well serving as a drinking-water supply). Specifically, the model estimated the dilution/attenuation factor resulting from subsurface processes such as three-dimensional dispersion and dilution from groundwater recharge for a specific volume of waste. The Agency requests comments on the use of the EPACML as applied to the evaluation of Marathon's waste.

For the evaluation of Marathon's petitioned waste, the Agency used the EPACML to evaluate the mobility of hazardous inorganic constituents detected in the extract from Marathon's residual solids. The Agency's evaluation, using a maximum annual waste volume estimate of 1,000 cubic yards and the maximum reported and estimated TCLP leachate concentrations

(see Table 2), generated the compliance-point concentrations for the constituents of concern as shown in Table 5.

TABLE 5.—EPACML: CALCULATED COMPLIANCE-POINT CONCENTRATIONS (PPM) (RESIDUAL SOLIDS)

Constituents	Compliance-point concentrations [1]	Levels of regulatory concern [2]
Arsenic	0.00348	0.05
Barium	.011	2.0
Cadmium	.0005	.005
Chromium	.0009	.1
Lead	.0046	.015
Nickel	.004	.1
Vanadium	.011	.2
Zinc	.0094	7.0
Cyanide	.0004	.2

[1] Assuming a maximum annual waste volume of 1,000 cubic yards, the EPACML model calculated a dilution/attenuation factor of 100.
[2] See "Docket Report on Health-Based Levels and Solubilities Used in the Evaluation of Delisting Petitions, Submitted Under 40 CFR 260.20 and 260.22", July 1992, located in the RCRA public docket.

The residual solids exhibited arsenic, barium, cadmium, chromium, lead, nickel, vanadium, zinc, and cyanide levels at the compliance point below the health-based levels used in delisting decision-making. The Agency did not evaluate the mobility of antimony, beryllium, mercury, selenium, and silver from Marathon's waste because they were not detected in the TCLP extracts using the appropriate SW–846 analytical test methods and adequate detection limits (see Table 2). The Agency believes that it is inappropriate to evaluate non-detectable concentrations of a constituent of concern in its modeling efforts if the non-detectable value was obtained using the appropriate analytical method. If a constituent cannot be detected (when using the appropriate analytical method with an adequate detection limit), the Agency assumes that the constituent is not present and therefore does not present a threat to either human health or the environment.

As reported in Table 1, the maximum concentration of total cyanide in the residual solids is 0.8 ppm. Because reactive cyanide is a specific subcategory of the general class of cyanide compounds, the maximum level of reactive cyanide will not exceed 0.8 ppm. Thus, the Agency concludes that the concentration of reactive cyanide will be below the Agency's interim standard of 250 ppm. See "Interim Agency Thresholds for Toxic Gas Generation," July 12, 1985, internal Agency Memorandum in the RCRA public docket.

As noted, Marathon performed TCLP leachate analysis on the residual solids for the hazardous organic constituents of concern. No hazardous organic constituent was detected in the leachate for the residual solids samples. The Agency, therefore, did not evaluate the mobility of hazardous organic constituents in the residual solids.

The Agency concluded, after reviewing Marathon's processes that no other hazardous constituents, other than those tested for, are likely to be present in Marathon's residual solids. In addition, on the basis of test results and information provided by Marathon, pursuant to 40 CFR 260.22, the Agency concludes that the residual solids do not exhibit any of the characteristics of ignitability, corrosivity, or reactivity. See 40 CFR 261.21, 261.22, and 261.23, respectively.

In addition, the Agency evaluated the data from the stabilized residual solids. The Agency used the EPACML to evaluate the mobility of hazardous inorganic constituents detected in the extract from Marathon's stabilized residual solids. The Agency's evaluation, using a maximum annual waste volume estimate of 1,000 cubic yards per year and the maximum reported TCLP-MEP leachate concentrations (see Table 4), generated the compliance-point concentrations for the constituents of concern as shown in

TABLE 6.—EPACML: CALCULATED COMPLIANCE-POINT CONCENTRATIONS (PPM) (STABILIZED RESIDUAL SOLIDS)

Constituents	Compliance-point concentrations [1]	Levels of regulatory concern [2]
Antimony	0.00017	0.006
Barium	.0057	2.0
Chromium	.0012	.1
Lead	.00011	.015
Nickel	.0017	.1
Silver	.0004	.2
Vanadium	.0035	.2
Zinc	.0011	7.0

[1] Assuming a maximum annual waste volume of 1,000 cubic yards, the EPACML calculated a dilution/attenuation factor of 100.
[2] See "Docket Report on Health-Based Levels and Solubilities Used in the Evaluation of Delisting Petitions, Submitted Under 40 CFR 260.20 and 260.22", July 1992, located in the RCRA public docket.

The stabilized residual solids exhibited antimony, barium, chromium, lead, nickel, silver, vanadium, and zinc levels at the compliance point below the health-based levels used in delisting decision-making. The Agency did not evaluate the mobility of arsenic, beryllium, cadmium, mercury, and selenium from Marathon's stabilized waste because they were not detected in the TCLP–MEP extracts using the appropriate SW–846 analytical test methods (see Table 4). Additionally, the maximum reported levels of reactive cyanide and reactive sulfide in Marathon's stabilized residual solids were 1.3 and <0.3 ppm respectively. These concentrations are below the Agency's interim standards of 250 and 500 ppm, respectively. See "Interim Agency Thresholds for Toxic Gas Generation," July 12, 1985, Internal Agency Memorandum in the RCRA public docket. Therefore, reactive cyanide and sulfide levels are not of concern.

In addition, because levels of cyanide and hazardous organic constituents in the residual solids prior to stabilization were not of concern, the Agency believes that concentrations of cyanide and hazardous organic constituents in the stabilized residual solids will also not be of concern.

During its evaluation of Marathon's petition, the Agency also considered the potential impact of the petitioned waste via non-ground-water routes, with regard to airborne dispersal of waste contaminants in particular. Since Marathon's unstabilized residual solids are dry and may not be solidified following the thermal desorption, Agency believes that some exposure to airborne contaminants from this waste may be possible. The Agency evaluated the potential hazards resulting from airborne exposure to waste contaminants from the unstabilized residual solids using a simple air dispersion model for releases from a landfill. The results of this conservative, worst-case evaluation indicated that there is no substantial present or potential hazard to human health from airborne exposure to constituents from Marathon's residual solids. A description of the Agency's assessment of the potential impact of Marathon waste, with regard to airborne dispersal of waste contaminants, is presented in the docket for today's proposed rule.

The Agency also considered the potential impact of the petitioned wastes via a surface water route (a description of the Agency's assessment is included in the docket). While some contamination of surface water is possible through runoff from the waste disposal area, the Agency believes that the concentrations of any hazardous constituents in the runoff will tend to be lower than the extraction procedure test results reported in today's notice because of the aggressive acidic medium used for extraction in the TCLP. In addition, any transported contaminants would be further diluted in the receiving surface water body. Finally, the Agency believes that, in general, leachate derived from the waste will not directly enter a surface water body without first traveling through the

saturated subsurface where dilution of hazardous constituents may occur.

E. Conclusion

The Agency believes that the descriptions of Marathon's thermal desorption process and analytical characterizations, in conjunction with the proposed verification testing requirements (as discussed later in this notice), provide a reasonable basis to grant Marathon's petition for an upfront conditional exclusion. The Agency believes that the samples collected from the treatability study and waste variability study adequately represent the variations in raw materials and processing. The Agency believes that the data submitted in support of the petition show that Marathon's proposed thermal desorption process can render API/DAF filter cake non-hazardous. In general, the process used by Marathon can treat the API/DAF filter cake to efficiently remove volatile and semi-volatile organics. The data provided by Marathon also indicate that the treated residuals meet delisting levels of concern for leachable metals. Marathon also demonstrated that the residuals can be stabilized to reduce the mobility of the metals, and requested that stabilization be included as an option if metals concentrations of the residual solids exceed the delisting levels. Under the testing provisions of the conditional exclusion, Marathon will be required to retreat or dispose as hazardous any batch exhibiting any leachate extract level above a specified "delisting level" (see Section F—Verification Testing Conditions).

The Agency proposes to grant a conditional exclusion to Marathon Oil Company, located in Texas City, Texas, for the residual solids described in its petition as EPA Hazardous Waste Nos. K051 and K048. The Agency's decision to exclude this waste is based on process descriptions, characterization of untreated API/DAF filter cake, and results from the analysis of residual solids generated by a pilot-scale thermal desorption unit. If the proposed rule becomes effective, the petitioned residual solids, provided the conditions of the exclusion are met, will no longer be subject to regulation under 40 CFR parts 262 through 268 and the permitting standards of 40 CFR part 270.

F. Verification Testing Conditions

The testing requirements are to be conducted in two phases, initial and subsequent testing. The initial testing requirements apply to the first 40 days that the thermal desorption unit, once established at Marathon's Texas City, Texas facility, is operated as an on-line, full-scale unit at typical operating conditions (i.e., similar to those residence times and temperatures described in the petition). The subsequent testing requirements apply to the period of time following the initial 40-day period.

If the final exclusion is granted as proposed, Marathon will be required to: (1) Submit information on the operating parameters of the new thermal desorption unit, (2) collect and analyze 5-day composite samples (over a 40-day period) to verify that the new thermal desorption unit meets the treatment capability of the pilot-scale thermal desorption unit described in the petition, and (3) continue to collect and analyze composite samples of the petitioned waste on a monthly basis to verify that the residual solids continue to meet the Agency's verification testing limitations (i.e., "delisting levels"). These proposed conditions are specific to the upfront exclusion petitioned for by Marathon. The Agency may choose to modify these proposed conditions based on comments that may be received during the public comment period for this proposed rule. The proposed exclusion for Marathon's thermal desorption unit in Texas City, Texas is conditional upon the following requirements:

(1) *Testing:* Sample collection and analyses (including quality control (QC) procedures) must be performed according to SW–846 methodologies. If EPA judges the treatment process to be effective under the operating conditions used during the initial verification testing, Marathon may replace the testing required in Condition (1)(A) with the testing required in Condition (1)(B). Marathon must continue to test as specified in Condition (1)(A), including testing for organics in Condition (3)(B), until and unless notified by EPA in writing that testing in Condition (1)(A) may be replaced by Condition (1)(B), or that testing for organics may be terminated as described in (1)(C) (to the extent directed by EPA).

(A) *Initial Verification Testing:* During at least the first 40 operating days of full-scale operation of the thermal desorption unit, Marathon must monitor the operating conditions and analyze 5-day composites of residual solids. 5-day composites must be composed of representative grab samples collected from every batch during each 5-day period of operation. The samples must be analyzed prior to disposal for constituents listed in Condition (3). Marathon must report the operational and analytical test data, including quality control information, obtained during this initial period no later than 90 days after the treatment of the first full-scale batch.

The Agency believes that an initial period of 40 days is sufficient for a facility to collect sufficient data to verify that a full-scale treatment process is operating correctly. The initial verification testing conditions, if promulgated as proposed, will require samples of residual solids to be composited every five days during the first 40 operating days of full-scale operation of the new thermal desorption unit in Texas City, Texas. The Agency proposes this initial verification testing condition to ensure that the full-scale thermal desorption unit is closely monitored during the start-up period. If the Agency determines that the data collected under this condition reveal that the thermal desorption unit is not being operated as described in Marathon's petition, the exclusion will not cover the generated residual solids. If the Agency determines that the data from the initial verification period demonstrates the treatment process is effective, EPA will notify Marathon in writing that the testing conditions in (1)(A) may be replaced with the testing conditions in (1)(B).

The Agency believes that the concentrations of the constituents of concern in the residual solids may vary somewhat over time. As a result, in order to ensure that Marathon's treatment process can effectively handle any variation in constituent concentrations in API/DAF filter cake, the Agency is proposing a subsequent verification testing condition. The proposed subsequent testing would verify that the new thermal desorption unit is operated in a manner similar to its operation during the initial verification testing and that the residual solids do not exhibit unacceptable levels of toxic constituents. Therefore, the Agency is proposing to require Marathon to analyze representative samples of the residual solids on a monthly basis as described in Condition (1)(B).

(B) *Subsequent Verification Testing:* Following notification by EPA, Marathon may substitute the testing conditions in (1)(B) for (1)(A). Marathon must continue to monitor operating conditions, and analyze samples representative of each month of operation. The samples must be composed of representative grab samples collected during at least the first five days of operation of each month. These monthly representative samples must be analyzed for the constituents listed in Condition (3) prior to the disposal of the residual solids.

(C) *Termination of Organic Testing:* Marathon must continue testing as required under Condition (1)(B) for organic constituents specified in Condition (3)(B) until the analyses submitted under Condition (1)(B) show a minimum of four consecutive monthly representative samples with levels of specific constituents significantly below the delisting levels in Condition (3)(B), and EPA notifies Marathon in writing that monthly testing for specific organic

constituents may be terminated. Following termination of monthly testing, Marathon must continue to test a representative 5-day composite sample for all constituents listed in Condition (3)(B) on an annual basis. If delisting levels for any constituents listed in Condition (3)(B) are exceeded in the annual sample, Marathon must reinstitute complete testing as required in Condition (1)(B).

The Agency believes that collecting monthly representative samples will ensure that Marathon's treatment process is able to handle any potential variability in concentrations of those constituents of most concern. Furthermore, the Agency is proposing to terminate the subsequent testing requirement for organics as allowed in Condition (1)(C) after Marathon has established a significant database for the residual solids that demonstrates delisting levels are consistently met. In order to confirm that the characteristics of the waste do not change significantly over time, Marathon must continue to analyze a representative sample of residual solids for organic constituents on annual basis. If Marathon changes operating conditions as described in Condition (4), then Marathon must reinstitute all testing in Condition (1)(A), pending a new demonstration under this condition for termination.

Future delisting proposals and decisions issued by the Agency may include different testing and reporting requirements based on an evaluation of the manufacturing and treatment processes, the waste, the volume of waste, and other factors normally considered in the petition review process. For example, wastes with variable constituent concentrations, discussed in previous delisting decisions (e.g., 56 FR 67197, December 30, 1991), may require more frequent batch testing.

As discussed earlier in this notice, the thermal desorption treatment process as described in the petition was demonstrated to be effective in removing organic constituents from solid matrices, but not inorganic constituents. Therefore, Condition (3)(A), which requires Marathon to test for the specified inorganic constituents of concern that may not be treated by this process, is not subject to the termination condition in Condition (1)(C).

(2) *Waste Holding and Handling:* Marathon must store as hazardous all residual solids generated until verification testing (as specified in Condition (1)(A) and (1)(B)) is completed and valid analysis demonstrates that Condition (3) is satisfied. If the levels of hazardous constituents in the samples of residual solids are below all of the levels set forth in Condition (3), then the residual solids are non-hazardous and may be managed and disposed of in accordance with all applicable solid waste regulations. If hazardous constituent levels in any 5-day composite or other representative sample equal or exceed any of the delisting levels set in Condition (3), the residual solids generated during the corresponding time period must be retreated and/or stabilized as allowed below, until the residual solids meet these levels, or managed and disposed of in accordance with Subtitle C of RCRA.

If the residual solids contain leachable inorganic concentrations at or above the delisting levels set forth in Condition (3)(A), then Marathon may stabilize the material with Type I portland cement as demonstrated in the petition to immobilize the metals. Following stabilization, Marathon must repeat analyses in Condition (3)(A) prior to disposal.

The purpose of this condition is to ensure that residual solids which contain hazardous levels of inorganic or organic constituents are managed and disposed of in accordance with subtitle C of RCRA. Holding the residual solids until characterization is complete will protect against improper handling of hazardous material. The 5-day composite sample must be analyzed for the appropriate parameters, and must meet the appropriate delisting levels, in order for the waste to be considered non-hazardous. As a contingency, Marathon demonstrated that its stabilization process can immobilize metals in the thermally treated waste. The Agency is proposing to allow Marathon to further treat the material with portland cement-type stabilization in the event that metals concentrations are not below delisting levels of concern.

(3) *Delisting Levels:* All leachable concentrations must be measured in the waste leachate by the method specified in 40 CFR 261.24, and must be less than the following levels (ppm):

(A) Inorganic Constituents

antimony—0.6; arsenic, chromium, or silver—5.0; barium—100.0; beryllium—0.4; cadmium—0.5; lead—1.5; mercury—0.2; nickel—10.0; selenium—1.0; vanadium—20.0

(B) Organic Constituents

acenaphthene—200
benzene—0.5
benzo(a)anthracene—0.01
benzo(a)pyrene—0.02
benzo(b)fluoranthene—0.02
chrysene—0.02
ethyl benzene—70
fluoranthene—100
fluorene—100
naphthalene—100
pyrene—100
toluene—100

The Agency selected the set of constituents specified in Condition (3) after reviewing information about the composition of Marathon's API/DAF filter cake, descriptions of Marathon's treatment process, and the health-based levels used in delisting decision-making. Condition (3) as listed above provides the list of constituents for which Marathon must test the leachate from the residual solids, as well as the levels below which the waste will be considered non-hazardous. The constituents in Condition (3)(B) reflect the toxic organic constituents of concern that were detected in Marathon's API/DAF sludge, API/DAF filter cake, or residual solids.

The Agency established the delisting levels by first back-calculating the maximum allowable leachate concentrations (MALs) from the health-based levels (HBLs) for the constituents of concern using the EPACML dilution/attenuation factor of 100 for Marathon's maximum annual waste volume of 1,000 cubic yards, i.e., MAL=HBL×DAF. The calculated MALs were then compared with the maximum contaminant concentrations for the toxicity characteristic (i.e., TC levels) shown in 40 CFR 261.24, as 40 CFR 260.22(d)(3) precludes delisting any waste that exhibits a characteristic. The delisting levels established in Condition (3) are the lesser of the calculated MALs and the TC levels.

The Agency is also considering the option of using an additional testing parameter to ensure that the full-scale process operates as efficiently as the pilot-scale process in removing organic constituents from the untreated wastes. The data from the pilot-scale runs (Table 3) indicate that the treatment process is capable of reducing the total concentrations of all organic constituents in the waste to levels approaching detection limits (about 0.3 ppm). The Agency believes that setting a maximum level for a key indicator chemical will provide additional assurance that the process is operated properly. While the Agency could attempt to establish operating parameters for the treatment process to ensure proper operation (e.g., residence time, temperature, feed rate), EPA believes that testing the waste for a key constituent would be a more practical indication that the process was operating as described in the petition.

Based on the levels and prevalence of the organic constituents found in the waste, the Agency would, if it follows this approach, choose 1-methyl naphthalene as an appropriate indicator parameter. 1-methyl naphthalene appeared in all of the samples of untreated filter cake at high levels (521–704 ppm). Therefore, monitoring the total levels of 1-methyl naphthalene in

the treatment residues would ensure that the thermal desorption process is operating as effectively as the pilot-scale process in removing all organic constituents.

If the option of including an indicator chemical in the testing conditions is chosen, the Agency believes that a total level of 3 ppm would be appropriate for 1-methyl naphthalene (and other indicator constituents). The level of 3 ppm is an order of magnitude above the detection limit reported by Marathon for the treatment residuals, and would allow a sufficient margin for any variability in the waste sampling and analysis. The Agency has often used an order of magnitude (i.e., a factor of 10) in chemical analyses to allow for variations in analyses and matrices. (For example, see 55 FR 22541, June 1, 1990, where the Agency allowed an order of magnitude leeway in analyses for treatment standards, and 55 FR 30414, July 25, 1990, where a factor of 10 was used to account for analytical variability in setting drinking water standards). Therefore, the Agency is seeking comment on the option of setting a process-based level of 3 ppm for 1-methyl naphthalene as a requirement for the delisting. Under this option, Marathon would be required to analyze for the total constituent level of 1-methyl naphthalene as an additional organic parameter in condition (3)(B). If samples of the treatment residues contained 3 ppm or more of 1-methyl naphthalene, the waste would either be retreated, or handled as hazardous.

(4) *Changes in Operating Conditions:* After completing the initial verification test period in Condition (1)(A), if Marathon significantly changes the operating conditions established under Condition (1), Marathon must notify the Agency in writing. After written approval by EPA, Marathon must re-institute the testing required in Condition (1)(A) for a minimum of four 5-day operating periods. Marathon must report the operations and test data, required by Condition (1)(A), including quality control data, obtained during this period no later than 60 days after the changes take place. Following written notification by EPA, Marathon may replace testing Condition (1)(A) with (1)(B). Marathon must fulfill all other requirements in Condition (1), as appropriate.

To ensure consistent and efficient treatment, the Agency is requiring Marathon to operate the thermal desorption system in accordance with the operating conditions established under Condition (1). However, the proposed exclusion allows Marathon some flexibility in modifying the operating conditions to optimize its treatment process, if Marathon can demonstrate the effectiveness of the modified operating conditions through a new initial verification testing under Condition (1)(A). The Agency believes that once the full-scale treatment process has been on line and operating properly, four 5-day operating periods would be sufficient for the new demonstration in this case.

(5) *Data Submittals:* At least two weeks prior to system start-up, Marathon must notify in writing the Section Chief, Delisting Section (see address below) when the thermal desorption and stabilization units will be on-line and waste treatment will begin. The data obtained through Condition (1)(A) must be submitted to the Section Chief, Delisting Section, OSW (OS–333), U.S. EPA, 401 M Street, SW., Washington, DC 20460 within the time period specified. Records of operating conditions and analytical data from Condition (1) must be compiled, summarized, and maintained on site for a minimum of five years. These records and data must be furnished upon request by EPA or the State of Texas and made available for inspection. Failure to submit the required data within the specified time period or maintain the required records on site for the specified time will be considered by EPA, at its discretion, sufficient basis to revoke the exclusion to the extent directed by EPA. All data must be accompanied by a signed copy of the following certification statement to attest to the truth and accuracy of the data submitted:

Under civil and criminal penalty of law for the making or submission of false or fraudulent statements or representations (pursuant to the applicable provisions of the Federal Code, which include, but may not be limited to, 18 USC 1001 and 42 USC 6928), I certify that the information contained in or accompanying this document is true, accurate and complete.

As to the (those) identified section(s) of this document for which I cannot personally verify its (their) truth and accuracy, I certify as the company official having supervisory responsibility for the persons who, acting under my direct instructions, made the verification that this information is true, accurate and complete.

In the event that any of this information is determined by EPA in its sole discretion to be false, inaccurate or incomplete, and upon conveyance of this fact to the company, I recognize and agree that this exclusion of waste will be void as if it never had effect or to the extent directed by EPA and that the company will be liable for any actions taken in contravention of the company's RCRA and CERCLA obligations premised upon the company's reliance on the void exclusion.

If made final, the proposed exclusion will apply only to the processes and waste volume (a maximum of 1,000 cubic yards generated annually) covered by the original demonstration. The facility would require a new exclusion if either its manufacturing or treatment processes are significantly altered beyond the changes in operating conditions described in Condition (4), such that an adverse change in waste composition (e.g., if levels of hazardous constituents increased significantly) or increase in waste volume occurred. Accordingly, the facility would need to file a new petition for the altered waste. The facility must treat waste generated in excess of 1,000 cubic yards per year or from changed processes as hazardous until a new exclusion is granted.

Although management of the waste covered by this petition would be relieved from subtitle C jurisdiction upon final promulgation of an exclusion, the generator of a delisted waste must either treat, store, or dispose of the waste in an on-site facility, or ensure that the waste is delivered to an off-site storage, treatment, or disposal facility, either of which is permitted, licensed, or registered by a State to manage municipal or industrial solid waste. Alternatively, the delisted waste may be delivered to a facility that beneficially uses or reuses, or legitimately recycles or reclaims the waste, or treats the waste prior to such beneficial use, reuse, recycling, or reclamation.

III. Effective Date

This rule, if finally promulgated, will become effective immediately upon such final promulgation. The Hazardous and Solid Waste Amendments of 1984 amended Section 3010 of RCRA to allow rules to become effective in less than six months when the regulated community does not need the six-month period to come into compliance. That is the case here, because this rule, if finalized, would reduce the existing requirements for persons generating hazardous wastes. In light of the unnecessary hardship and expense that would be imposed on this petitioner by an effective date six months after promulgation and the fact that a six-month deadline is not necessary to achieve the purpose of Section 3010, EPA believes that this exclusion should be effective immediately upon final promulgation. These reasons also provide a basis for making this rule effective immediately, upon final promulgation, under the Administrative Procedure Act, 5 U.S.C. 553(d).

IV. Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. The proposal to grant an exclusion is not major, since its effect, if promulgated, would be to reduce the overall costs and economic impact of EPA's hazardous waste management regulations. This reduction would be achieved by excluding waste generated

at a specific facility from EPA's lists of hazardous wastes, thereby enabling this facility to manage its waste as non-hazardous. There is no additional impact, therefore, due to today's proposed rule. This proposal is not a major regulation; therefore, no Regulatory Impact Analysis is required.

V. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601–612, whenever an agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). The Administrator or delegated representative may certify, however, that the rule will not have a significant economic impact on a substantial number of small entities.

This rule, if promulgated, will not have an adverse economic impact on small entities since its effect would be to reduce the overall costs of EPA's hazardous waste regulations and would be limited to one facility. Accordingly, I hereby certify that this proposed regulation, if promulgated, will not have a significant economic impact on a substantial number of small entities. This regulation, therefore, does not require a regulatory flexibility analysis.

VI. Paperwork Reduction Act

Information collection and record-keeping requirements associated with this proposed rule have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511, 44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2050–0053.

List of Subjects in 40 CFR Part 261

Hazardous waste, Recycling, and Reporting and recordkeeping requirements.

Authority: Sec. 3001(f) RCRA, 42 U.S.C. 6921(f).

Dated: January 14, 1993.

Jeffery D. Denit,

Deputy Director, Office of Solid Waste.

For the reasons set out in the preamble, 40 CFR part 261 is proposed to be amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, and 6938.

2. In table 2 of appendix IX, part 261 add the following wastestream in alphabetical order by facility to read as follows:

Appendix IX—Wastes Excluded Under §§ 260.20 and 260.22.

* * * * *

TABLE 2.—WASTES EXCLUDED FROM SPECIFIC SOURCES

Facility	Address	Waste description
*	*	*
Marathon Oil Co	Texas City, Texas ...	Residual solids (at a maximum annual generation rate of 1,000 cubic yards) generated from the thermal desorption treatment and, where necessary, stabilization of wastewater treatment plant API/DAF filter cake (EPA Hazardous Waste Nos. K048 and K051), after [insert effective date of final rule]. Marathon must implement a testing program that meets the following conditions for the exclusion to be valid: (1) *Testing:* Sample collection and analyses (including quality control (QC) procedures) must be performed according to SW–846 methodologies. If EPA judges the treatment process to be effective under the operating conditions used during the initial verification testing, Marathon may replace the testing required in Condition (1)(A) with the testing required in Condition (1)(B). Marathon must continue to test as specified in Condition (1)(A), including testing for organics in Condition (3)(B), until and unless notified by EPA in writing that testing in Condition (1)(A) may be replaced by Condition (1)(B), or that testing for organics may be terminated as described in (1)(C) (to the extent directed by EPA). (A) *Initial Verification Testing:* During at least the first 40 operating days of full-scale operation of the thermal desorption unit, Marathon must monitor the operating conditions and analyze 5-day composites of residual solids. 5-day composites must be composed of representative grab samples collected from every batch during each 5-day period of operation. The samples must be analyzed prior to disposal for constituents listed in Condition (3). Marathon must report the operational and analytical test data, including quality control information, obtained during this initial period no later than 90 days after the treatment of the first full-scale batch. (B) *Subsequent Verification Testing:* Following notification by EPA, Marathon may substitute the testing conditions in (1)(B) for (1)(A). Marathon must continue to monitor operating conditions, and analyze samples representative of each month of operation. The samples must be composed of representative grab samples collected during at least the first five days of operation of each month. These monthly representative samples must be analyzed for the constituents listed in Condition (3) prior to the disposal of the residual solids. (C) *Termination of Organic Testing:* Marathon must continue testing as required under Condition (1)(B) for organic constituents specified in Condition (3)(B) until the analyses submitted under Condition (1)(B) show a minimum of four consecutive monthly representative samples with levels of specific constituents significantly below the delisting levels in Condition (3)(B), and EPA notifies Marathon in writing that monthly testing for specific organic constituents may be terminated. Following termination of monthly testing, Marathon must continue to test a representative 5-day composite sample for all constituents listed in Condition (3)(B) on an annual basis. If delisting levels for any constituents listed in Condition (3)(B) are exceeded in the annual sample, Marathon must reinstitute complete testing as required in Condition (1)(B). (2) *Waste Holding and Handling:* Marathon must store as hazardous all residual solids generated until verification testing (as specified in Condition (1)(A) and (1)(B)) is completed and valid analysis demonstrates that Condition (3) is satisfied. If the levels of hazardous constituents in the samples of residual solids are below all of the levels set forth in Condition (3), then the residual solids are non-hazardous and may be managed and disposed of in accordance with all applicable solid waste regulations. If hazardous constituent levels in any 5-day composite or other representative sample equal or exceed any of the delisting levels set in Condition (3), the residual solids generated during the corresponding time period must be retreated and/or stabilized as allowed below, until the residual solids meet these levels, or managed and disposed of in accordance with Subtitle C of RCRA. If the residual solids contain leachable inorganic concentrations at or above the delisting levels set forth in Condition (3)(A), then Marathon may stabilize the material with Type I portland cement as demonstrated in the petition to immobilize the metals. Following stabilization, Marathon must repeat analyses in Condition (3)(A) prior to disposal. (3) *Delisting Levels:* All leachable concentrations must be measured in the waste leachate by the method specified in 40 CFR 261.24, and must be less than the following levels (ppm):

TABLE 2.—WASTES EXCLUDED FROM SPECIFIC SOURCES—Continued

Facility	Address	Waste description
		(A) *Inorganic Constituents:* antimony—0.6; arsenic, chromium, or silver—5.0; barium—100.0; beryllium—0.4; cadmium—0.5; lead—1.5; mercury—0.2; nickel—10.0; selenium—1.0; vanadium—20.0. (B) *Organic Constituents:* acenaphthene—200, benzene—0.5, benzo (a) anthracene—0.01, benzo (a) pyrene—0.02, benzo (b) fluoranthene—0.02, chrysene—0.02, ethyl benzene—70, fluoranthene—100, fluorene—100, naphthalene—100, pyrene—100, toluene—100. (4) *Changes in Operating Conditions:* After completing the initial verification test period in Condition (1)(A), if Marathon significantly changes the operating conditions established under Condition (1), Marathon must notify the Agency in writing. After written approval by EPA, Marathon must re-institute the testing required in Condition (1)(A) for a minimum of four 5-day operating periods. Marathon must report the operations and test data, required by Condition (1)(A), including quality control data, obtained during this period no later than 60 days after the changes take place. Following written notification by EPA, Marathon may replace testing Condition (1)(A) with (1)(B). Marathon must fulfill all other requirements in Condition (1), as appropriate. (5) *Data Submittals:* At least two weeks prior to system start-up, Marathon must notify in writing the Section Chief, Delisting Section (see address below) when the thermal desorption and stabilization units will be on-line and waste treatment will begin. The data obtained through Condition (1)(A) must be submitted to the Section Chief, Delisting Section, OSW (OS–333), U.S. EPA, 401 M Street, SW, Washington, DC 20460 within the time period specified. Records of operating conditions and analytical data from Condition (1) must be compiled, summarized, and maintained on site for a minimum of five years. These records and data must be furnished upon request by EPA or the State of Texas and made available for inspection. Failure to submit the required data within the specified time period or maintain the required records on site for the specified time will be considered by EPA, at its discretion, sufficient basis to revoke the exclusion to the extent directed by EPA. All data must be accompanied by a signed copy of the following certification statement to attest to the truth and accuracy of the data submitted: "Under civil and criminal penalty of law for the making or submission of false or fraudulent statements or representations (pursuant to the applicable provisions of the Federal Code, which include, but may not be limited to, 18 U.S.C. 1001 and 42 U.S.C. 6928), I certify that the information contained in or accompanying this document is true, accurate and complete. As to the (those) identified section(s) of this document for which I cannot personally verify its (their) truth and accuracy, I certify as the company official having supervisory responsibility for the persons who, acting under my direct instructions, made the verification that this information is true, accurate and complete. In the event that any of this information is determined by EPA in its sole discretion to be false, inaccurate or incomplete, and upon conveyance of this fact to the company, I recognize and agree that this exclusion of waste will be void as if it never had effect or to the extent directed by EPA and that the company will be liable for any actions taken in contravention of the company's RCRA and CERCLA obligations premised upon the company's reliance on the void exclusion."
*	*	* * * * * *

[FR Doc. 93–2535 Filed 2–2–93; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Chapter I

MSS Above 1 GHz Negotiated Rulemaking Committee

AGENCY: Federal Communications Commission.

ACTION: Notice of public meetings.

SUMMARY: In accordance with the Federal Advisory Committee Act, as amended, this notice advises interested persons of the fifth and sixth meetings of the MSS Above 1 GHz Negotiated Rulemaking Committee ("Committee").

DATES: *Meeting No. 5:* Thursday, February 18, 1993 at 9:30 a.m. *Meeting No. 4:* Wednesday, February 25, 1993 at 9:30 a.m.

ADDRESSES: Both meetings will be held at the Federal Communications Commission, rm. 856, 1919 M Street, NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Kathleen Campbell, Administrative Assistant to the Committee, at (202) 634–1952.

SUPPLEMENTARY INFORMATION: The agenda for both meetings of the MSS Above 1 GHz Negotiated Rulemaking Committee is as follows:

1. Opening Remarks/Comments
2. Adoption of Agenda
3. Minutes/Records of Previous Meeting
4. Introduction of Documents
5. Informal Working Group Reports —Issues
6. Acceptance/Approval of Recommended Rules
7. Acceptance/Approval of Report Text
8. Agenda for future meetings —Schedule for future meetings
9. Other Business

Members of the general public may attend this meeting. The Federal Communications Commission will attempt to accommodate as many people as possible. However, admittance will be limited to the seating available. There will be no public oral participation, but the public may submit written comments to Fern J. Jarmulnek, the Committee's Designated Federal Officer, before the meeting.

Subsequent Committee meetings are currently scheduled for Thursday, March 4; Tuesday, March 9; Thursday, March 18; Thursday, March 25; and Friday, April 2. All subsequent Committee meetings noted in this paragraph are scheduled to begin at 9:30 a.m. at the Federal Communications Commission, 1919 M Street, NW., room 856, Washington, DC 20554.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 93–2510 Filed 2–2–93; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Parts 392 and 395

[FHWA Docket No. MC–92–30]

RIN 2125–AD04

Hours of Service of Drivers; On-Duty Time

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Proposed rule; withdrawal.

SUMMARY: The FHWA is withdrawing its notice of proposed rulemaking (NPRM) addressing hours of service regulations for commercial motor vehicle (CMV) drivers. The NPRM would have permitted the on-duty time limitation of 60-hours in 7 consecutive days or 70-hours in 8 consecutive days to begin

anew after the driver had an off-duty "recovery period" of 24 consecutive hours or more.

FOR FURTHER INFORMATION CONTACT: Mr. James E. Scapellato, Office of Motor Carrier Standards, (202) 366–2981, or Mrs. Allison Smith, Office of the Chief Counsel, (202) 366–0834, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except legal Federal holidays.

SUPPLEMENTARY INFORMATION: On August 19, 1992, the FHWA published an NPRM which would have permitted the 60 or 70 hour time limitation to begin anew after the driver had an off-duty recovery period of 24 consecutive hours or more (57 FR 37504). The comment period, originally set to close on October 5, 1992, was extended until November 4, 1992, based upon a petition from the Commercial Vehicle Safety Alliance (57 FR 44158).

The FHWA received 67,922 comments and signatures on petitions in response to the NPRM. Because of the potential impact of the proposal on motor carriers operations, the FHWA specifically asked 11 questions soliciting views and opinions on such issues as the sufficiency of the 24 hour recovery period, alternative on-duty/off-duty schedules, and the relationship of the off-duty period to over-the-road driving exposure. The overwhelming majority of commenters who were in favor of the proposal did not offer substantive, quantitative justification to support their position. Many motor carrier and motor carrier industry association commenters relied upon improvements in commercial motor vehicles and highway design since 1937, the year in which hours of service regulations were first promulgated by the Interstate Commerce Commission, as their rationale for supporting the proposal. Others mentioned improved productivity and better utilization of equipment, ability to meet the demands of shippers and customers, and reduced falsification of drivers' records of duty status.

Virtually none of the commenters in favor of the proposal provided substantive responses to the critical, fundamental questions posed in the NPRM, offering instead opinions unsupported by empirical or anecdotal material. Except in the most general terms, there were no discussions of potential impacts on highway safety which could result from increasing the available on-duty hours in an 8 day period from 70 to 115, and, in a 31-day period, from 280 to as much as 420 hours. This would mean available driving time of up to 100 hours in 8 days, 170 hours in 14 days, and 370 hours in one month. (These illustrations are worst-case scenarios.)

Many of the comments received were identical form letters. It appeared that several motor carriers and industry associations mounted letter-writing campaigns to encourage drivers and others to comment in favor of the proposal.

Comments against the proposal fell into several categories. Many opposing commenters also elected to submit identical form letters, noting that carbon copies were being provided to an advocacy group, Citizens for Reliable and Safe Highways (CRASH). The International Brotherhood of Teamsters submitted approximately 30,000 signatures on petitions as an attachment to its extensive comments on the proposal. Several other organizations, including the Insurance Institute for Highway Safety, Advocates for Highway and Auto Safety, Teamsters for a Democratic Union, and the Sleep Disorders Center of the Scripps Clinic and Research Foundation, also provided extensive comments citing research on driver fatigue and loss of alertness, shiftworker issues, and highway accident statistics in support of their position against the proposal. The Commercial Vehicle Safety Alliance (CVSA), as well as a number of State and local law enforcement and highway agencies, expressed concern that the potential increase in driving and on-duty hours could cause an increase in the incidence of driver fatigue. The CVSA also expressed the belief that many of the questions asked in the NPRM would need to be addressed by research.

In full consideration of all docket comments and available data and information, the FHWA has decided to withdraw the proposal and close Docket MC–92–30. Because of the lack of substantive information concerning sufficiency of the 24 hour recovery period, alternative on-duty/off-duty schedules, and the relationship of the off-duty period to over-the-road driving exposure that specifically addressed the NPRM questions, we do not, at this time, have sufficient information to make an informed decision on this issue. For example:

1. Is 24 hours sufficient time for a driver to obtain the rest necessary to resume driving [safely]?

2. What safeguards exist to ensure motor carriers will abide by the provision which allows a driver to refuse to drive after reaching the current limits of on-duty time without any retribution by the motor carrier?

3. Are there sufficient precautions and data to suggest that a driver may drive safely for up to 100 hours in 8 days, 170 in 14 days, and 370 hours in a month as would be allowed under the proposal?

These questions still remain unanswered despite nearly 68,000 comments and signatures on petitions submitted to the docket. The FHWA is well aware that the rationale for the establishment of maximum hours of service regulations is to promote safe operations and to provide drivers with a means of protecting themselves against unreasonable demands of employers. Drivers may refuse to operate a commercial motor vehicle when such operation would be a violation of a Federal regulation and employers are prohibited from penalizing such drivers in any manner on account of such refusal. 49 U.S.C. 2305(b). Moreover, many motor carriers have implemented good safety practices which are grounded on the reasonable limitations set forth in the hours of service regulations. Whether removing the regulatory restrictions would erode the foundations for safe and sound business practices is an issue on which comments were particularly sought. This information was simply not provided by those commenters responding to the docket.

The FHWA is currently sponsoring several studies of CMV driver fatigue and loss of alertness to provide a technically sound basis for evaluating existing hours of service requirements and to develop countermeasures for reducing fatigue and increasing driver alertness. Two ongoing studies are the "Driver Fatigue and Alertness Study," Conducted by Essex Corporation and the Trucking Research Institute, and "Literature Review and Critique of Past Research on Rest and Recovery Cycles of Commercial Motor Vehicle Drivers," conducted by Work Systems Research. In addition, the FHWA has been directed to perform additional studies to respond to congressional directives to undertake research on the cause of, and potential countermeasures to, the problem of driver fatigue under the Department of Transportation and Related Agencies Appropriations Act, 1992. See Pub. L. 102–143, 105 Stat. 917 (1991).

The FHWA will be initiating additional research in areas such as fitness for duty, sleep disorders, physiological assessments of driver alertness, driving-oriented performance evaluations, effects of circadian rhythm on alertness, and other related technical

areas in order to develop a scientifically sound, quantitative basis for potential amendments and refinements to the hours of service regulations. Moreover, the FHWA is currently conducting its "zero-base" regulatory review hearings to obtain additional information and benefit from the experience of the motor carrier industry in its efforts to reevaluate the Federal Motor Carrier Safety Regulations. Accordingly, the FHWA intends to incorporate the issues raised here in the formulation of future research questions, as well as in the ongoing zero-base review process.

Rulemaking Analyses and Notices

Executive Order 12291 (Federal Regulation) and DOT Regulatory Policies and Procedures

The action being withdrawn by the FHWA in this document would have amended the driver's hours of service requirements for CMV drivers subject to the FMCSRs. The FHWA has determined that this document does not contain a major rule under Executive Order 12291. However, it is considered a significant regulation under the regulatory policies and procedures of the DOT. The potential economic impact of the proposed rulemaking is zero because the proposal is not being promulgated. Comments were specifically requested on the costs and benefits associated with this proposed change, but insufficient substantive information was received from commenters to the docket. Therefore, a full regulatory evaluation will not be prepared.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601–612), the agency evaluated the effects of this proposal on small entities. This proposal, if adopted, would have increased the number of on-duty hours permitted in 7 and 8 consecutive days to permit the cumulative hours total to be reset after the driver had been off-duty for a period of time of at least 24 consecutive hours. The FHWA believes that the cost of this change would have been minimal. Therefore, under the criteria of the Regulatory Flexibility Act, the FHWA certifies that this withdrawal of a proposed action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12612 (Federalism Assessment)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the withdrawal of the proposed rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Nothing in this document preempts any State law or regulation. The proposed rule, if adopted, would not have limited the policymaking discretion of the States. States would not have been required as part of the Motor Carrier Safety Assistance Program to adopt the proposed rule for intrastate safety regulations, but they would have had to adopt this amendment for interstate operations. This action withdrawing the proposed revision of the hours of service regulations retains the status quo, and thus, raises no additional federalism issues.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.

Paperwork Reduction Act

This proposed rule did not contain a collection of information requirement for purposes of the Paperwork Reduction Act of 1980. 44 U.S.C. 3501–3520.

National Environmental Policy Act

The agency has analyzed this action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and has determined that this action, if implemented, would not have any effect on the quality of the environment.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 49 CFR Parts 392 and 395

Driver's record of duty status, Highway Safety, Highways and Roads, Hours of service of drivers, Motor carriers, Reporting and recordkeeping requirements.

Authority: 49 U.S.C. app. 2505; 49 U.S.C. 3102; 23 U.S.C. 315; 49 CFR 1.48.

Issued on: January 19, 1993.

T.D. Larson,

Administrator.

[FR Doc. 93–1663 Filed 2–2–93; 8:45 am]

BILLING CODE 4910–22–M

National Highway Traffic Safety Administration

49 CFR Part 531

[Docket No. FE–88–01; Notice 6]

RIN 2127–AE51

Passenger Automobile Average Fuel Economy Standard Model Year 1990

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT

ACTION: Termination of rulemaking.

SUMMARY: In a notice published in the **Federal Register** (57 FR 48777) on October 28, 1992, NHTSA announced that, in response to an order of the U.S. Court of Appeals for the District of Columbia Circuit, the agency was reopening the rulemaking proceeding it commenced in 1988 to consider whether to reduce the corporate average fuel economy (CAFE) standard specified by statute for model year (MY) 1990 passenger cars. The agency had terminated the proceeding in May 1989 and allowed the statutory standard of 27.5 mpg to remain in effect. In doing so, NHTSA concluded, among other things, that retaining the statutory standard, instead of reducing it to as low as 26.5 mpg, as was proposed, would not have any adverse safety consequences. On judicial review, the court ruled that NHTSA had not adequately analyzed the safety issue and remanded the matter to the agency for further explanation. In the October 1992 reopening notice, the agency requested comments from interested persons, to aid it in reaching a new decision with respect to the MY 1990 standard. After considering the court decision and the public comments, NHTSA has again decided not to amend the statutory standard and to terminate that rulemaking proceeding.

FOR FURTHER INFORMATION CONTACT: Mr. Orron Kee, Office of Market Incentives, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590. (202) 366–0846.

SUPPLEMENTARY INFORMATION:

Statutory Provisions

In December 1975, Congress enacted the Energy Policy and Conservation Act in response to the energy crisis created by the oil embargo of 1973–74, the

overall level of oil imports, and the level of oil imports from OPEC sources. Congress included a provision establishing an automotive fuel economy regulatory program. That provision added a new title, Title V, to the Motor Vehicle Information and Cost Savings Act (Act).

Section 502(a)(1) of the Act, 15 U.S.C. 2002(a)(1), established the corporate average fuel economy (CAFE) standard for passenger automobiles for model year (MY) 1985 and each model year thereafter at 27.5 miles per gallon (mpg). This long-term statutory standard represented an approximate doubling of the average fuel economy that existed in MY 1974.

While a separate fuel economy standard applies to manufacturers for each model year, the Act provides flexibility regarding the timing of compliance. The Act does not require that the level of fuel economy required for a particular model year be achieved during that model year. Instead, under certain circumstances, it allows a shortfall in fuel economy for one year (or years) to be offset if a manufacturer earns credits for exceeding the standard in another year (or years) by a like amount. The credits may be carried back for three model years or carried forward for three model years.

Manufacturers are required to meet passenger car CAFE standards separately for their domestic and import fleets. The division into separate fleets based on whether a car has at least 75 percent domestic content creates the possibility that a domestic manufacturer could reduce the domestic content of a car with relatively low fuel-efficiency to a level below 75 percent. This reduction has the effect of moving the car from the domestic fleet to the import fleet, where it is averaged together with imported cars (many of which are small) for CAFE purposes. This practice is referred to as "outsourcing."

Section 502(a)(4) of the Act provides that NHTSA may amend the 27.5 mpg statutory standard for a particular model year by raising or lowering to the level it determines to be the "maximum feasible average fuel economy level for such model year." In determining the "maximum feasible average fuel economy level," the agency is required by section 502(e) of the Act to consider the following four factors: (1) Technological feasibility; (2) economic practicability; (3) the effect of other Federal motor vehicle standards on fuel economy; and (4) the need of the nation to conserve energy.

Section 502(f)(2) of the Act requires that any amendment which has the effect of making a standard for a particular model year more stringent must be issued at least 18 months before the beginning of that model year. Therefore, NHTSA clearly does not have the authority to raise the MY 1990 standard at this time.

As a general matter, NHTSA may not reduce a CAFE standard after the beginning of the model year to which it applies. See *GMC* v. *NHTSA*, 898 F.2d 165 (D.C. Cir. 1990). However, in the court decision requiring NHTSA to reconsider its termination of a rulemaking proceeding addressing whether the MY 1990 CAFE standard should be reduced, *Competitive Enterprise Institute* v. *NHTSA*, 956 F.2d 321, 323 (D.C. Cir. 1992), the court held that nothing in *GMC* v. *NHTSA* undermined its power to order retroactive reconsideration of a standard.

The issue the agency must decide in this proceeding is whether it should retain the 27.5 mpg statutory standard for MY 1990 or amend the standard. In the latter case, the agency would make a determination of the "maximum feasible average fuel economy level" for MY 1990 and, if that level is below 27.5 mpg, reduce the standard to that level.

MY 1989–90 Proceeding

In response to five petitions for rulemaking to reduce the MY 1989–1990 CAFE standards, NHTSA published in the **Federal Register** (53 FR 33080; August 29, 1988) a notice of proposed rulemaking (NPRM) seeking public comment on whether the agency should reduce the passenger car CAFE standards for MY 1989 or MY 1990, or both, to a level not lower than 26.5 mpg. Shortly thereafter, NHTSA published a final rule reducing the MY 1989 standard from 27.5 mpg to 26.5 mpg (53 FR 39275; October 6, 1988).

Subsequently, NHTSA decided not to amend the statutory standard for MY 1990. On May 22, 1989, several months before the beginning of MY 1990, the agency published in the **Federal Register** (54 FR 21985) a notice terminating the rulemaking proceeding for that model year. That decision was based upon the increasing need of the nation to conserve energy and the agency's conclusion that retaining the 27.5 mpg standard for MY 1990 would not have a significant adverse effect on U.S. employment or on the competitiveness of the U.S. auto industry due, in part, to the availability of credits from past years.

The agency also discussed the issue of whether its retention of the statutory standard would have any effect on motor vehicle safety. One of the petitioners requesting a reduction in the 27.5 mpg standard, the Competitive Enterprise Institute (CEI), argued that retaining the standard would adversely affect safety. CEI asked the agency to conclude that CAFE standards result in vehicle "downsizing" (reductions in size and weight), and that downsizing, in turn, degrades safety. CEI advocated a CAFE standard of 24.0 mpg, which it contended would be the CAFE level of the fleet in the absence of CAFE standards. Several other commenters also addressed the safety issue. See 54 FR 21991–92. In responding to these comments, NHTSA presented an analysis of the safety issue, and concluded that there would not be any adverse safety consequences associated with its decision to retain the 27.5 mpg standard for MY 1990. See 54 FR 21992–94.

Court Decision

NHTSA's termination of the MY 1990 rulemaking proceeding was challenged by CEI in the U.S. Court of Appeals for the District of Columbia Circuit. That organization claimed that the agency had not adequately considered the impact of its action on safety and disputed NHTSA's conclusion that retaining the 27.5 mpg standard for MY 1990 would not create adverse safety consequences.

On judicial review, a 2–1 majority of the D.C. Circuit ruled that NHTSA had not adequately analyzed CEI's contention that the 27.5 mpg standard would force car makers to produce smaller, less safe cars, thus making it more difficult and expensive for consumers to buy larger, safer cars. The court remanded the matter to the agency for further explanation. *CEI* v. *NHTSA*, 956 F.2d 321 (D.C. Cir. 1992).

Notice of Reopening; Request for Comments

As a result of the court's order, NHTSA reopened the MY 1990 proceeding. The agency announced this reopening in a notice published in the **Federal Register** (57 FR 48777) on October 28, 1992. The notice requested comments from interested persons to aid NHTSA in reaching a new decision with respect to the MY 1990 standard.

In the reopening notice, NHTSA noted that many events related to fuel economy have occurred since the May 1989 decision terminating the MY 1990 rulemaking. Manufacturers have completed their production of MY 1990–92 vehicles, and are well into their MY 1993 production. The agency has also performed additional analyses of the effect of car size on fatality and injury risk. In a recent paper on this subject based on studies completed as of

April 1991, NHTSA estimated that the 1,000 pound reduction in average curb weight (and/or the associated reduction in size) that occurred between 1970 and 1982 results in nearly 2,000 more deaths and 20,000 more serious injuries per year, than would have occurred had the weight reduction not taken place. See Docket FE–GR, item 39. This paper did not address what role, if any, the CAFE program played in causing this weight reduction.

NHTSA also noted that overall traffic safety improved throughout the 1970's and 1980's, despite the reduction in average car size and weight. The fatality rate per 100 million vehicle miles traveled declined from 4.7 in 1970 to 3.3 in 1980, and fell to 1.9 in 1991 and 1.8 in 1992. The improvement in safety reflects many factors, including but not limited to: Safety improvements to motor vehicles, increased safety belt usage, alcohol enforcement efforts and age-21 drinking laws, and enforcement of speed laws. These other factors have thus more than offset the adverse safety effect of reduced vehicle weight/size, and motor vehicle travel in the United States is safer than ever. However, assuming that these other factors had occurred and vehicle weight/size had not been reduced, motor vehicle travel would be safer still.

Also, another post-termination event was that, in light of widespread interest in automotive fuel economy, NHTSA and the Federal Highway Administration (FHWA) requested the National Research Council (NRC) to undertake a study of the potential and prospects for improving the fuel economy of new light-duty vehicles. A copy of NRC's report, which was released in April 1992, was placed in the docket for the reopening notice. As requested by NHTSA and FHWA, the report includes a chapter on the safety implications of measures to improve fuel economy.

In its October 1992 notice, NHTSA requested commenters to address all pertinent issues related to the agency's decision concerning the MY 1990 standard. The notice set forth a number of specific questions asking what specific actions, if any, manufacturers would actually take depending on whether the MY 1990 CAFE standard were reduced (e.g., changes in product offerings or pricing for MY 1993 or subsequent model years), and what actual safety impacts, if any, would result if the agency were now to reduce the standard. NHTSA also requested comments concerning the role safety should play in agency decisions under the Act.

Public Comments

The agency received comments from General Motors (GM), Ford, Chrysler, Volvo, the Insurance Institute for Highway Safety (IIHS), the Council of Economic Advisers (CEA), and various organizations concerned about the continuing availability of full-size vehicles, including, among others, the Coalition for Vehicle Choice (CVC), CEI, and Consumer Alert.

GM stated that NHTSA should have lowered the MY 1990 CAFE standard during the initial rulemaking proceeding and still could take that step. It stated, however, that at this late date, the MY 1990 standard bears on safety only through the operation of the CAFE credit system. That company asserted that relaxing the MY 1990 standard at this time could in some cases generate credits giving manufacturers more flexibility to offer larger, safer cars in later model years. GM did not, however, provide any basis or explanation for this assertion. In particular, it did not provide any analysis concerning which manufacturers would benefit from such flexibility, the level to which the MY 1990 standard would need to be reduced in order to provide the flexibility, the statutory and factual basis for reducing the standard to such a level, or the specific vehicles and model years which would be affected by flexibility attributable to a reduction in the MY 1990 standard. The agency observes that it specifically reported this type of information in the reopening notice. See Question 2 in that notice.

GM stated that given the limited benefits of retroactively lowering the standard at this point, NHTSA should focus on the future rather than the past and, in particular, seize this opportunity to address the adverse safety impact of CAFE standards and establish a framework for proper consideration of safety in future proceedings.

Ford commented that it did not request and is not requesting a reduction to the MY 1990 standard. That company stated that it believes that NHTSA should develop a procedure that would require that safety be taken into consideration when reviewing or revising CAFE standards for any given model year. Ford stated that this procedure should assure that the consideration of safety would be handled consistently and thoroughly in any future rulemaking.

Chrysler stated that it does not support reducing the MY 1990 fuel economy standard. Chrysler stated that any reduction in this standard could entitle manufacturers which paid CAFE penalties during that period to a refund. However, the action would have no effect on energy conservation, which is the underlying purpose of the Act.

CVC stated that although the court's remand addressed the MY 1990 CAFE standard for passenger cars, it believes that the more important issue is how NHTSA will address safety in future rulemaking proceedings, both for passenger cars and light trucks. CVC stated that it strongly recommends that NHTSA respond to the court's remand by formally incorporating a methodology for considering safety concerns in the context of all future CAFE rulemaking proceedings.

IIHS commented that, given that a lower CAFE standard may be used either to sell more large cars or to raise horsepower, the effects on safety of lowering the 27.5 mpg standard cannot be predicted with certainty. That organization stated that if manufacturers used the increased flexibility resulting from lower CAFE standards to sell proportionately more large cars, there would be an overall increase in the safety of the new car fleet. It also stated, however, that if manufacturers instead chose to increase the average horsepower of new cars, with resultant faster travel speeds, there would be an overall decrease in the safety of motor vehicle travel. IIHS stated that it believes the effect on safety of a lower CAFE standard is likely to be nil, and would be negative if there were significant increases in horsepower. It believes further that, as a result, there is no compelling safety argument for reducing the CAFE requirement for MY 1990 (or other model year) cars.

CEI stated that NHTSA should formally interpret the CAFE statute to require the consideration of safety issues in setting fuel economy standards, and issue a detailed risk assessment procedure to estimate the safety impact of CAFE standards and to employ this procedure to assess the safety impacts of the MY 1990 passenger car CAFE standard. That organization stated that the assessment should essentially take the form of estimating the additional deaths and injuries associated with a CAFE standard at specified levels above the estimated new-car fuel economy level that would occur in the absence of any constraining CAFE standard. CEI argued that, using an earlier Crandall-Graham analysis and applying it to MY 1990, there would have been no additional deaths with a standard at 24.5 mpg, 1,100 to 2,000 additional deaths at 26.0 mpg, and 2,200 to 3,900 additional deaths at 27.5 mpg. CEI also stated that a reduction of the MY 1990 standard would dramatically

demonstrate NHTSA's commitment to ensuring that safety will "no longer be ignored in the CAFE process."

Consumer Alert commented that NHTSA should issue without delay a clear "binding policy statement" announcing its intent to give careful consideration to safety issues, and to accord them great weight in any overall determinations, in every future CAFE rulemaking proceeding. That organization stated that such a statement would help NHTSA to respond to the recent court directive, to establish an orderly framework for future deliberations, and to resist pressures from those who would argue for higher CAFE levels. Consumer Alert stated that it believes that the establishment of a prospective NHTSA policy for all future CAFE determinations is more important than the agency's actions regarding the MY 1990 standard. That organization also requested that NHTSA formally publish both an interpretation of the statute as requiring consideration of safety issues, and a formal assessment of the safety impacts of the MY 1990 standard.

Robert Crandall, of the Brookings Institution, stated that the vehicle companies will obviously be unable to adjust their MY 1990 fleet mix in response to the outcome of this proceeding, and that any credits from a potentially reduced MY 1990 standard would not likely be of much use by the time any revised MY 1990 standard is announced. That commenter stated that the outcome of the reconsideration of the MY 1990 CAFE standard is important for its value as regulatory precedent and the signal that it sends the vehicle companies as they struggle with vehicle-design decisions for MY 1996 or 1997 and beyond. Based on earlier analyses by Crandall and Graham, which assume that manufacturers choose vehicle weights based on expected gasoline prices and expected steel prices four years prior to the sale of the car (and hence that any weight changes over time that cannot be explained by those factors must be attributable to CAFE standards), Crandall estimated that cars were 20 percent lighter in MY 1990 than they would have been without CAFE, and that CAFE caused an increase of at least 4,000 fatalities in MY 1990 cars over the period 1990–2010. Crandall stated that using this type of analysis, NHTSA could calculate the number of highway deaths likely to be caused under alternative CAFE standards.

John Graham, of the Harvard Center for Risk Analysis, recommended that NHTSA develop a rule-of-thumb relationship about fuel economy standards and occupant fatalities that accounts for changes in fleet size and mass. That commenter also suggested that the agency commission a study of the relative safety effects of tighter CAFE standards and higher gasoline taxes.

CEA recommended that in this rulemaking, and in all future CAFE rulemaking proceedings, NHTSA include a summary of the safety consequences of the alternatives under consideration. CEA stated that, using Crandall and Graham's estimates, and assuming a linear relationship between CAFE levels and rates of deaths and injuries, the safety consequences of several CAFE levels can be computed.

All commenters urged that the agency consider safety in CAFE proceedings, and suggested a number of different ways in which they believed safety might be considered within the framework of the CAFE statute. CEI commented that in an earlier *CEI* v *NHTSA* decision, decided in 1990, the Court of Appeals noted that, despite NHTSA's established practice of considering safety issues in CAFE proceedings, the "precise statutory basis" for doing so has not been "clearly identified." CEI stated that the agency should formally resolve any ambiguity regarding this question through issuing a formal interpretation of the CAFE statute. Various commenters believed that safety could be made a part of the "maximum feasible" determination by considering safety either:

- As part of the "economic practicability" criterion (section 502(e)(2)), based on the argument that safety impacts are among the "costs" associated with CAFE standards;
- As part of the "technological feasibility" criterion (section 502(e)(1)), based on the argument that technologies (such as downsizing) that improve fuel efficiency but lead to decreased safety are not "feasible;" or
- As part of the "need of the Nation to conserve energy" criterion (section 502(e)(4)), based on the argument that that need must be weighed against other consequences, such as increased highway casualties.

New Decision to Terminate MY 1990 Proceeding

During the second half of the 1980's NHTSA conducted several rulemaking proceedings considering whether to reduce the statutory 27.5 mpg passenger car standard for MYs 1986–90. In each proceeding, commenters voiced their concern that CAFE standards can adversely affect safety to the extent that the standards result in reductions in car size and/or weight.

As the Federal agency primarily responsible for motor vehicle safety, NHTSA has special reason to be concerned about the relationship between CAFE standards, vehicle weight and size, and safety. Because of its concern, the agency has confronted the weight/size/safety issue forthrightly and publicly. For example, it has conducted a number of evaluations of the issue. These evaluations led NHTSA to the conclusion, cited above, that the 1000 pound reduction in average car curb weight (and/or the associated reduction in size) that occurred between 1970 and 1982 results in nearly 2,000 additional fatalities and 20,000 additional serious injuries per year. NHTSA strongly communicated its safety concerns to the Congress in connection with its consideration in recent years of bills regarding significantly higher CAFE standards. Further, the agency has emphasized on a number of occasions the importance that safety would have if NHTSA were in the future to consider whether to exercise its discretion to raise the 27.5 mpg standard. See 51 FR 35613, October 6, 1986 (MY 1987–88 proceeding); 53 FR 39294, October 6, 1988 (MY 1989 proceeding); 54 FR 21994, May 22, 1989 (MY 1990 proceeding).

At the same time, throughout the car CAFE rulemaking proceedings of the late 1980's, NHTSA consistently assessed safety and concluded that a CAFE standard at the levels established for the model years at issue or even at the statutory 27.5 mpg level would not have any significant effect on safety. The agency took this position because it believes that the market, and not the CAFE program, has been primarily responsible for the size/weight reductions that have occurred since the initiation of the CAFE program in 1975, and because of the availability of technological means that can be used by the manufacturers to continue to improve their fuel economy without downsizing.

In the final rule for the MY 1987–88 proceeding, NHTSA stated the following:

> * * * [W]hile manufacturers have used and are generally planning to continue to use weight reduction as a means of improving fuel efficiency, NHTSA believes that this weight reduction is largely related to consumer demand. CEI itself stated that in the absence of CAFE standards, "the general downsizing of the American passenger car fleet * * * accompanied by improved energy efficiency * * * for cars in all size categories would have occurred in any case." While it is true that consumers place less emphasis on fuel economy and more emphasis on such things as size and performance when gasoline prices are low, fuel efficiency

remains an important factor in consumers' purchasing decisions. For example, GM commented that a recent market research program shows that even though stabilization of fuel prices had caused new car intenders to shift their preferences toward more acceleration performance, their preference toward expected fuel economy increases had also risen. Thus, even if there were no CAFE standards, there is no reason to assume that consumers would return to larger and heavier cars. 51 FR 35613, October 6, 1986.

NHTSA specifically referenced this discussion in the MY 1990 termination notice. See 54 FR 21992–93, May 22, 1989. In that notice, the agency also noted that most downsizing occurred in the late 1970's and early 1980's, when manufacturers were exceeding the applicable CAFE standards; that the average vehicle weight of the new car fleet has not changed appreciably since the early 1980's, although the average fuel economy has steadily improved; and that GM and Ford have been increasing both their CAFE values and fleet average weights. See 54 FR 21993. NHTSA also stated that, because of credits earned before MY 1990 by GM and Ford, a 27.5 mpg standard for MY 1990 was not likely to have a constraining effect. See 54 FR 21991, 21993.

As indicated above, on judicial review, a 2–1 majority of the D.C. Circuit ruled that NHTSA had not adequately responded to CEI's contention that the 27.5 mpg standard would force car makers to produce smaller, less safe cars, thus making it more difficult and expensive for consumers to buy larger, safer cars. The court stated that the agency had not adequately explained why one of the following propositions is false: (1) adopting a 27.5 mpg standard (as opposed to a lower standard) will have some constraining effect on car makers, if not in MY 1990 then in subsequent years; (2) car makers will, as one consequence of the standard, decrease the average size of their cars below what it would have been absent the standard; (3) this decrease will make it more difficult for consumers to drive large cars; and (4) all other things being equal, a large car is safer than a small car. The court concluded that the agency did not provide such an explanation. 956 F.2d 324.

With respect to the issue of whether the 27.5 mpg standard for MY 1990 was constraining, the court stated that NHTSA agreed during oral argument that the standard affects car makers; behavior, if not in MY 1990, then in subsequent years. At the same time, the court also stated that the agency stated during oral argument that even if the 27.5 mpg standard constrained the behavior of car makers, it would not lead to smaller cars. It concluded, however, that the agency had not justified this claim.

The court stated that the agency had come the closest to supporting this position when it determined that GM and Ford "should be able" to improve their fuel economy in the future by specified technological means, without outsourcing their larger cars, without further downsizing or mix shifts toward smaller cars, and without sacrificing acceleration or performance. (NHTSA notes that neither outsourcing nor reducing acceleration or performance would have any adverse safety consequences, although such actions could result in adverse economic consequences for manufacturers and/or their employees.) The court concluded, however, that the agency had not found that the manufacturers would meet the standard without downsizing, or analyzed whether the cost associated with other technological improvements would translate into higher prices for large cars.

The court also found that the agency's examination of weight and mileage improvements over time missed the point, and that the appropriate comparison NHTSA must address is between the world with more stringent CAFE standards and the world with less stringent CAFE standards. It stated that the fact that weight has remained constant over time despite mileage improvements shows the effect of technological improvements but does not undermine the "natural inference" that weight is lower than it would be absent CAFE regulation. The court stated that NHTSA had observed in its termination notice that, in the court's words, "economic recovery and declining gasoline prices sharply raised consumer demand for large cars over the relevant period." The court believed that, absent regulation, this would have produced substantially bigger cars and not ones that remained at essentially the same weight. 956 F.2d 325. The court also stated that the agency had not given any reason to believe that the technological improvements made during the 1980's did not raise costs, thereby pricing consumers out of the market for new large cars.

After carefully reviewing the court's decision and the entire record, NHTSA does not see any valid factual or analytical basis warranting a change in its longstanding position that, as of the late 1980's and early 1990's, a 27.5 mpg passenger car CAFE standard does not have a significant impact on safety. At that level, the standard does not significantly affect vehicle weight or size. The agency has further concluded that a reduction in the MY 1990 standard now would not have any effect on vehicle size/weight or safety. In response to the court's order for further explanation of the safety issue, the agency is setting forth its reasons for these conclusions, with a particular focus on MY 1990, and the model years immediately thereafter.

In evaluating this issue, NHTSA begins with the fact that the major domestic manufacturers had, by the late 1980's, already approached, and in some years exceeded, the statutory 27.5 mpg level. For example, GM achieved a CAFE of 27.6 mpg in MY 1988 and 27.3 mpg in MY 1989; Ford achieved a CAFE of 27.0 mpg by MY 1986; and Chrysler had a CAFE of 27.5 mpg in MY 1987 and 28.5 mpg in MY 1988. These manufacturers' CAFE levels fluctuated up and down in the late 1980's. However, for MY 1990 and beyond, it was clear that the manufacturers would not have to make major product changes to comply with a 27.5 mpg standard, but instead would either (1) have to ensure that their CAFE does not fall or (2) make relatively minor incremental improvements to the fuel economy performance of their passenger cars.

NHTSA therefore believes that the relevant question is whether the 27.5 mpg statutory standard, by requiring the domestic manufacturers to ensure that their CAFE does not fall or make relatively minor incremental changes to improve CAFE, has the effect of (1) causing them to refrain from upsizing their vehicles or (2) causing them to reduce their sales of larger or heavier cars (or increase their sales of small cars). The agency believes that the record does not support the existence of either of these effects.

As indicted above, the court noted that NHTSA had, in the MY 1990 termination notice, concluded that the domestic manufacturers should be able to improve their fuel economy in the future by specified technological means, without outsourcing their larger cars, without further downsizing or mix shifts toward smaller cars, and without sacrificing acceleration or performance. More specifically, the agency stated in that notice that the record of that and prior CAFE rulemaking proceedings indicated that, while GM and Ford had made considerable improvement in the fuel economy of their passenger cars, there are still a number of fuel-efficiency enhancing methods that are not fully utilized throughout their fleets. The agency specifically cited the possibility of further use of front-wheel drive; four-speed automatic

transmissions; engine improvements such as four-valve designs, reduced friction, lean-burn fast-burn combustion, and electronic control; reduction of parasitic losses; aerodynamic and rolling resistance reductions; and material substitution. NHTSA noted that all of these methods are partially used in the GM and Ford fleets, as well as by other manufacturers. 54 FR 21996.

The court rejected this analysis, stating that the agency had not determined that it is likely that the manufacturers would in fact meet the 27.5 mpg standard without downsizing or mix shifts toward smaller cars. 956 F.2d 324.

In further explanation of this issue, the agency notes first that there is no question that the domestic manufacturers can use the technological methods cited above to ensure compliance with the 27.5 mpg statutory standard. The issue that NHTSA faced in the rulemaking proceedings of the mid- to late-1980's was never whether the manufacturers could meet the long-term 27.5 mpg statutory standard by these sorts of technological means. Instead, the issue was whether the manufacturers had developed other reasonable product plans to meet the standard which were overtaken by changes in market conditions at a time when it was too late for the manufacturers to make additional technological improvements. NHTSA notes that the availability of technology which can be used by the domestic manufacturers to continue to improve their CAFE was confirmed by the NRC study.

As noted in the same paragraph of the termination notice in which the agency listed a number of the technological improvements that manufacturers can make, NHTSA acknowledged that adoption of such technological changes requires leadtime. However, the agency also observed that it had placed the manufacturers on notice in earlier rulemaking notices that their plans for complying with the 27.5 mpg standard must be adjusted to take into account the possibility that gasoline prices will remain low. Therefore, leadtime to make additional technological changes was no longer a relevant factor by the time of the MY 1990 rulemaking.

In addressing the issue raised by the court, NHTSA believes that the question is thus not whether the domestic manufacturers can make the technological changes that may be needed to ensure continued compliance with the 27.5 mpg standard, but whether they will instead choose to engage in additional downsizing or mix shifts toward smaller cars. NHTSA notes that the manufacturers are free under the statute to comply with CAFE standards by any means of their choosing. Given the market economy in which manufacturers must sell their products, however, the agency believes that they are most likely to choose methods that do not reduce the desirability of their products.

For this reason, NHTSA believes that the manufacturers are much less likely to use significant additional downsizing and mix shifts than either the technological means cited above or the outsourcing of larger or less fuel-efficient vehicles. For the same reason, the agency believes that, to the extent that the domestic manufacturers conclude that consumers desire larger or heavier cars, they are likely to produce such cars, notwithstanding the 27.5 mpg standard, and offset the CAFE impacts of such production by the technological means cited above. However, the agency cannot unequivocally predict with certainty precisely what the various manufacturers will do in any given model year.

The technological improvements cited by the agency can be applied in ways that enhance fuel economy without reducing a vehicle's desirability. Consumers are in fact likely to be unaware of the application of many of these technologies, such as a number of engine improvements. Moreover, as discussed later in this notice, these technological changes are generally cost-effective to the first purchaser (i.e., the person who purchases a vehicle when new), and some of the technological changes provide significant consumer benefits in addition to improve fuel efficiency.

By contrast, to the extent that some consumers desire larger or heavier cars, manufacturers' efforts at additional downsizing and/or mix shifts are likely to reduce the appeal of their products to those consumers. In the case of additional downsizing, the cars would be smaller or lighter than preferred by those consumers. If manufacturers attempted to induce mix shifts by significantly raising the prices of their large cars, the cars would have less appeal because of price.

Another way a manufacturer could attempt to induce mix shifts would be to reduce the price of smaller cars. However, a significant majority of smaller, lighter cars are in fleets that are *not* constrained by CAFE standards, i.e., the cars are in the fleets of the Asian manufacturers or the domestic manufacturers' import fleets. Most of these fleets are not constrained by CAFE standards since they have CAFE levels well above 27.5 mpg. For example, in MY 1990, Daihatsu achieved a CAFE of 41.0 mpg, Honda 30.8 mpg, Hyundai 33.3 mpg, Isuzu 33.5 mpg, Mazda 30.2 mpg, Mitsubishi 30.4 mpg, Nissan 28.5 mpg, Subaru 27.8 mpg, and Toyota 30.8 mpg. Ford achieved an import CAFE of 32.4 mpg, GM's import CAFE was 32.1 mpg, and Chrysler's import CAFE was 28.9 mpg.

Since most of these fleets achieved CAFE well above 27.5 mpg, it is clear that market forces, and not CAFE, are responsible for the smaller, lighter cars included in the fleets. Moreover, given the larger number of manufacturers competing in this market segment, any lower prices associated with this market are primarily attributable to strong competition and not to efforts by the domestic manufacturers to sell smaller domestic cars.

The court also stated that NHTSA had not analyzed whether the costs associated with additional technological improvements would translate into higher prices for large cars, thereby making it more difficult for consumers to purchase them. The agency has addressed the cost impacts of these technological improvements in prior rulemaking proceedings, and has concluded that they are generally cost-effective for the first purchaser, even at low gasoline prices.

The agency has never claimed that the costs associated with additional technological changes would not raise the prices of cars. However, the agency's past analyses indicate that manufacturers have generally used cost-effective techniques in their efforts to improve fuel economy since the beginning of the CAFE program. NHTSA's analyses have shown that essentially all of the fuel economy technologies pay for themselves in operating savings over the life of the vehicle, and that most technologies pay for themselves within the first four years of operation, a typical ownership period for the purchaser of a new vehicle. The present value of the fuel savings more than covers the increased initial price of the vehicle. Thus, these technological changes do not price consumers out of the market for new large cars. See Final Regulatory Impact Analysis (FRIA) for MY 1986 Passenger Car CAFE Standard, September 1985, pp. III–30, to III–35; FRIA for MY 1987–88 Passenger Car CAFE Standards, September 1986, Chapter III, beginning at p. III–25; FRIA for MY 1989 Passenger Car CAFE Standard, September 1988, Chapter IV.

NHTSA also notes that these technologies are widely used by the Asian manufacturers in both their smaller and larger cars, which, as

discussed above, are in fleets unconstrained by CAFE standards. The Asian manufacturers are thus providing the technologies for their vehicles in response to market forces and not CAFE standards. The agency believes that the domestic manufacturers would similarly provide the same technologies even in the absence of CAFE standards, and that passenger car CAFE standards, at the 27.5 mpg level, have only a minor impact on the technologies being used and their degree of penetration. NHTSA also notes that while the court appears to have assumed that the technologies will be used only on large cars, thereby raising the price of large cars relative to small cars, there is no factual basis to make that conclusion. Some technologies may have been introduced on larger or more expensive vehicles, but they have rapidly been adopted for lower cost vehicles, as well.

NHTSA therefore believes that there is no evidence that the CAFE improvements made to date, or the ones that manufacturers are likely to make if they need to take action to ensure continued compliance with the 27.5 mpg standard, have or would "price consumers out of the market for large cars." It is also important to note again that, for MY 1990 and subsequent model years, manufacturers needed, at most, to make minor additional technological improvements to ensure compliance with the 27.5 mpg standard. Therefore, the agency believes that any associated cost impacts from achieving compliance are minor.

As indicated above, the court stated that NHTSA had observed in its termination notice that, in the court's words, "economic recovery and declining gasoline prices sharply raised consumer demand for large cars over the relevant period." As the court understood this observation, it indicated that, absent regulation, these factors would have resulted in the production of cars that were substantially bigger than the ones that were actually produced. 956 F.2d 325. The court cited 54 FR 21987/1 (i.e., column 1 on that page). NHTSA believes it is appropriate to clarify what was said and the context in which it was said.

In examining what the agency said, it is critical to distinguish between the size and mix of cars that consumers are actually demanding for purchase in a given model year, and the size and mix of cars that the consumers had been expected, several years previously, to demand in that year. At 54 FR 21987, column 1, NHTSA noted that, in 1980, during the energy crisis brought on by events in Iran, gasoline prices were rising rapidly, creating significantly increased consumer demand for small cars. NHTSA explained that the domestic manufacturers announced in that year that they expected to achieve average fuel economy levels in excess of 30 mpg for MY 1985. This projection was based in part on the expectation that the increased consumer demand for small cars would result by MY 1985 in significant mix shifts toward smaller cars and smaller engines.

The agency next explained that the combination of falling gasoline prices and economic recovery in 1982–83 caused changes in expectations about consumer demand in MY 1985. Consumer demand was no longer expected to shift quite so far toward smaller cars and smaller engines. By mid-1983, GM and Ford submitted data to the agency indicating that they would be unable to achieve even 27.5 mpg by MY 1985. The agency explained further, at the second column of 54 FR 21987, that it concluded that there had been a substantial shift, relative to the mix of cars and engines previously projected by Ford and GM, in "expected" consumer demand toward larger cars and engines. Thus, much of the shift in consumer demand was actually a shift in what consumers had been expected to demand by the mid-1980's, and not a shift in what the manufacturers were in fact producing. Further, the shift was not only related to larger cars but, in substantial part, to larger, more powerful engines.

In light of the compliance difficulties facing the domestic manufacturers during the mid- to late 1980's, which the agency concluded resulted from unexpected changes in market conditions and occurred at a time when there was insufficient time remaining for the manufacturers to make additional fuel-efficiency enhancing technological changes to achieve compliance, NHTSA reduced the passenger car CAFE standards for MY 1986–89. The agency believes that these reductions fully resolved the compliance difficulties facing the domestic manufacturers at that time, and ensured that they had sufficient time to make the additional technological changes needed for them to comply in the future with the statutory 27.5 mpg standard while also providing vehicles with the size, weight and performance demanded by consumers during the early 1990's. Manufacturers are providing consumers with higher performance than ever (horsepower/weight ratio averaged 4.53 hp/100 lb. in MY 1990 and 4.56 in MY 1992, as compared to about 3.50 during the early 1980's), in response to what they perceive consumers are demanding and despite the adverse impact on CAFE, and there is no reason to believe that the manufacturers are not also providing the size of vehicles demanded by consumers.

A number of commenters on the MY 1990 proceeding cited the work of Crandall and Graham and their estimates of the safety impacts of retaining the 27.5 mpg CAFE standard for MY 1990. Crandall and Graham's estimates of increased fatalities and injuries associated with the 27.5 mpg standard are dependent on their assumption that manufacturers choose vehicle weights based on two factors: expected gasoline prices and expected steel prices four years before the sale of the car. See "The Effect of Fuel Economy Standards on Automobile Safety," Crandall and Graham, Journal of Law and Economics, April 1989, p. 102. Based on this assumption, Crandall and Graham conclude that manufacturers reduced vehicle weight during 1970–81 in response to higher fuel prices and, in the absence of CAFE restraints, would have significant increased vehicle weight during the mid- and late 1980's in response to lower fuel prices. In a comment on the MY 1990 reopening notice, Crandall used the model developed in the April 1989 article to estimate that cars were 20 percent lighter in MY 1990 than they would have been without the CAFE program.

NHTSA appreciates the contributions of Crandall and Graham in promoting a better understanding the relationship between CAFE standards, vehicle weight and size, and safety. However, the agency believes that Crandall and Graham's assumption about the primary determinants of vehicle weight is invalid, and therefore that their estimates of the weight and safety impacts of the 27.5 mpg standard for MY 1990 are without any basis.

As indicated above, Crandall and Graham assume that manufacturers choose vehicle weights based on expected gasoline prices and expected steel prices four years prior to the sale of the car (and hence that any weight changes over time that cannot be explained by those factors must be attributable to CAFE standards). The agency does not believe that this is a reasonable assumption, particularly in comparing the weight of cars made during different time periods.

In particular, Crandall and Graham's methodology omits technological advances and a number of other relevant factors that affected vehicle weight during the time period in question. Because of this shortcoming, their model incorrectly attributes weight

changes that result from these other relevant factors to the CAFE standards.

NHTSA believes that much of the weight reduction that occurred during the late 1970's/early 1980's, particularly the reduction related to downsizing and the switch to front-wheel drive, would have occurred even in the absence of concerns about fuel-efficiency, because of the other significant benefits that these technological improvements provide. Downsizing enabled manufacturers to provide essentially the same vehicle attributes (i.e., interior size, cargo capacity, and performance) with smaller exterior size and less material usage. In addition to improved fuel economy, downsized vehicles offered better handling, easier parking, and potential cost savings associated with the reduced materials usage. The agency notes that the size and weight of many other products, ranging from SLR cameras to computers, was reduced during the same period, even though the price of fuel was not a relevant factor. Similarly, the switch to front-wheel drive provided benefits related to vehicle packaging and traction, in addition to improved fuel economy.

Moreover, to the extent that consumer demand for higher fuel-efficiency during the late 1970's and early 1980's was a significant factor in causing manufacturers to adopt these technological improvements, a lessened consumer interest in fuel-efficiency would not cause manufacturers to go backward technologically. Consumers expect later car models to be more advanced than earlier models, not less advanced. Indeed, technology is one of the key bases on which manufacturers are competing in today's market.

The cars of the 1990's clearly differ from those of the late 1970's/early 1980's with respect to the technologies they incorporate, but also reflect major technological advances in the way they were designed. For example, car designers today have computer-aided design capabilities only dreamed about in the 1970's. These tools allow manufacturers to develop vehicles that are lighter and more fuel-efficient for a given interior and exterior size.

Just as Crandall and Graham's model fails to account for the fact that automotive technology leaped forward during the same period that CAFE standards moved upward, it also fails to account for other significant factors that affected vehicle designs during the time period in question, such as the increased competition from other manufacturers and changes in consumer preferences. NHTSA believes that if a model could be developed that did correctly account for these other factors, instead of merely assuming that any weight changes not explainable by expected changes in gasoline prices and steel prices must be caused by CAFE standards, the model would demonstrate that any CAFE standard effect is negligible.

Moreover, the Crandall and Graham model produces a result that is counterintuitive. Crandall estimates that MY 1989 cars were about 14 percent lighter than they would have been in the absence of CAFE standards, and that MY 1990 cars were about 20 percent lighter. Crandall did not indicate the specific increased weight that would be associated with his 20 percent estimate for MY 1990. However, Crandall may have believed that the average test weight of the MY 1990 fleet was approximately 3,100 pounds, because in the 1989 Crandall/Graham paper, he assumed "* * * that average passenger car weight will remain at approximately 3,100 pounds." See p. 109. (Crandall and Graham used test weight rather than curb weight.) In this case, the "20 percent lighter" figure would translate into a 775 pound weight reduction (calculated as (3100/0.8)—3100). Crandall's conclusion implies that, without CAFE standards, the MY 1990 fleet would have weighed 3,875 pounds, on average. This conclusion is not credible. The new passenger car fleet for any model year has *never* been this heavy; NHTSA data indicate that the average weight of the new passenger car fleet peaked at 3,768 pounds 19 years ago, in MY 1973.

NHTSA notes that it estimates the average test weight of the MY 1990 fleet at 3,196 pounds. If this figure were used, Crandall's analysis would imply that the MY 1990 fleet would have been even heavier, 3,995 pounds.

There is no evidence that consumers desire or that auto manufacturers would like to add nearly 800 pounds of weight, on average, to their cars, but for the existence of CAFE standards. Such weight increases would almost certainly result in substantial cost and price increases for manufacturers and consumers, at a time when manufacturers are making major efforts to reduce their costs.

As indicated above, the court stated that NHTSA had not adequately explained why any one of four premises stated by the court was false. The agency notes that it fully agrees with the last of those premises: that all other things being equal, a large car is safer than a small car. However, the relationship between size/weight and safety is an imprecise one. There is no basis to conclude that insignificant changes in size/weight will have a measurable effect on safety.

With respect to the second premise, whether car makers will, as one consequence of the standard, decrease the average size of their cars below what it would have been absent the standard, NHTSA believes, for the reasons stated above, that a 27.5 mpg passenger car CAFE standard does not significantly affect vehicle size and weight. This does not mean that the agency is concluding that the 27.5 mpg standard has absolutely no effect on vehicle weight or size. No matter how much analysis is conducted, there is probably no conclusive way to totally separate market and technology effects from possible CAFE effects. Instead, looking at the recent and current CAFE levels of the domestic manufacturers, the technologies available to them to improve their CAFE, the use of those technologies by manufacturers not constrained by the CAFE standards, and market forces leading the domestic manufacturers to produce the type and mix of vehicles desired by consumers, the agency concludes that any weight impacts attributable to CAFE standards at this level are both speculative and insignificant.

The third premise, that the decrease in average size will make it more difficult for consumers to drive large cars, is dependent on the second premise being correct. Since the agency believes that the second premise is incorrect, it believes that the third premise also is incorrect.

The remaining premise cited by the court was that "adopting a 27.5 mpg standard (as opposed to a lower standard) will have some constraining effect on car makers, if not in MY 1990 then in subsequent years." NHTSA notes first that it did not "adopt" a standard of 27.5 mpg for MY 1990; the standard was established by the Congress. Second, the court did not dispute the agency's explanation in the termination notice that retaining the 27.5 mpg standard for MY 1990 would not affect the behavior of manufacturers in that year. Among other things, NHTSA cited the fact that GM and Ford had more than sufficient carryforward credits to offset the MY 1990 shortfalls that were then projected by those manufacturers, as well as the fact that both GM and Ford had testified that they would not make any design changes for MY 1990 based on the result of the MY 1990 rulemaking. 54 FR 21993.

The 27.5 mpg standard for model years after 1990 was potentially constraining for GM, and the agency recognizes that a decision in 1989 to

reduce the MY 1990 standard to the level likely to be achieved by GM could have eased those constraints by allowing that company to carry additional MY 1988 credits to MY 1991 and additional MY 1989 credits to MY 1991–92. Even without a reduction in the MY 1990 standard, however, GM was unable, based on the latest information available to the agency, to use all of its MY 1988 or MY 1989 credits (MY 1988 credits may not be used after MY 1991 and MY 1989 credits may not be used after MY 1992). This suggests that the only real effect of a reduction in the MY 1990 standard on GM would have been to increase the number of credits that it was unable to use.

For the reasons discussed below, the agency would not have reduced the MY 1990 CAFE standard based solely on Ford's capability. NHTSA observes, however, that a reduction in the MY 1990 standard to GM's likely capability would have enabled Ford to carry additional MY 1988 credits to MY 1991 and additional MY 1989 credits to MY 1991–92. Even without a reduction in the MY 1990 standard, however, Ford was unable to use all of its MY 1988 credits.

Aside from what might have happened if the MY 1990 standard had been reduced in 1989, it would be impossible for a reduction in the MY 1990 standard at this time to have any effect whatsoever on vehicle weight or safety.

NHTSA notes that if it were to decide to reduce the 27.5 mpg standard for MY 1990, it would still be required to set a new standard at the "maximum feasible average fuel economy level." (This also would have been true had the agency decided in 1989 to reduce the standard, which is why the above discussion focuses on GM's likely capability.) As discussed in many previous rulemaking notices, the agency interprets "feasible" to refer to whether something is capable of being done, taking into account the four statutory criteria cited near the beginning of this notice. The agency has also explained that it must take "industrywide considerations" into account. See 53 FR 39298. NHTSA has therefore focused on the capabilities of the major domestic manufacturers. Finally, NHTSA has explained that, if a manufacturer chooses, in light of the flexibility offered by the credit provisions, not to make the efforts necessary to achieve the level of a standard for a particular model year, it would be inconsistent with the statutory scheme for the agency then to exercise its discretion to lower the standard solely on the basis of that manufacturer's inability to meet the standard. See 53 FR 39292.

If NHTSA were at this time to determine the "maximum feasible average fuel economy level" for MY 1990, it is clear that the manufacturers were capable of achieving at least as high a CAFE as they actually achieved. GM achieved a CAFE of 27.1 mpg, Ford 26.3 mpg, and Chrysler 27.4 mpg.

NHTSA also believes, given the record, that Ford's MY 1990 achievement does not necessarily reflect its highest capability had that company been striving to achieve the level of the standard for that model year. The agency notes that Ford stated throughout the MY 1989–90 proceeding, as far back as September 1988, that it would not do anything different with respect to increasing efforts to improve its MY 1990 CAFE if the standard remained at 27.5 mpg or were reduced, since it had a compliance plan using available carryforward credits earned during MY 1987–88 that would expire if they were not used. In commenting on the MY 1990 reopening notice, Ford noted again that it did not request and was not requesting a reduction in the MY 1990 standard.

Given the fact that Ford was not making continuing efforts to achieve 27.5 mpg CAFE for MY 1990, NHTSA has concluded that, if it were at this time to make a determination of the MY 1990 maximum feasible average fuel economy level, that level would be no lower than the CAFE achieved by GM, 27.1 mpg. NHTSA has on a number of occasions stated that it would be inconsistent with the statutory scheme for the agency to reduce a longstanding CAFE standard based on a manufacturer's current capability if that manufacturer has not made continuing "reasonable efforts" to achieve the level of the standard. As discussed in the MY 1989 proceeding, if a manufacturer chooses, in light of credits, not to make the efforts to achieve the level of a standard for a particular model year, it would be inconsistent with the statutory scheme for the agency then to exercise its discretion to lower the standard solely on the basis of that manufacturer's level of CAFE achievement. Since Ford was not making continuing efforts to achieve a CAFE of 27.5 mpg in MY 1990, the agency would not reduce the standard based on that manufacturer's achievement.

If NHTSA were to reduce the MY 1990 standard to a level as low as 27.1 mpg, GM would not earn any credits for that year. While such a reduction would mean that company would not need to use credits from MY 1988–89 for MY 1990, those credits would expire if they are not used for MY 1990, since they are not needed for any other model year. While GM had CAFE levels of 27.2 mpg in MY 1991 and 26.8 mpg in MY 1992, it had enough carryforward credits from MY 1988–89 (even after using some of those credits for MY 1990) to offset those shortfalls and remain in overall compliance. Therefore, a reduced standard would have absolutely no effect on GM.

A reduction of the MY 1990 standard to a level as low as 27.1 mpg would similarly have no effect on Ford or Chrysler. While a reduction in the standard would reduce the number of credits needed by Ford for MY 1990, the MY 1987–88 credits it is using would expire if they are not used for MY 1990. A reduction in the standard would result in some credits for Chrysler. However, Chrysler has not had any difficulty in complying with the 27.5 mpg standard in recent model years and has specifically opposed reducing the MY 1990 standard.

NHTSA notes that all of the commenters addressing the issue acknowledged that a reduction in the MY 1990 standard at this time would have little or no practical effect, and hence little or no effect on safety. Some commenters, however, including CEI and Kathy Hutchins, a research fellow at the Hudson Institute, argued that a reduction in the MY 1990 standard would send a message about NHTSA's commitment to considering the safety issue in fuel economy rulemaking proceedings.

NHTSA has concluded that a reduction in the MY 1990 standard would have no impact on safety. Such action would therefore not send any positive safety message. In fact, as Chrysler noted, the only practical effect of reducing the standard at this time would be to require the United States to refund civil penalties previously paid by manufacturers which did not comply with the standard. Therefore, the agency has again decided not to amend the statutorily set 27.5 mpg standard for MY 1990 and is again terminating rulemaking.

NHTSA now turns to the question of how the safety issue should be addressed in future CAFE proceedings. The commenters generally recognized that this issue is much more important that what happens to the MY 1990 standard. All commenters urged that the agency consider safety in CAFE proceedings, and suggested a number of different approaches for considering safety within the framework of the CAFE statute. In addition, a number of commenters suggested that the agency

develop a specific methodology for considering safety in future CAFE proceedings.

Given the importance of motor vehicle safety, NHTSA strongly believes that all government agencies, Federal, state, and local, should carefully evaluate motor vehicle safety before taking any action that might have a significant adverse impact on such safety. It is simple common sense and good public policy to assess these impacts, not just a concern related to CAFE standards.

Any government action that may cause significant reductions in vehicle size and weight raises a particularly serious safety issue, given NHTSA's studies showing that earlier size and weight reductions result in nearly 2,000 additional fatalities and 20,000 serious injuries per year. While it is known that safety decrease with significant reductions in size and weight, the safety effects of any future major reductions in vehicle size and weight cannot be precisely estimated without a careful analysis of changes in automotive designs and technology, market forces, and vehicle use patterns. A more specific methodology for evaluating the safety issue would depend on many factors, including the levels of the standards and how far in advance they were being set. The agency notes that while it has issued, or is considering, a number of important measures to reduce deaths and injuries in car crashes, the numbers of deaths and injuries would be smaller still if major reductions in vehicle weight and size did not occur. NHTSA will assess potential safety impacts in any CAFE rulemaking.

Under the CAFE statute, there are no express criteria governing NHTSA's exercise of its discretion with respect to whether to increase the 27.5 mpg statutory standard. Thus, the agency has very broad discretion regarding this matter, within the bounds of not being arbitrary or capricious. In previous CAFE rulemaking notices, the agency has recognized that standards above the 27.5 mpg level could have a significant adverse impact on safety if they force consumers into significantly smaller or lighter cars. NHTSA has also stated that if it were to consider standards above 27.5 mpg in the future, the issue would require further attention. In making any decision concerning whether to exercise its discretion to increase the 27.5 mpg standard, NHTSA will analyze and weigh the safety issue.

(15 U.S.C. 2002, delegations of authority at 49 CFR 1.50.)

Issued on: January 15, 1993.

Marion C. Blakey,

Administrator.

[FR Doc. 93–1599 Filed 2–2–93; 8:45 am]

BILLING CODE 4910–59–M

Federal Transit Administration

49 CFR Part 611

[Docket No. 89–A]

RIN 2132–AA34

Major Capital Investment Projects

AGENCY: Federal Transit Administration, DOT.

ACTION: Withdrawal of proposed rule.

SUMMARY: This document withdraws a proposed rule issued by the agency on April 25, 1989, proposing new criteria for determining eligibility for funding for major capital investment projects. The Federal Transit Administration's (FTA) recent reauthorization legislation has provided a new mandate to the agency, making this rulemaking obsolete.

FOR FURTHER INFORMATION CONTACT: Holly Vandervort, Office of the Chief Counsel, voice (202) 366–4011; TTD (202) 366–2979.

SUPPLEMENTARY INFORMATION: On April 25, 1989, the Federal Transit Administration (FTA; then called the Urban Mass Transportation Administration) published a proposed rule defining procedures applicants would have to follow in developing fixed guideway projects, as well as the means by which FTA would evaluate the cost-effectiveness, the results of the alternatives analysis and the degree of local financial commitment required. (See 54 FR 17878.)

This proposed rule was intended to implement section 303 of the agency's 1987 reauthorization legislation, the Surface Transportation and Uniform Relocation Assistance Act of 1987. Before the agency could promulgate its final rule, two successive appropriations bills prohibited the agency from issuing any further rulemakings. (See the Department of Transportation and Related Agencies Appropriations Act, 1990 (Pub. L. 101–164) and Department of Transportation and Related Agencies Appropriations Act, 1991 (Pub. L. 101–516)).

Further, the Department's 1991 reauthorization legislation mandates the FTA to undertake a rulemaking for new fixed guideway projects that considers a number of matters in addition to cost-effectiveness and local financial commitment—specifically, costs related to congestion, improved mobility, air and noise pollution, and energy consumption and the degree to which a project may promote economic development and serve the needs of transit dependent population. (See section 3010 of the Intermodal Surface Transportation Efficiency Act of 1991, Pub. L. 102–240, Dec. 18, 1991.) The agency is in the process of developing such a rule.

For all of these reasons, the agency has determined that it is inappropriate to continue the current rulemaking. Accordingly, the agency today is withdrawing its 1989 proposed rule on major capital investment projects.

Regulatory Analyses and Notices

Since this document withdraws a proposed rule whose applicability has been superseded by intervening legislation, the agency has determined that the various regulatory analyses and notices do not apply. Specifically, the rule is not major under Executive Order 12291, nor is it significant under the Department's Regulatory Policies and Procedures. Since there will be no economic impacts from this rulemaking, we have not prepared a regulatory evaluation. For similar reasons—that the regulation is being withdrawn and therefore has no effects—the agency has determined that it is unnecessary to do a Federalism assessment. The agency certifies that the rule does not have a significant economic impact on a substantial number of small entities.

List of Subjects in 49 CFR Part 611

Government contracts, Grant programs—Transportation, Mass transit.

Authority: 49 U.S.C. 1601 *et. seq.*, 1602(i); 23 U.S.C. 103(e)(4); 23 U.S.C. 142; 40 CFR Parts 1500–1506; Sec. 3010, Pub. L. 102–240, Dec. 18, 1991.

Issued: January 19, 1993.

Brian W. Clymer,

Administrator.

[FR Doc. 93–1714 Filed 2–2–93; 8:45 am]

BILLING CODE 4910–57–M

Notices

Federal Register
Vol. 58, No. 21
Wednesday, February 3, 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.

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

[Docket 93–2]

Access to Recreational Facilities and Outdoor Developed Areas

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of intent to form advisory committee.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (Access Board) is considering the establishment of an advisory committee to provide advice on issues related to making recreational facilities and outdoor developed areas readily accessible to and usable by individuals with disabilities. The advice will be used by the Access Board to develop accessibility guidelines under the Americans with Disabilities Act and the Architectural Barriers Act for newly constructed and altered recreational facilities and outdoor developed areas. The advisory committee would be composed of owners and operators of various recreational facilities; persons who design recreational facilities or manufacture related equipment; Federal, State and local government officials responsible for parks and other outdoor developed areas; and individuals with disabilities and organizations representing the interests of such persons. The Access Board requests interested persons to submit nominations for membership on the advisory committee. The Access Board also seeks comments from the public on various issues concerning accessibility to recreational facilities and outdoor developed areas.

DATES: Nominations and comments should be received by April 5, 1993. Nominations and comments received after this date will be considered to the extent practicable.

ADDRESSES: Nominations and comments should be sent to the Office of Technical and Information Services, Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., suite 1000, Washington, DC 20004–1111. Nominations and comments will be available for inspection at the above address from 9 a.m. to 5:30 p.m. on regular business days.

FOR FURTHER INFORMATION CONTACT: Peggy Greenwell, Office of Technical and Information Services, Architectural and Transportation Barriers Compliance Board, 1331 F Street, NW., suite 1000, Washington, DC 20004–1111. Telephone number (202) 272–5434 (Voice); (202) 272–5449 (TDD). These are not toll-free numbers. This document is available in accessible formats (cassette tape, braille, large print, or computer disc) upon request.

SUPPLEMENTARY INFORMATION: The Architectural and Transportation Barriers Compliance Board (Access Board) is responsible for developing guidelines to ensure that newly constructed and altered recreational facilities and outdoor developed areas are readily accessible to and usable by individuals with disabilities under the Americans with Disabilities Act and the Architectural Barriers Act. Among the places to be addressed by such guidelines are:

- Amusement parks;
- Outdoor parks, trails, and other outdoor developed areas, including fixed boating and fishing facilities;
- Beaches, pools, and other aquatic facilities;
- Playgrounds and related equipment;
- Indoor and outdoor sports facilities (e.g., racquetball courts, bowling alleys, golf courses, exercise and fitness centers, and related equipment); and
- Zoos and botanical gardens.

The guidelines will apply to private entities, State and local governments, and the Federal government.

The Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities (ADAAG) issued by the Access Board contain scoping provisions and technical specifications for making those elements and spaces that typically comprise a building readily accessible to and usable by individuals with disabilities. See 36 CFR part 1191. While recreational facilities and outdoor developed areas may have some elements in common with buildings (e.g., parking areas, toilet facilities), they also contain many unique features for which supplemental accessibility guidelines are needed.

The Access Board has been working with the National Park Service, U.S. Forest Service, and several other agencies and groups that are interested in accessible recreational facilities and outdoor developed areas. These include: International Association of Amusement Parks and Attractions, States Organization for Boating Access, New Mexico Natural Resources Department, Clemson University, and the American Society of Testing and Materials (ASTM) F 15.29 Committee that is dealing with playground safety and accessibility issues. The Access Board intends to use the information that these groups have produced in the development of future guidelines on access to recreational facilities and outdoor developed areas.

The Access Board believes that it would be in the public interest and would support the agency in performing its duties and responsibilities under the Americans with Disabilities Act and Architectural Barriers Act to establish a Recreation Access Advisory Committee (Committee). The purpose of the Committee would be to exchange information and discuss issues related to making recreational facilities and outdoor developed areas readily accessible to and usable by individuals with disabilities. It is anticipated that the Committee will present a report of its activities to the Access Board within six months of its first meeting. The Access Board will consider the Committee's advice and recommendations when developing accessibility guidelines for newly constructed and altered recreational facilities and outdoor developed areas covered by the Americans with Disabilities Act and Architectural Barriers Act.

The Access Board seeks nominations from the following interests for membership on the Committee:

- Owners and operators of various recreational facilities;
- Persons who design recreational facilities or manufacture related equipment;
- Federal, State and local government officials responsible for parks and other outdoor developed areas;

• Individuals with disabilities and organizations representing the interests of such persons; and

• Other persons with substantial expertise in accessibility issues related to recreational facilities and outdoor developed areas.

The number of committee members will be limited to the fewest possible to accomplish the Committee's objectives and will be balanced in terms of interests represented. The Access Board may form subcommittees for particular types of recreational facilities and outdoor developed areas.

Persons interested in serving on the Committee should submit a letter to the Access Board at the address listed in the beginning of this notice. The letter should include a statement of qualifications; any organizational affiliation, including title or position; and an address and telephone number. Committee members will not be compensated for their service. The Access Board may pay travel and per diem expenses for a limited number of persons who would otherwise be unable to participate on the Committee.

After evaluating the nominations and comments on this notice, the Access Board will issue a notice in the **Federal Register** announcing the establishment of the Committee and the appointment of its members. The Committee will be established and operate in accordance with the Federal Advisory Committee Act, 5 U.S.C. app. 2. Meetings will be held in Washington, DC. Each meeting will be open to the public. A notice of each meeting will be published in the **Federal Register** at least fifteen days in advance of the meeting. Records will be kept of each meeting and made available for public inspection.

The Access Board also seeks comments and information on the following issues:

1. The Access Board is considering the development of accessibility guidelines for the following types of facilities: Amusement parks, outdoor parks, trails, fixed boating and fishing facilities, beaches, pools, playgrounds and related equipment, indoor and outdoor sports facilities (e.g., racquetball courts, bowling alleys, golf courses, exercise and fitness centers and related equipment), zoos and botanical gardens. Comments are requested on the appropriateness of this proposed list.

2. What has been your experience in applying ADAAG to recreational facilities and outdoor developed areas?

3. How has access been provided in recreational facilities and outdoor developed areas where no previous mandatory standards have existed? What have been your experiences in using recreational facilities and outdoor developed areas where modifications have been made to provide access? What recommendations would you have based on these experiences?

4. To what degree, and how, should access be provided in outdoor developed areas such as trails and other places in the "natural" environment?

5. How has physical access been provided on amusement park rides?

6. To what extent should fixed recreation equipment be accessible to individuals with disabilities? What experiences have you had in using "accessible" recreational equipment that is presently available? Information is also requested on any products or designs that are presently available to provide access to various recreational facilities and outdoor developed areas.

7. To what extent, and how, should accessibility guidelines for recreational facilities and related equipment be adapted to meet the needs of persons with various disabilities (e.g., individuals with mobility impairments, visual impairments, hearing impairments, and cognitive disabilities)?

8. The Access Board is aware of several State and local building codes that have specific accessibility requirements for recreational facilities and outdoor developed areas. Comments are requested on your experiences in using these codes.

Authorized by vote of the Access Board on January 13, 1993.

Kathleen K. Parker,

Chairman, Architectural and Transportation Barriers Compliance Board.

[FR Doc. 93–2447 Filed 2–2–93; 8:45 am]

BILLING CODE 8150–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of revocation of Export Trade Certificate of Review No. 90–00011.

SUMMARY: The Secretary of Commerce issued an export trade certificate of review to Strand International, Inc. Because this certificate holder has failed to file an annual report as required by law, the Secretary is revoking the certificate. This notice summarizes the notification letter sent to Strand International, Inc.

FOR FURTHER INFORMATION CONTACT: George Muller, Director, Office of Export Trading Company Affairs, International Trade Administration, 202/482–5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 ("the Act") (Pub. L. 97–290, 15 U.S.C. 4011–21) authorizes the Secretary of Commerce to issue export trade certificates of review. The regulations implementing Title III ("the Regulations") are found at 15 CFR part 325 (1986). Pursuant to this authority, a certificate of review was issued on October 9, 1990 to Strand International, Inc.

A certificate holder is required by law to submit to the Department of Commerce annual reports that update financial and other information relating to business activities covered by its certificate (section 308 of the Act, 15 U.S.C. 4018, § 235.14(a) of the Regulations, 15 CPR 325.14(a)). The annual report is due within 45 days after the anniversary date of the issuance of the certificate of review (§ 325.14(b) of the Regulations, 15 CFR 325.14(b)). Failure to submit a complete annual report may be the basis for revocation. Sections 325.10(a) and 325.14(c) of the Regulations, 15 CFR 325.10(a)(3) and 325.14(c).

On September 29, 1992, the Department of Commerce sent to Strand International, Inc. a letter containing annual report questions with a reminder that its annual report was due on November 23, 1992. Additional reminders were sent on November 24, 1992 and on December 8, 1992. The Department has received no written response from Strand International, Inc. to any of these letters.

On December 22, 1992, and in accordance with § 325.10(c)(2) of the Regulations, (15 CFR 325.10(c)(2)), the Department of Commerce sent a letter by certified mail to notify Strand International, Inc. that the Department was formally initiating the process to revoke its certificate for failure to file an annual report. In addition, a summary of this letter allowing Strand International, Inc. thirty days to respond was published in the **Federal Register** on December 29, 1992 at 57 FR 61883. Pursuant to § 325.10(c)(2) of the Regulations (15 CFR 325.10(c)(2)), the Department considers the failure of Strand International, Inc. to respond to be an admission of the statements contained in the notification letter.

The Department has determined to revoke the certificate issued to Strand International, Inc. for its failure to file an annual report. The Department has sent a letter, dated January 29, 1993, to

notify Strand International, Inc. of its determination. The revocation is effective thirty (30) days from the date of publication of this notice. Any person aggrieved by this decision may appeal to an appropriate U.S. district court within 30 days from the date on which this notice is published in the **Federal Register** 325.10(c)(4) and 325.11 of the Regulations, 15 CFR 324.10(c)(4) and 325.11 of the Regulations, 15 CFR 325.10(c)(4) and 325.11.

Dated: January 29, 1993.

George Muller,

Director, Office of Export Trading Company Affairs.

[FR Doc. 93–2544 Filed 2–2–93; 8:45 am]

BILLING CODE 3510–DR–M

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 Determination of Dumping 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 December 26, 1992. The Requests for Panel Review were filed with the Canadian Section on January 7, 1993.

SUMMARY: On January 7, 1993 The National Gypsum (Gold Bond Building Products) 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 dumping 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–93–1904–01 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 January 7, 1993, requesting panel review of the final 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 February 8, 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 February 22, 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: January 27, 1993.

James R. Holbein,

United States Secretary, FTA Binational Secretariat.

[FR Doc. 93–2346 Filed 2–2–93; 8:45 am]

BILLING CODE 3510–GT–M

National Oceanic and Atmospheric Administration

International Whaling Commission; Meetings

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

SUMMARY: NOAA makes use of a public Interagency Committee to assist in preparing for meetings of the International Whaling Commission (IWC). This notice sets forth guidelines for participating on the Committee and a tentative schedule of meetings and other important dates.

DATES: See **SUPPLEMENTARY INFORMATION** for dates of scheduled meetings.

ADDRESSES: Recommendations to the U.S. Commissioner to the IWC and nominations to the U.S. delegation to the IWC should be sent to: Dr. John A. Knauss, United States Commissioner to the International Whaling Commission, Department of Commerce, Herbert C. Hoover Building, 14th and Constitution Avenue NW., Washington, DC 20230, with a copy sent to Kevin Chu, Office of International Affairs, room 7306, NMFS, 1335 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Kevin Chu, Office of International Affairs, National Marine Fisheries Service, Department of Commerce, Washington, DC 20910. Phone: (301) 713-2276.

SUPPLEMENTARY INFORMATION: The Secretary of Commerce is charged with the responsibility of discharging the obligations of the United States under the International Convention for the Regulation of Whaling, 1946. This authority has been delegated to the Under Secretary of NOAA. The U.S. Commissioner to the IWC has primary responsibility with the Secretary for the preparation and negotiation of U.S. positions on international issues concerning whaling and for all matters involving the IWC. He is staffed by the Department of Commerce, and assisted by the Department of the Interior, the Marine Mammal Commission, and other interested agencies.

Each year NOAA conducts a series of meetings and other actions to prepare

for the annual meeting of the IWC which is usually held in the summer. The major purpose of the preparatory meetings is to provide for input in the development of policy by members of the public and non-governmental organizations interested in whale conservation. NOAA believes that this participation is important for the effective development and implementation of U.S. policy concerning whaling.

Any person with an identifiable interest in United States whale conservation policy may participate in the meetings, but NOAA reserves the authority to inquire about the interest of any person who appears at a meeting and to determine the appropriateness of that person's participation. Foreign nationals and persons who represent foreign governments may not attend. These stringent measures are necessary to promote the candid exchange of information. Such measures are a necessary basis for the relatively open process of preparing for IWC meetings that characterizes current practice.

The tentative schedule of meetings and deadlines, including those of the IWC and deadlines for the preparation of position papers during 1993 is as follows:

February 15, 1993—Nominations for the U.S. Delegation to the May IWC meetings are due to the U.S. Commissioner, with a copy to Kevin Chu at the address above. All persons wishing to be considered pursuant to the U.S. Commissioner's recommendation to the Department of State concerning the composition of the Delegation should ensure that nominations are received by this date. Prospective Congressional advisors to the Delegation should contact the Department of State directly.

March 9, 1993—Tentative Interagency Committee meeting date to review recent events relating to the IWC, to continue preparations for the upcoming IWC Annual Meeting. As with all such meetings, interested persons who are unable to attend are welcome to submit comments. Recommendations to the U.S. Commissioner should be sent to: The United States Commissioner to the International Whaling Commission, at the above address.

March 10, 1993—Publish in the **Federal Register** the Agency views on (1) the current population levels and annual net recruitment rate of bowhead whales, (2) the nature and extent of the aboriginal/subsistence need for bowhead whales, (3) the level of take of bowhead whales that is consistent with provisions of the IWC aboriginal/subsistence whaling management scheme, and (4) a list of documents reviewed by NOAA and used by the Administrator in formulating these views.

April 7, 1993—Tentative Interagency Committee Meeting date for finalizing preparations for 1991 IWC meetings.

In addition, working groups will be established to receive views on a number of critical issues to be considered at the 1993 IWC Annual Meeting. These groups will focus on: The Antarctic, Inspections and Observation, and Small Cetaceans. The working groups will report to the Interagency Committee. Persons who would like to be included in IWC Interagency Committee meetings may contact Kevin Chu at the address or telephone number provided above to obtain meeting times and locations.

Dated: January 28, 1993.

Samuel W. McKeen,

Program Management Officer.

[FR Doc. 93–2495 Filed 2–2–93; 8:45 am]

BILLING CODE 3510–22–M

COMMODITY FUTURES TRADING COMMISSION

Chicago Mercantile Exchange Proposed Futures and Futures Option Contracts on Rolling Spot Pound Sterling

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of the terms and conditions of proposed commodity futures and option contracts.

SUMMARY: The Chicago Mercantile Exchange (CME or Exchange) has applied for designation as a contract market in a rolling spot pound sterling futures contract and options on that futures contract. The Director of the Division of Economic Analysis (Division) of the Commission, acting pursuant to the authority delegated by Commission Regulation 140.96, has determined that publication of the proposals for comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATE: Comments must be received on or before March 5, 1993.

ADDRESS: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Reference should be made to the CME rolling spot pound sterling futures and option contracts.

FOR FURTHER INFORMATION CONTACT: Please contact Stephen Sherrod of the Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, telephone 202–254–7303.

SUPPLEMENTARY INFORMATION: Copies of the terms and conditions will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 254–6314.

Other materials submitted by the CME in support of the applications for contract market designation may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR part 145 (1987)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views, or arguments on the proposed terms and conditions, or with respect to other materials submitted by the CME, should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581 by the specified date.

Issued in Washington, DC, on January 28, 1993.

Gerald D. Gay,

Director.

[FR Doc. 93–2456 Filed 2–2–93; 8:45 am]

BILLING CODE 6351–01–M

Regulatory Coordination Advisory Committee Meeting

This is to give notice, pursuant to section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. 2, section 10(a) and 41 CFR 101–6.1015(b), that the Commodity Futures Trading Commission's Regulatory Coordination Advisory Committee will conduct a public meeting in the Hearing Room at the Commission's Washington, DC headquarters located at level B–1, 2033 K Street NW., Washington, DC 20581, on Wednesday, February 24, 1993,

beginning at 1:30 p.m. and lasting until 5 p.m. The agenda will consist of:

Agenda

1. Report from the Working Group on International Competitiveness on international net capital requirements.

2. Report from the Working Group on Pension Funds discussing unnecessary regulatory barriers to the use of futures and derivatives by pension plans.

3. Report from the Working Group on Clearing and Settlement concerning a survey of the U.S. clearing system.

4. Update on advisories concerning Performance Reporting and Beginning Net Asset Value.

5. Update on rulemakings concerning Swaps and Hybrids and Rule 4.5 (definition of "Commodity Pool Operator").

6. Discussion of new issues and topics for the committee to undertake.

7. Other issues for Committee consideration; timing of next meeting; other Committee business.

The purpose of this meeting is to solicit the views of the Committee on the agenda matters listed above. The Advisory Committee was created by the Commodity Futures Trading Commission for the purpose of advising the Commission on ways to improve coordination and to facilitate cross market transactions, including cross border transactions. The purposes and objectives of the Advisory Committee are more fully set forth in the April 15, 1992 Charter of the Advisory Committee.

The meeting is open to the public. The Chairman of the Advisory Committee is empowered to conduct the meeting in a manner that will, in her judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Advisory Committee should mail a copy of the statement to the Attention of: The Commodity Futures Trading Commission Regulatory Coordination Advisory Committee, c/o Ms. Nancy E. Yanofsky, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC. 20581, before the meeting. Members of the public who wish to make oral statements should inform Ms. Yanofsky in writing at the foregoing address at least three business days before the meeting. Reasonable provision will be made, if time permits, for an oral presentation of no more than five minutes each in duration

Issued by the Commission in Washington, DC on January 28, 1993.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 93–2455 Filed 2–2–93; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the Livingston Parish Flood Study, LA

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent to prepare a DEIS.

SUMMARY: This study will investigate Federal involvement in resolving the flooding problems of Livingston Parish.

FOR FURTHER INFORMATION CONTACT: Questions concerning the proposed project can be answered by Mr. Frank Vicidomina, (504) 862–1597, and questions concerning the DEIS can be answered by Mr. Michael Saucier, (504) 862–2525, U.S. Army Corps of Engineers, Planning Division (CELMN–PD), P.O. Box 60267, New Orleans, Louisiana 70160–0267.

SUPPLEMENTARY INFORMATION:

1. Proposed action. As part of the larger Amite River and Tributaries Study, this study proposes to develop an economically feasible and environmentally acceptable solution to flooding in the Livingston Parish urban area. The Amite River and Tributaries Study is being conducted in response to a resolution of the committee on Public Works of the United States Senate of April 14, 1967. The resolution requested the Board of Engineers for Rivers and Harbors to review the report of the Chief of Engineers on Amite River and Tributaries, Louisiana, published as House Document Number 419, Eighty-fourth Congress, and other pertinent reports, with a view to determining whether the existing project should be modified in any way at this time with particular reference to additional improvements for flood control and related purposes on Amite River, Bayou Manchac, and Comite River and their tributaries.

2. Alternatives. Alternatives being considered include channel modifications, levees, pump stations, and non-structural measures. These alternatives will be compared to the No-Action alternative.

3. Scoping Process.

a. Scoping will be conducted by an informal letter sent to persons and agencies known to have an interest in flooding problems and related issues in the area. This letter will request that interested parties provide comments on alternatives, significant issues, or impacts of alternatives for inclusion in the DEIS. All relevant issues will be addressed.

b. Significant issues to be addressed in the DEIS currently include: Extent of projected flooding with future development and no remedial action taken, economically justifiable flood protection, relocations required, locations for disposal of material to be excavated, and effects on fish and wildlife, endangered species, cultural resources, recreation, and socio-economic concerns.

c. The U.S. Department of the Interior will provide a Fish and Wildlife Coordination Act Report to accompany the DEIS.

d. A 45-day period will be allowed to all interested agencies and individuals for review and comment.

4. Meeting Schedule. No official scoping meeting is being planned at this time; however, a public meeting will be held during the review period to receive comments on the DEIS.

5. Availability. The DEIS is scheduled to be available to the public in August 1993.

Dated: January 15, 1993.

Michael Diffley,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 93–2469 Filed 2–2–93; 8:45 am]

BILLING CODE 3710–84–M

DEPARTMENT OF ENERGY

Notice Reopening the Public Review and Comment Period on the Draft Environmental Impact Statement for the Proposed Expansion of the Strategic Petroleum Reserve

AGENCY: U.S. Department of Energy (DOE).

ACTION: Notice to reopen the public review and comment period on the Draft Environmental Impact Statement (DEIS) to assess the environmental effects of the proposed plan to construct and operate the final 250-million-barrel increment of a one-billion-barrel Strategic Petroleum Reserve (SPR) pursuant to Congressional directive (Pub. L. 101–383 and Pub. L. 101–512).

SUMMARY: On November 6, 1992, the Environmental Protection Agency (EPA) published in the **Federal Register** (57 FR 53109) a Notice of Availability (NOA) for the SPR DEIS (DOE/EIS–

0165–D) thereby initiating the public comment period. The Department of Energy (DOE) announced the availability of the SPR DEIS and the schedule of public hearings in the Federal Register of November 17, 1992 (57 FR 54227). The SPR DEIS addresses a plan to develop underground crude oil storage facilities in two Gulf Coast salt domes. Five salt domes located in Louisiana, Mississippi, and Texas are under consideration. In addition, various crude oil distribution alternatives could require the construction and operation of pipelines and terminals in the above three States and Alabama. The end of the comment period as stated in the foregoing DOE and EPA Notices, was December 29, 1992. Subsequently, the comment period was extended to January 13, 1993, by a Federal Register notice of December 24, 1992 (57 FR 61422). By this notice, DOE is reopening the comment period on the SPR DEIS. Comments are due March 5, 1993.

INVITATION TO COMMENT AND DATES: DOE will continue to solicit comments on the DEIS from all interested parties. Written comments or suggestions regarding the adequacy, accuracy, and completeness of the DEIS will be considered in preparing the final EIS and should be postmarked by March 5, 1993. Written comments postmarked after that date will be considered to the degree practicable. Comments will not be accepted by telephone.

ADDRESSES: Envelopes should be marked: "ATTN: SPR DEIS Comments." Written comments or questions concerning this DEIS should be directed to: Mr. Hal Delaplane, Strategic Petroleum Reserve, FE–423, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585. Telephone: (202) 586–4730, Facsimile: (202) 586–7919.

FOR FURTHER INFORMATION CONTACT: For general information on the EIS process and other matters related to the National Environmental Policy Act (NEPA), please contact: Ms. Carol M. Borgstrom, Director, Office of NEPA Oversight (EH–25), U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585. Telephone: (202) 586–4600 or (800) 472–2756.

SUPPLEMENTARY INFORMATION: In addition to announcing the availability of the DEIS, DOE has distributed nearly 700 copies of the SR DEIS since the NOA was published November, 1992. Public hearings announced in the NOA were held in December, 1992, in Hattiesburg and Pascagoula, Mississippi; in Lake Jackson and Beaumont, Texas; and in New Iberia, Louisiana in December, 1992. Notice of these public hearings was sent to local news media. All comments and suggestions submitted during the extended period will be considered in preparing the final EIS. Written comments received after that date will be considered to the degree practicable.

Issued in Washington, DC on January 29, 1993.

Peter N. Brush,

Acting Assistant Secretary, Environment, Safety and Health.

[FR Doc. 93–2613 Filed 2–2–93; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–4559–4]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden.

DATES: Comments must be submitted on or before March 5, 1993.

FOR FURTHER INFORMATION OR A COPY OF THIS ICR CONTACT: Sandy Farmer at EPA, (202) 260–2740.

SUPPLEMENTARY INFORMATION:

Office of Solid Waste and Emergency Response

Title: Final Authorization for Hazardous Waste Management Programs (ICR No. 969.03; OMB No. 2050–0041). This is a renewal of a currently approved collection.

Abstract: The Resource Conservation and Recovery Act (RCRA) of 1976 as amended by the Hazardous and Solid Waste Amendments of 1984, requires the EPA to authorize State hazardous waste programs. The requirements that States and territories must follow in developing and revising their RCRA Subtitle C programs are specified in 40 CFR Part 271, Subpart A. In applying for authorization, States must demonstrate compliance with the Federal guidelines regulating State program standards (e.g. adequate enforcement, procedures for public notice and hearing, public availability of information). State programs must adopt or enforce requirements that are at least as stringent as the Federal requirements. A State's initial application for final authorization must contain the following: Governor's letter, program description, statement from the State's Attorney General, memorandum of agreement, copies of all applicable State statutes and regulations, and documentation of public participation.

Burden Statement: The public reporting burden for this collection is estimated to average 305 hours per response and includes all aspects of the information collection, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Respondents: States.

Estimated Number of Respondents: 25.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 7,637 hours.

Frequency of Collection: As submitted by the State.

Send comments regarding the burden estimate, or any other aspect of this collection of information, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM–223Y), 401 M Street, SW., Washington, DC 20460.

and

Jonathan Gledhill, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW., Washington, DC 20503.

Dated: January 27, 1993.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 93–2539 Filed 2–2–93; 8:45 am]

BILLING CODE 6560–50–F

[FRL–4559–2]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget

(OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden.

DATES: Comments must be submitted on or before March 5, 1993.

FOR FURTHER INFORMATION OR TO OBTAIN A COPY OF THIS ICR CONTACT: Sandy Farmer at EPA, (202) 260–2740.

SUPPLEMENTARY INFORMATION:

Office of Policy, Planning and Evaluation

Title: Pretesting and Evaluation of Risk Communication Activities (EPA No. 1552.02; OMB No. 2010–0022).

Abstract: This ICR is an extension of an existing collection in support of continued small scale studies evaluating the EPA's risk communication activities. Risk communication is used to: (1) Promote changes that reduce personal risk without regulation, and (2) improve regulatory compliance by using risk communication as a complement to a myriad of mandated environmental programs such as RCRA section 3007, Clean Air Act section 114, and Residential Lead-Based Paint Hazard Reduction Act section 1021. The data gathered by these studies are used to develop and refine risk communication materials (printed materials, public service announcements, videotapes, etc.) prepared by the Agency for public dissemination.

Following approval of this ICR, studies will be conducted to assess risk communication materials using voluntary participants selected from the general public. Volunteers will be asked to evaluate risk communication materials using criteria such as effectiveness, credibility, clarity, and relevance of the materials for the purposes of communicating an environmental risk. Study methods may include: telephone and mail surveys, focus group sessions, individual interviews, theater testings, and gatekeeper reviews. The information will be tabulated, analyzed, and used to improve risk communication activities by the Agency.

Burden Statement: Public reporting burden for this collection of information is estimated to average 1 hour per response including time for listening to or reading instructions, gathering information, and preparing oral or written responses to survey questions.

Respondents: Individuals or households.

Estimated Number of Respondents: 855.

Estimated Number of Responses per Respondent: 1.

Frequency of Collection: One time.

Estimated Total Annual Burden on Respondents: 870 hours.

Send comments regarding the burden estimate, or any other aspect of this collection of information, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM–223Y), 401 M Street, SW., Washington, DC 20460.

and

Tim Hunt, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW., Washington, DC 20503.

Dated: January 28, 1993.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 93–2538 Filed 2–2–93; 8:45 am]

BILLING CODE 6560–50–F

[FRL 4559–6]

Virginia: Final Partial Program Determination of Adequacy of State Municipal Solid Waste Landfill Permit Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of final partial program determination of adequacy on Virginia's application.

SUMMARY: Section 4005(c)(1)(B) of the Resource Conservation and Recovery Act (RCRA), as amended by the Hazardous and Solid Waste Amendments (HSWA) of 1984, requires States to develop and implement permit programs to ensure that municipal solid waste landfills (NSWLFs) which may receive household hazardous waste or small quantity generator waste will comply with the revised Federal MSWLF Criteria (40 CFR part 258). RCRA section 4005(c)(1)(C) requires the Environmental Protection Agency (EPA) to determine whether States have adequate "permit" programs for MSWLFs, but does not mandate issuance of a rule governing such determinations. The EPA has drafted and is in the process of proposing a State/Tribal Implementation Rule (STIR) that provides procedures by which the EPA approves, or partially approves, State/Tribal municipal solid waste (msw) landfill permit programs. However, the Agency intends to approve adequate State MSWLF permit programs as applications are submitted. Thus, these approvals are not dependent on final promulgation of the STIR. Prior to promulgation of the STIR, adequacy determinations will be made based on statutory authorities and requirements. In addition, States/Tribes may use the draft STIR as an aid in interpreting these requirements. The Agency believes that early approvals have an important benefit. Approved State/Tribal msw permit programs provide for interaction between the State/Tribe and the owner/operator regarding site-specific permit conditions. Only those owners/operators located in States/Tribes with approved permit programs can use the site-specific flexibility provided by 40 CFR part 258 to the extent the State/Tribal msw permit program allows such flexibility.

Virginia applied for a partial program determination of adequacy under section 4005 of RCRA. The EPA reviewed Virginia's application and made a tentative determination of adequacy on August 18, 1992 for those portions of the MSWLF permit program that are adequate to ensure compliance with the revised Federal MSWLF Criteria. After reviewing and considering all comments received, the EPA today is granting final partial approval to Virginia's program.

EFFECTIVE DATE: The determination of adequacy for Virginia shall be effective on February 3, 1993.

FOR FURTHER INFORMATION CONTACT: U.S. EPA Region 3, 841 Chestnut Building, Philadelphia, Pennsylvania 19107, Attn: Mr. Andrew Uricheck, mailcode (3HW53), telephone (215) 597–7936.

SUPPLEMENTARY INFORMATION:

A. Background

On October 9, 1991, the EPA promulgated revised Federal MSWLF Criteria (40 CFR Part 258). Subtitle D of RCRA, as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA) requires States to develop permitting programs to ensure that municipal solid waste landfill facilities comply with the revised Federal Criteria.

Subtitle D also requires in section 4005 that the EPA determine the adequacy of State municipal solid waste landfill permit programs to ensure that facilities comply with the revised Federal MSWLF Criteria. To fulfill this requirement, the Agency has drafted and is in the process of proposing the State/Tribal Implementation Rule (STIR). The rule will specify the requirements which State/Tribal msw landfill permit programs must satisfy to be determined adequate. The STIR allows for partial approval if (1) the Regional Administrator determines that the State/Tribal permit program largely meets the requirements for ensuring compliance with 40 CFR part 258; (2)

changes to a limited narrow part(s) of the State/Tribal permit program are needed to meet these requirements; and, (3) provisions not included in the partially approved portions of the State/Tribal permit program are a clearly identifiable and separable subset of 40 CFR part 258. As provided in the revised Federal MSWLF Criteria, the EPA's national subtitle D standards will generally take effect in October 1993. Consequently, any portions of the revised Federal MSWLF Criteria which are not included in an approved State/Tribal msw landfill program by October 1993 would apply directly to owners/operators, since 40 CFR 258 is self-implementing in unapproved states. The requirements of the STIR will ensure that any mixture of State/Tribal and Federal rules that take effect will be fully workable and leave no significant gaps in environmental protection. These practical concerns apply to individual partial approvals granted prior to the promulgation of the STIR. Consequently, the EPA reviewed the program approved today and concluded that the State and the Federal requirements mesh reasonably well and leave no significant gaps. Partial approval allows the Agency to approve those provisions of the State msw landfill permit program that meet the requirements and allow the State to make necessary changes to the remaining portions of its program. As a result, owners/operators will be able to work with the State permitting agency to take advantage of the revised Federal MSWLF Criteria's flexibility for those portions of the program which have been approved.

The EPA reviewed the State's requirements to determine whether they are "adequate" under section 4005 (c)(1)(C) of RCRA. The EPA interprets the requirements for States or Tribes to develop "adequate" programs for permits or other forms of prior approval to impose several minimum requirements. First, each State/Tribe must have enforceable standards for new and existing MSWLFs that are technically comparable to the revised Federal MSWLF Criteria. Second, the State/Tribe must have the authority to issue a permit or other notice of prior approval to all new and existing MSWLFs in its jurisdiction. The State/Tribe must also provide for public participation in permit issuance and enforcement as required in section 7004(b) of RCRA. Third, the EPA believes that the State/Tribe must show that it has sufficient compliance monitoring and enforcement authorities to take specific action against any owner or operator who fails to comply with an approved MSWLF program.

The EPA Regions will determine whether a State/Tribe has submitted an "adequate" program based on the interpretation outlined above. The EPA expects States/Tribes to meet the STIR requirements for a MSWLF program before it gives full approval to a MSWLF program. The EPA is also requesting States/Tribes seeking partial program approval to provide a schedule for the submittal of all remaining portions of their MSWLF permit programs.

B. State of Virginia

On May 29, 1992, Virginia submitted an application to obtain a partial program adequacy determination for the State's municipal solid waste landfill permit program. On August 18, 1992, the EPA Region III published a tentative determination of adequacy for Virginia's program. Further background on the tentative partial program determination of adequacy appears at 57 FR 37160, August 18, 1992. Along with the tentative determination, the EPA announced the availability of the application for public comment and the date of a public hearing on the application, if sufficient interest was expressed to hold such a hearing. A similar announcement was published in the Richmond Times-Dispatch newspaper on August 28, 1992. There were no requests for a public hearing. Therefore, one was not held.

The EPA has reviewed Virginia's application and has determined that the following portions of the existing Virginia solid waste permit program will ensure compliance with the revised Federal MSWLF Criteria.

1. Subpart A, General, purpose, scope, and applicability and consideration of other federal laws (40 CFR 258.1 and 258.3);

2. Subpart B, Location restrictions for fault areas, seismic impact zones, unstable areas, and closure of existing units (40 CFR 258.13, 258.14, 258.15, and 258.16);

3. Subpart C, Operating criteria for disease vector control, air criteria, access requirements, run-on/run-off control systems, surface water, and liquids restrictions (40 CFR 258.22, 258.24, 258.25, 258.26, 258.27, and 258.28);

4. Subpart E, Groundwater monitoring and corrective action criteria for applicability, groundwater monitoring systems, assessment monitoring program, assessment corrective measures, selection of remedy, and implementation of the corrective action program (40 CFR 258.50, 258.51, 258.55, 258.56, 258.57, and 258.58);

5. Subpart F, Closure and post-closure care, closure criteria (40 CFR 258.60); and,

6. Subpart G, Financial assurance criteria, allowable mechanisms (40 CFR 258.74).

Virginia's MSWLF permit program has the authority to issue permits that incorporate the requirements in the revised Federal MSWLF Criteria to all MSWLFs in the Commonwealth of Virginia. In addition, the EPA has determined that Virginia's permit program contains provisions for public participation, compliance monitoring, and enforcement.

To ensure compliance with all of the revised Federal MSWLF Criteria, Virginia intends to revise the following aspects of its permit program for purposes of obtaining final approval:

1. Virginia will revise its regulations to add the Federal definitions for active life, active portion, existing unit, fault, lateral expansion, new unit, run-on, saturated zone, seismic impact zone, unstable area, and uppermost aquifer in 40 CFR 258.2;

2. Virginia will revise its regulations to incorporate the Federal location restrictions for the post-facto demonstrations for airport safety and floodplains, and the prohibition of location in wetlands without demonstration in 40 CFR 258.10, 258.11, and 258.12;

3. Virginia will revise its regulations to incorporate the Federal operating requirements for the exclusion of hazardous waste, daily cover, explosive gases control, and recordkeeping in 40 CFR 258.20, 258.21, 258.23, and 258.29;

4. Virginia will revise its regulations to adopt the Federal composite liner requirement consisting of an upper component of a minimum of 30-mil flexible membrane liner (or 60-mil high density polyethylene) installed in direct and uniform contact over a lower component of at least a two-foot layer of compacted soil with a hydraulic conductivity of no more than 1×10^{-7} cm/sec design requirements in 40 CFR 258.40(a)(2). Existing facilities, and only existing facilities, proposing a lateral expansion will be offered the option of demonstrating that any alternate liner design meets the performance standard allowed under 40 CFR 258.40(a)(1).

5. Virginia will revise its regulations to incorporate the groundwater sampling and detection monitoring requirements, including the structure and parameter coverage listed in Appendices I and II, that are consistent with the revised Federal Criteria under 40 CFR 258.53 and 258.54;

6. Virginia will adopt the Federal criteria pertaining to a length of the

post-closure period as 30 years, and the level of detail as specified in 40 CFR 258.61;

7. Virginia will seek to amend a State statute, and, following that, their regulations, to fully meet the financial assurance requirements especially as they apply to public owners and operators of MSWLF's, for closure, post-closure care, and corrective action under 40 CFR 258.70, 258.71, 258.72 and 258.73.

The EPA received the following written public comments on its tentative determination of partial program adequacy for Virginia's MSWLF permit program.

Two commentors expressed concern that the extent and detail of EPA's partial approval was not clearly defined in our tentative determination, and expressed the belief that those portions of the Virginia regulations set aside for approval were too limited, based on the state's commitment to more completely adopt the EPA criteria. After long and careful consideration of this issue, we agreed with these comments. As a result, this final determination identifies in far more specific detail than our tentative determination, those portions of the existing Virginia program deemed adequate to ensure compliance with 40 CFR 258. Likewise, it identifies in detail those portions of Virginia's regulations which must be revised to ensure this compliance.

One commentor suggested that the EPA should condition approval of the Virginia application upon the state's commitment that a general exemption process will not result in requirements for a facility that are less stringent than the revised Federal MSWLF Criteria. Discussions with Virginia have indicated that the situations in which the exemption has been used in the past would not pose a deviation from the revised Federal MSWLF Criteria. The general exemption process serves to foster innovative, but equivalent, methods of complying with Virginia requirements. Furthermore, the same commentor acknowledged that Virginia has to date acted responsibly in granting exemptions from the solid waste rules. The EPA is satisfied that the use of this general exemption does not undermine the effectiveness of Virginia's program.

One commentor noted that the financial assurance requirements will not apply to public owners/operators until December 1993, while they currently apply to private facilities, citing this as differential treatment. Our response is that this difference in timing is the result of existing Virginia statute, which is the prerogative of the state. If financial assurance is required for all owners/operators by April 9, 1994, the state is in compliance with the EPA criteria.

One commentor recommended that the state allow owners/operators to utilize statistical tests for their Phase I monitoring other than the Student's t-test currently required. In discussing this issue with Virginia, the state has agreed to accept alternate tests upon written request and justification, and state approval.

Lastly, one commentor requested that Virginia be allowed to extend the period within which closure of landfills must be completed to at least 12 months. As this is a clear violation of 40 CFR 258.60(g) which requires the completion of closure within 180 days, we cannot agree with this comment. We note, however, that the criteria allows approved states to grant extensions to this period if demonstrated to be necessary.

Virginia submitted a schedule indicating that it will be able to complete these revisions and amendments by December 2, 1993. As explained in the notice of tentative determination, the EPA reviewed the schedule and concluded that it was reasonable.

The EPA cautions Virginia that it currently plans to propose in the STIR that all partial approvals will expire in October 1995 for States/Tribes that have not received final approval for all provisions of 40 CFR part 258. Expiration of a partial approval would mean that the less flexible revised Federal Criteria would once again be effective in that State/Tribe. The EPA urges Virginia to work diligently to make all of the necessary revisions to those portions of its permit program that are not receiving approval today.

C. Decision

After reviewing the public comments submitted since the tentative decision, I conclude that Virginia's application for partial program adequacy determination meets all of the statutory and regulatory requirements established by RCRA. Accordingly, Virginia is granted a final partial program determination of adequacy for the following areas of its municipal solid waste landfill permitting program:

1. Purpose, scope, and applicability and consideration of other federal laws (40 CFR 258.1 and 258.3);

2. Location restrictions for fault areas, seismic impact zones, unstable areas, and closure of existing units (40 CFR 258.13, 258.14, 258.15, and 258.16);

3. Operating criteria for disease vector control, air criteria, access requirements, run-on/run-off control systems, surface water, and liquids restrictions (40 CFR 258.22, 258.24, 258.25, 258.26, 258.27, and 258.28);

4. Groundwater monitoring and corrective action criteria applicability, groundwater monitoring systems, assessment monitoring program, assessment corrective measures, selection of remedy, and implementation of the corrective action program (40 CFR 258.50, 258.51, 258.55, 258.56, 258.57, and 258.58);

5. Closure criteria (40 CFR 258.60); and,

6. Financial assurance criteria allowable mechanisms (40 CFR 258.74).

Section 4005(a) of RCRA provides that citizens may use the citizen suit provisions of section 7002 of RCRA to enforce the revised Federal MSWLF criteria in 40 CFR part 258 independent of any State enforcement program. As the EPA explained in the preamble to the revised Federal MSWLF Criteria, the EPA expects that any owner or operator complying with provisions in a State/Tribal program approved by the EPA should be considered to be in compliance with the revised Federal MSWLF Criteria. See 56 FR 50978, 50995 (October 9, 1991). Today's action takes effect on the date of publication.' The EPA believes it has good cause under section 553(d) of the Administrative Procedure Act, 5 U.S.C., to put this action into effect less than 30 days after publication in the **Federal Register**. All of the requirements and obligations in Virginia's program are already in effect as a matter of state law. The EPA's action today does not impose any new requirements that the regulated community must begin to comply with. Nor do these requirements become enforceable by the EPA as Federal law.

Consequently, the EPA finds that it does not need to give notice prior to making its approval effective.

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 final approval will not have a significant economic impact on a substantial number of small entities. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

Authority: This notice is issued under the authority of section 4005 of the Solid Waste Disposal Act as amended; 42 U.S.C. 6946.

Dated: January 21, 1993.

Stanley L. Laskowski,

Acting Regional Administrator.

[FR Doc. 93–2541 Filed 2–2–93; 8:45 am]

BILLING CODE 6560–50–M

[PF–570; FRL–4183–4]

Hoechst Celanese Corp. and SKW Trostberg AG; Notice of Filing and Notice of Amendment of Pesticide Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received from the the Hoechst Celanese Corp. an initial filing of pesticide petition (PP) 3F4182 for fenoxaprop-ethyl on barley grain and straw and from SKW Trostberg AG an amendment to PP 0F3868 for hydrogen cyanamide on grapes and grape byproducts.

ADDRESSES: By mail, submit written comments, identified by the document control number [PF-570], 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. 1128, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

Information submitted as a comment 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 that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1128 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Joanne Miller, Product Manager (PM 23), Registration Division (H-7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 237, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-7830.

SUPPLEMENTARY INFORMATION: Under section 408 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a), EPA has received an initial filing of a pesticide petition and an amended filing of a pesticide petition as follows:

Initial Filing

1. *PP 3F4182.* The Hoechst Celanese Corp., Route 202-206, P.O. Box 2500, Somerville, NJ 08876-1258, has submitted PP 3F4182 proposing the amendment of 40 CFR 180.430 to establish a tolerance for the herbicide fenoxaprop-ethyl [(±)-ethyl 2-[4-[(6-chloro-2-benzoxazolyl)oxy]phenoxy]propanoate] and its metabolites 2-[4-[(6-chloro-2-benzoxazolyl)oxy]phenoxy]propanoic acid and 6-chloro-2,3-dihydrobenzoxazol-2-one], each expressed as fexnoxaprop-ethyl) in or on barley grain at 0.05 part per million (ppm) and barley straw at 0.10 ppm. The analytical method used is gas chromatography.

Amended Filing

2. *PP 0F3868.* SKW Trostberg, Siemer Associates, Inc., 4672 W. Jennifer, Fresno, CA 93722, proposed in a notice issued in the **Federal Register** of July 18, 1990 (55 FR 29268), to amend 40 CFR part 180 by establishing a regulation to exempt from the requirement of a tolerance residues of hydrogen cyanamide on grapes. SKW Trostberg AG has submitted an amended petition proposing to establish an exemption from the requirement of a tolerance for the plant growth regulator hydrogen cyanamide in or on grapes and grape byproducts. The analytical method used is high-performance liquid chromatography.

Authority: 7 U.S.C. 346a and 371.

Dated: January 15, 1993.

Lawrence E. Culleen,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 93–2368 Filed 2–2–93; 8:45 am]

BILLING CODE 6560–50–F

[OPP–60044; FRL–4184–8]

Intent to Suspend Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of issuance of notices of intent to suspend.

SUMMARY: This Notice, pursuant to section 6(f)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 et seq., announces that EPA has issued Notices of Intent to Suspend pursuant to sections 3(c)(2)(B) and 4 of FIFRA. The Notices were issued following issuance of Section 4 Reregistration Requirements Notices by the Agency and the failure of registrants subject to the Section 4 Reregistration Requirements Notices to take appropriate steps to secure the data required to be submitted to the Agency. This Notice includes the text of a Notice of Intent to Suspend, absent specific chemical, product, or factual information. Table A of this Notice further identifies the registrants to whom the Notices of Intent to Suspend were issued, the date each Notice of Intent to Suspend was issued, the active ingredient(s) involved, and the EPA registration numbers and names of the registered product(s) which are affected by the Notices of Intent to Suspend. Moreover, Table B of this Notice identifies the basis upon which the Notices of Intent to Suspend were issued. Finally, matters pertaining to the timing of requests for hearing are specified in the Notices of Intent to Suspend and are governed by the deadlines specified in section 3(c)(2)(B). As required by section 6(f)(2), the Notices of Intent to Suspend were sent by certified mail, return receipt requested, to each affected registrant at its address of record.

FOR FURTHER INFORMATION CONTACT: Stephen L. Brozena, Office of Compliance Monitoring (EN–342), Laboratory Data Integrity Assurance Division, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, (703) 308–8267.

SUPPLEMENTARY INFORMATION:

I. Text of a Notice of Intent to Suspend

The text of a Notice of Intent to Suspend, absent specific chemical, product, or factual information, follows:

United States Environmental Protection Agency

Office of Prevention, Pesticides and Toxic Substances

Washington, DC 20460

Certified Mail

Return Receipt Requested

SUBJECT: Suspension of Registration of Pesticide Product(s) Containing _____ for Failure to Comply with the Section 4 Phase 5 Reregistration Eligibility Document Data Call-In Notice for _____ Dated _____.

Dear Sir/Madam:

This letter gives you notice that the pesticide product registrations listed in Attachment I will be suspended 30 days from your receipt of this letter unless you take steps within that time to prevent this Notice from automatically becoming a final and effective order of suspension. The Agency's authority for

suspending the registrations of your products is sections 3(c)(2)(B) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Upon becoming a final and effective order of suspension, any violation of the order will be an unlawful act under section 12(a)(2)(J) of FIFRA.

You are receiving this Notice of Intent to Suspend because you have failed to comply with the terms of the Phase 5 Registration Eligibility Document Data Call-In Notice imposed pursuant to section 4(g)(2)(b) and section (3)(2)(B) of FIFRA.

The specific basis for issuance of this Notice is stated in the Explanatory Appendix (Attachment III) to this Notice. Affected products and the requirements which you failed to satisfy are listed and described in the following three attachments:

Attachment I Suspension Report—Product List

Attachment II Suspension Report—Requirement List

Attachment III Suspension Report—Explanatory Appendix

The suspension of the registration of each product listed in Attachment I will become final unless at least one of the following actions is completed.

1. You may avoid suspension under this Notice if you or another person adversely affected by this Notice properly request a hearing within 30 days of your receipt of this Notice. If you request a hearing, it will be conducted in accordance with the requirements of section 6(d) of FIFRA and the Agency's procedural regulations in 40 CFR part 164.

Section 3(c)(2)(B), however, provides that the only allowable issues which may be addressed at the hearing are whether you have failed to take the actions which are the bases of this Notice and whether the Agency's decision regarding the disposition of existing stocks is consistent with FIFRA. Therefore, no substantive allegation or legal argument concerning other issues, including but not limited to the Agency's original decision to require the submission of data or other information, the need for or utility of any of the required data or other information or deadlines imposed, and the risks and benefits associated with continued registration of the affected product, may be considered in the proceeding. The Administrative Law Judge shall by order dismiss any objections which have no bearing on the allowable issues which may be considered in the proceeding.

Section 3(c)(2)(B)(iv) of FIFRA provides that any hearing must be held and a determination issued within 75 days after receipt of a hearing request. This 75-day period may not be extended unless all parties in the proceeding stipulate to such an extension. If a hearing is properly requested, the Agency will issue a final order at the conclusion of the hearing governing the suspension of your products.

A request for a hearing pursuant to this Notice must (1) include specific objections which pertain to the allowable issues which may be heard at the hearing, (2) identify the registrations for which a hearing is requested, and (3) set forth all necessary supporting facts pertaining to any of the objections which you have identified in your request for a hearing. If a hearing is requested by any person other than the registrant, that person must also state specifically why he asserts that he would be adversely affected by the suspension action described in this Notice. Three copies of the request must be submitted to: Hearing Clerk, A–110, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, and an additional copy should be sent to the signatory listed below. The request must be *received* by the Hearing Clerk by the 30th day from your receipt of this Notice in order to be legally effective. The 30-day time limit is established by FIFRA and cannot be extended for any reason. Failure to meet the 30-day time limit will result in automatic suspension of your registration(s) by operation of law and, under such circumstances, the suspension of the registration for your affected product(s) will be final and effective at the close of business 30 days after your receipt of this Notice and will not be subject to further administrative review.

The Agency's Rules of Practice at 40 CFR 164.7 forbid anyone who may take part in deciding this case, at any stage of the proceeding, from discussing the merits of the proceeding *ex parte* with any party or with any person who has been connected with the preparation or presentation of the proceeding as an advocate or in any investigative or expert capacity, or with any of their representatives. Accordingly, the following EPA offices, and the staffs thereof, are designated as judicial staff to perform the judicial function of EPA in any administrative hearings on this Notice of Intent to Suspend: The Office of the Administrative Law Judges, the Office of the Judicial Officer, the Administrator, the Deputy Administrator, and the members of the staff in the immediate offices of the Administrator and Deputy Administrator. None of the persons designated as the judicial staff shall have any *ex parte* communication with trial staff or any other interested person not employed by EPA on the merits of any of the issues involved in this proceeding, without fully complying with the applicable regulations.

2. You may also avoid suspension if, within 30 days of your receipt of this Notice, the Agency determines that you have taken appropriate steps to comply with the section 4 Phase 5 Reregistration Eligibility Document Data Call-In Notice requirements. In order to avoid suspension under this option, you must satisfactorily comply with Attachment II, Requirement List, for each product by submitting all required supporting data/information described in Attachment II and in the Explanatory Appendix (Attachment III) to the following address (preferably by certified mail):

Office of Compliance Monitoring (EN–342), Laboratory Data Integrity Assurance Division, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

For you to avoid automatic suspension under this Notice, the Agency must also determine within the applicable 30-day period that you have satisfied the requirements that are the bases of this Notice and so notify you in writing. You should submit the necessary data/information as quickly as possible for there to be any chance the Agency will be able to make the necessary determination in time to avoid suspension of your product(s).

The suspension of the registration(s) of your company's product(s) pursuant to this Notice will be rescinded when the Agency determines you have complied fully with the requirements which were the bases of this Notice. Such compliance may only be achieved by submission of the data/information described in the attachments to the signatory below.

Your product will remain suspended, however, until the Agency determines you are in compliance with the requirements which are the bases of this Notice and so informs you in writing.

After the suspension becomes final and effective, the registrant subject to this Notice, including all supplemental registrants of product(s) listed in Attachment I, may not legally distribute, sell, use, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver, to any person, the product(s) listed in Attachment I.

Persons other than the registrant subject to this Notice, as defined in the preceding sentence, may continue to distribute, sell, use, offer for sale, hold for sale, ship, deliver for shipment, or

receive and (having so received) deliver or offer to deliver, to any person, the product(s) listed in Attachment I.

Nothing in this Notice authorizes any person to distribute, sell, use, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver, to any person, the product(s) listed in Attachment I in any manner which would have been unlawful prior to the suspension.

If the registrations of your products listed in Attachment I are currently suspended as a result of failure to comply with another section 4 Data Requirements Notice or section 3(c)(2)(B) Data Call-In Notice, this Notice, when it becomes a final and effective order of suspension, will be in addition to any existing suspension, i.e., all requirements which are the bases of the suspension must be satisfied before the registration will be reinstated.

You are reminded that it is your responsibility as the basic registrant to notify all supplementary registered distributors of your basic registered product that this suspension action also applies to their supplementary registered products and that you may be held liable for violations committed by your distributors. If you have any questions about the requirements and procedures set forth in this suspension notice or in the subject section 4 Data Requirements Notice, please contact Stephen L. Brozena at (703) 308–8267.

Sincerely yours,

Director, Office of Compliance Monitoring.

Attachments:
Attachment I—Product List
Attachment II—Requirement List
Attachment III—Explanatory Appendix

II. Registrants Receiving and Affected by Notices of Intent to Suspend; Date of Issuance; Active Ingredient and Products Affected

The following is a list of products for which a letter of notification has been sent:

TABLE A.—LIST OF PRODUCTS

Registrant Affected	EPA Registration Number	Active Ingredient	Name of Product	Date Issued
Milazzo Co., Samuel J.	00821800001	Dried Blood	Milazzo Brand Animal Chaser	12/21/92
Faesy & Besthoff Inc.	00077900029	Dried Blood	F & B Rabbit & Dog Chaser	12/21/92
Dragon Corporation	00001600128	Dried Blood	Dragon Rabbit & Dog Chaser	

III. Basis for Issuance of Notice of Intent; Requirement List

The following companies failed to submit the following required data or information:

TABLE B.—REQUIREMENT LIST

Active Ingredient	Registrant Affected	Requirement Name	Guideline Reference No.	Original Due-Date
Dried Blood	Milazzo Co., Samuel J.	Confidential Statement of Formula (CSF) Form		10/27/92
		Chemical Identity	61–1	10/27/92
		Beginning Material and Manuf Process	61–2(a)	10/27/92
		Certification of Ingredient Limits	62–2	10/27/92
		Analytical Method to Verify Certified Limits	62–3	10/27/92
		Color	63–2	10/27/92
		Physical State	63–3	10/27/92
		Odor	63–4	10/27/92
		Density, Bulk Density, or Specific Gravity	63–7	10/27/92
		Storage Stability	63–17	10/27/92
		Corrosion Characteristics	63–20	10/27/92
		Acute Oral Toxicity—Rat	81–1	10/27/92
		Acute Dermal Toxicity—Rabbit/Rat	81–2	10/27/92
		Acute Inhalation Toxicity—Rat	81–3	10/27/92
		Primary Eye Irritation—Rabbit	81–4	10/27/92
		Primary Dermal Irritation	81–5	10/27/92
		Dermal Sensitization	81–6	10/27/92
		Domestic Dog and Cat Repellent Study	96–18	10/27/92
		Browsing Animal Repellent Study	96–19	10/27/92
	Faesy & Besthoff Inc.	Confidential Statement of Formula (CSF) Form		10/27/92
		Acute Oral Toxicity—Rat	81–1	10/27/92
		Acute Dermal Toxicity—Rabbit/Rat	81–2	10/27/92
		Acute Inhalation Toxicity—Rat	81–3	10/27/92
		Primary Eye Irritation—Rabbit	81–4	10/27/92
		Primary Dermal Irritation	81–5	10/27/92
		Dermal Sensitization	81–6	10/27/92
Dried Blood	Dragon Corporation	Confidential Statement of Formula (CSF) Form		10/27/92
		Acute Oral Toxicity—Rat	81–1	10/27/92
		Acute Dermal Toxicity—Rabbit/Rat	81–2	10/27/92
		Acute Inhalation Toxicity—Rat	81–3	10/27/92
		Primary Eye Irritation—Rabbit	81–4	10/27/92
		Primary Dermal Irritation	81–5	10/27/92
		Dermal Sensitization	81–6	10/27/92
		Domestic Dog and Cat Repellent Study	96–18	10/27/92
		Browsing Animal Repellent Study	96–19	10/27/92

IV. Attachment III Suspension Report—Explanatory Appendix

A discussion of the basis for the Notice of Intent to Suspend follows:

On February 27, 1992, EPA issued the Phase 5 Reregistration Data Requirements Notice imposed pursuant to section 4 of FIFRA which required registrants of products containing dried blood to develop and submit certain data. These data were determined to be necessary to satisfy reregistration data requirements of section 4(g)(2)(B) of FIFRA.

The Dried Blood Phase 5 Reregistration Data Requirements Notice dated February 27, 1992 required each affected registrant to submit materials relating to the election of the options to address each of the data requirements. That submission was required to be received by the Agency within 90 days of the registrant's receipt of the Notice. The Agency received a response from you in which you committed to undertake the required testing. The Notice further required that data be submitted by deadlines noted for the subject data requirements on Attachment II. These deadlines have passed and to date the Agency has not received adequate data to satisfy these data requirements. Because you have failed to provide an appropriate or adequate response within the time provided for data requirements listed on Attachment II, the Agency is issuing this Notice of Intent to Suspend.

V. Conclusions

EPA has issued Notices of Intent to Suspend on the dates indicated. Any further information regarding these Notices may be obtained from the contact person noted above.

Dated: January 25, 1993.

Michael M. Stahl,

Director, Office of Compliance Monitoring.

[FR Doc. 93–2273 Filed 2–2–93; 8:45 am]

BILLING CODE 6560–50–F

[OPP–66170; FRL 4181–8]

Notice of Receipt of Requests to Voluntarily Cancel Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of requests by registrants to voluntarily cancel certain pesticide registrations.

DATES: Unless a request is withdrawn by May 4, 1993, orders will be issued cancelling all of these registrations.

FOR FURTHER INFORMATION CONTACT: By mail: James A. Hollins, Office of Pesticide Programs (H7502C), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. Office location for commercial courier delivery and telephone number: room 220, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA (703) 305–5761.

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, provides that a pesticide registrant may, at any time, request that any of its pesticide registrations be cancelled. The Act further provides that EPA must publish a notice of receipt of any such request in the **Federal Register** before acting on the request.

II. Intent to Cancel

This Notice announces receipt by the Agency of requests to cancel some 17 pesticide products registered under section 3 or 24(c) of FIFRA. These registrations are listed in sequence by registration number (or company number and 24(c) number) in the following Table 1:

TABLE 1. — REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION

Registration No.	Product Name	Chemical Name
000070–00040	Kill-KO 5% Cythion Dust	*O,O*-Dimethyl phosphorodithioate of diethyl mercaptosuccinate
000100 ME–91–0003	Ridomil MZ 58 Fungicide	Zinc ion and manganese ethylenebisdithiocarbamate, coordination product *N*-(2,6-Dimethylphenyl)-*N*-(methoxyacetyl)alanine, methyl ester
000239–02526	Ortho Home Orchard Spray Formula II	Methoxychlor (2,2-bis(*p*-methoxyphenyl)-1,1,1-trichloroethane) *O,O*-Dimethyl phosphorodithioate of diethyl mercaptosuccinate cis-*N*-Trichloromethylthio-4-cyclohexene-1,2-dicarboximide
000352 CA–88–0011	Dupont Benlate 50–DF	Methyl 1-(butylcarbamoyl)-2-benzimidazolecarbamate
000352 CO–89–0002	Dupont Glean Herbicide	2-Chloro-*N*-(((4-methoxy-6-methyl-1,3,5-triazin-2-yl)amino)carbonyl)benzenesulfonamide
000352 PA–80–0001	Du Pont Benlate Fungicide Wettable Powder	Methyl 1-(butylcarbamoyl)-2-benzimidazolecarbamate
000352 SC–77–0002	Du Pont Benlate Fungicide Wettable Powder	Methyl 1-(butylcarbamoyl)-2-benzimidazolecarbamate cis-*N*-Trichloromethylthio-4-cyclohexene-1,2-dicarboximide cis-*N*-Trichloromethylthio-4-cyclohexene-1,2-dicarboximide
000572–00344	Rockland Benomyl Fungicide DF	Methyl 1-(butylcarbamoyl)-2-benzimidazolecarbamate
001021 OR–88–0011	MGK Big Game Repellent Powder BGR–P	Putrescent whole egg solids
001021 WA–88–0004	MGK Big Game Repellent Powder BGR–P	Putrescent whole egg solids
004313–00067	Floral Air Deodorant	1,2-Propanediol Triethylene glycol
004866–00008	Deer Away Big Game Repellent BGR(1-Part) Concentrate	Putrescent whole egg solids
010182 LA–89–0015	Karate Insecticide	(RS)-alpha-Cyano-3-phenoxybenzyl (1RS)-cis-3-((*Z*)-2-chloro-3,3,3-trifluoroprop-1-enyl)-2,2-dimethylcyclopropanecarboxylate
039398–00015	Sumithion 8E	*O,O*-Dimethyl *O*-(4-nitro-*m*-tolyl) phosphorothioate
042697–00018	Safer's Garden Fungicide-Miticide Concentrate	Sulfur
059639 LA–91–0003	Bolero 8EC	*S*-((4-Chlorophenyl)methyl) *N,N*-diethylthiocarbamate
062499 LA–84–0009	Ortho Bolero 10G	*S*-((4-Chlorophenyl)methyl) *N,N*-diethylthiocarbamate

Unless a request is withdrawn by the registrant within 90 days of publication of this notice, orders will be issued cancelling all of these registrations. Users of these pesticides or anyone else desiring the retention of a registration should contact the applicable registrant directly during this 90-day period. The following Table 2 includes the names and addresses of record for all registrants of the products in Table 1, in sequence by EPA Company Number.

TABLE 2. — REGISTRANTS REQUESTING VOLUNTARY CANCELLATION

EPA Company No.	Company Name and Address
000070	Wilbur-Ellis Co., Box 16458, Fresno, CA 93755.
000100	Ciba-Geigy Corp., Box 18300, Greensboro, NC 27419.
000239	Chevron Chemical Co., Ortho Consumer Products Division, 940 Hensley St, Richmond, CA 94804.
000352	E. I. Du Pont DeNemours & Co., Inc., Barley Mill Plaza, Walker's Mill, Wilmington, DE 19880.
000572	Rockland Corp., 686 Passaic Ave., Box 809, West Caldwell, NJ 07007.
001021	McLaughlin Gormley King Co., 8810 Tenth Ave. North Minneapolis, MN 55427.
004313	Carroll Co., 2900 W. Kingsley Rd., Garland, TX 75041.
004866	Intagra, Inc., 8500 Pillsbury Ave. South Minneapolis, MN 55420.
010182	ICI Americas Inc., Agricultural Products, New Murphy Rd. & Concord Pike, Wilmington, DE 19897.
039398	Sumitomo Chemical America, Inc., c/o Director of Insect Control & Research, Inc., 1330 Dillion Heights Ave., Baltimore, MD 21228.
042697	Safer Inc., c/o Delta Analytical Corp., 1414 Fenwick Ln., Silver Springs, MD 20910.
059639	Valent U.S.A. Corp., 1333 North California Blvd., Box 8025, Walnut Creek, CA 94596.
062499	Chevron Chemical Co, Valent USA Corp., Box 5058, San Ramon, CA 94583.

III. Procedures for Withdrawal of Request

Registrants who choose to withdraw a request for cancellation must submit such withdrawal in writing to James A. Hollins, at the address given above, postmarked before May 4, 1993. This written withdrawal of the request for cancellation will apply only to the applicable 6(f)(1) request listed in this notice. If the product(s) have been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling. The withdrawal request must also include a commitment to pay any reregistration fees due, and to fulfill any applicable unsatisfied data requirements.

IV. Provisions for Disposition of Existing Stocks

The effective date of cancellation will be the date of the cancellation order. The orders effecting these requested cancellations will generally permit a registrant to sell or distribute existing stocks for 1-year after the date the cancellation request was received. This policy is in accordance with the Agency's statement of policy as prescribed in **Federal Register** No. 123, Vol. 56, dated June 26, 1991. Exceptions to this general rule will be made if a product poses a risk concern, or is in noncompliance with reregistration requirements, or is subject to a data call-in. In all cases, product-specific disposition dates will be given in the cancellation orders.

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which have been packaged, labeled, and released for shipment prior to the effective date of the cancellation action. Unless the provisions of an earlier order apply, existing stocks already in the hands of dealers or users can be distributed, sold or used legally until they are exhausted, provided that such further sale and use comply with the EPA-approved label and labeling of the affected product(s). Exceptions to these general rules will be made in specific cases when more stringent restrictions on sale, distribution, or use of the products or their ingredients have already been imposed, as in Special Review actions, or where the Agency has identified significant potential risk concerns associated with a particular chemical.

Dated: January 19, 1993.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 93–2369 Filed 2–2–93; 8:45 am]

BILLING CODE 6560–50–F

[FRL–4560–3]

Clean Air Act; Acid Rain Provisions

AGENCY: Environmental Protection Agency.

ACTION: Notice of the 1993 EPA SO_2 allowance auctions.

SUMMARY: Pursuant to title IV of the Clean Air Act and 40 CFR part 73, the EPA is responsible for implementing a program to reduce emissions of sulfur dioxide (SO_2), a precursor of acid rain The centerpiece of the SO_2 control program is the allocation of transferable allowances, or authorizations to emit SO_2, which are distributed in limited quantities for existing utility units and which eventually must be held by virtually all utility units to cover their SO_2 emissions. These allowances may be transferred among polluting sources and others, so that market forces may govern their ultimate use and distribution, resulting in the most cost-effective sharing of the emissions control burden. In addition, EPA is directed under section 416 of the Act to conduct annual sales and auctions of a small portion of allowances (2.8%) withheld from the total allowances allocated to utilities each year. Sales and auctions are expected to stimulate and support such a market in allowances and to provide a public source of allowances, particularly to new units for which no allowances are allocated. Today, the Acid Rain Division is giving notice of the first annual SO_2 allowance auctions. The regulations governing the auctions and sales were promulgated on December 17, 1991 (40 CFR part 73, subpart E).

EPA has delegated the administration of the EPA allowance auctions to the Chicago Board of Trade (CBOT). The auctions will be conducted under the regulations cited above. Anyone can participate in the EPA auctions and bidders are not restricted as to the quantity or price of their bid.

Allowances sold at the auctions will be sold to the highest bidder until no allowances remain. The 1993 auctions will consist of one "spot" auction and one "advance" auction. Allowances sold in the spot auction are useable for compliance beginning in 1995. Allowances sold in the advance auction are useable for compliance beginning in 2000. 50,000 spot allowances will be sold in the spot auction and 100,000 allowances will be sold in the advance auction. Bid Forms for the 1993 auctions must be received by the CBOT by the close of business on March 23, 1993. The auctions themselves will be conducted on March 29, 1993, with the results announced shortly thereafter.

CBOT will also sell in the 1993 auctions any 1995 or 2000 allowances offered for sale by affected utilities that are allocated allowances by EPA through regulation. Utilities may set a minimum price for the sale of their allowances. Offered allowances will be sold after the allowances that were withheld from the utilities, beginning with those allowances offered at the lowest minimum price and continuing in ascending order of minimum price. Though offered allowances will consequently be sold at a lower price than the withheld allowances, no sales of offered allowances will occur if the bid prices, which are matched with the offers, are below the offerors' stated minimum sale prices. To offer allowances in the EPA auctions, utilities must submit a SO_2 Allowance Offer Form to EPA by the close of business on March 5, 1993. If necessary, EPA will accept contingent offers of year 2000 allowances pending promulgation of Phase II allowance allocations. Once Phase allowance allocations are promulgated, EPA will confirm that the contingent offers are valid and make such allowances available for sale in the advance auction.

ADDRESSES: U.S. EPA Acid Rain Division (6204J), Attn: Auctions and Sales, 401 M Street SW., Washington, DC 20460. Chicago Board of Trade, Attn: EPA Auctions, 141 W. Jackson Blvd., suite 2240, Chicago, IL 60604.

SO_2 Allowance Offer Forms will be available from EPA at the address above by February 22, 1993. Forms needed to bid in the EPA auctions will be available from the Acid Rain Hotline (617) 674–7377, by the beginning of March 1993.

FOR FURTHER INFORMATION CONTACT: The Acid Rain Hotline at (617) 674–7377. Information on bidding in the 1993 EPA auctions can be found in the brochure "How to Bid in the EPA SO2 Allowance auctions;" general information on the EPA auctions can be found in the "Acid Rain Program Allowance Auctions and Direct Sales" fact sheet. These publications can be obtained by calling the Acid Rain Hotline or by writing to EPA at the above address listed above.

Dated: January 28, 1993.

Brian J. McLean,

Director, Acid Rain Division.

[FR Doc. 93–2537 Filed 2–2–93; 8:45 am]

BILLING CODE 6560–50–M

[OPPTS–59317; FRL–4184–1]

Certain Chemicals; Approval of Test Marketing Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of application for test marketing exemptions (TMEs) under section 5(h)(1) of the Toxic Substances Control Act (TSCA) and 40 CFR 720.38. EPA has designated these applications as TME–93–6 and TME–93–7. The test marketing conditions are described below.

EFFECTIVE DATES: January 15, 1993. Written comments will be received until February 18, 1993.

ADDRESSES: Written comments, identified by the document control number "(OPPTS–59317)" and the specific TME numbers "TME–93–6" and "TME–93–7" should be sent to: Document Control Officer (TS–790), Confidential Data Branch, Information Management Division, Office of Pollution Prevention and Toxics, Environmental Protection Agency, rm. E–201, 401 M St., SW., Washington, DC 20460, (202) 260–1532.

FOR FURTHER INFORMATION CONTACT: Paul Matthai and/or Edna Pleasants, New Chemicals Branch, Chemical Control Division (TS–794), Office of Pollution Prevention and Toxics, Environmental Protection Agency, rm. E–611, 401 M St. SW., Washington, DC 20460. For information on TME–93–6, contact Paul Matthai, (202) 260–3385, and for TME–93–7, contact Edna Pleasants, (202) 260–4142.

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use, and disposal of the substances for test marketing purposes will not present an unreasonable risk of injury to human health or the environment. EPA may impose restrictions on test marketing activities and may modify or revoke a test marketing exemption upon receipt of new information which casts significant doubt on its finding that the test marketing activity will not present an unreasonable risk of injury.

EPA hereby approves TME–93–6 and TME–93–7. EPA has determined that test marketing of the new chemical substances described below, under the conditions set out in the TME applications, and for the time period and restrictions specified below, will not present an unreasonable risk of injury to human health or the environment. Production volume, use, and the number of customers must not exceed that specified in the application. All other conditions and restrictions described in these applications and in this notice must be met.

Inadvertently, notice of receipt of the applications was not published. Therefore, an opportunity to submit comments is being offered at this time. The complete nonconfidential document is available in the Public Reading Room NE G004 at the above address between 8 a.m. and 4 p.m., Monday through Friday, excluding legal holidays. EPA may modify or revoke the test marketing exemption if comments are received which cast significant doubt on its finding that the test marketing activities will not present an unreasonable risk of injury.

The following additional restrictions apply to TME–93–6 and TME–93–7. A bill of lading accompanying each shipment must state that the use of the substance is restricted to that approved in the TMEs. In addition, the Company shall maintain the following records until 5 years after the date they are created, and shall make them available for inspection or copying in accordance with section 11 of TSCA:

1. The applicant must maintain records of the quantity of the TME substance produced and the date of manufacture.

2. The applicant must maintain records of dates of the shipments to each customer and the quantities supplied in each shipment.

3. The applicant must maintain copies of the bill of lading that accompanies each shipment of the TME substance.

T–93–6

Date of Receipt: December 7, 1992.

Close of Review Period: January 20, 1993. The extended comment period will close February 18, 1993.

Applicant: Reichhold Chemicals, Inc.
Chemical: (G) Polyurethane prepolymer.
Use: (G) Adhesive component.
Import Volume: Confidential.
Number of Customers: Confidential.
Worker Exposure: Confidential.
Test Marketing Period: Confidential.
Risk Assessment: EPA identified no significant human health or environmental concerns. Therefore, the test market activities will not present an unreasonable risk of injury to health or the environment.

T–93–7

Date of Receipt: December 7, 1992.
Close of Review Period: January 20, 1993. The extended comment period will close February 18, 1993.
Applicant: Reichhold Chemicals, Inc.
Chemical: (G) Polyurethane adhesive.
Use: (G) Adhesive.
Production Volume: Confidential.
Number of Customers: Confidential.
Test Marketing Period: Confidential.
Risk Assessment: EPA identified no significant environmental concerns. EPA identified potential health concerns for lung sensitization based on data on an analogous chemical substance. However, EPA does not expect significant inhalation exposure for workers exposed to the TME substance. Therefore, the test market activities will not present an unreasonable risk of injury to health or the environment.

The Agency reserves the right to rescind approval or modify the conditions and restrictions of an exemption should any new information come to its attention which casts significant doubt on its finding that the test marketing activities will not present an unreasonable risk of injury to health or the environment.

Dated: January 15, 1993.

Charles M. Auer,

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

[FR Doc. 93–2540 Filed 2–2–93; 8:45 am]
BILLING CODE 6560–50–F

[LAG290000 and TXG290000; FRL–4559–7]

Proposed NPDES General Permits for Produced Water and Produced Sand Discharges From the Oil and Gas Extraction Point Source Category to Coastal Waters in Louisiana and Texas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of comment period of draft NPDES general permit.

EPA Region 6 is extending the closing date for Comments from February 5, 1993 to March 15, 1993 on the draft general permits for produced water and produced sand discharges to coastal waters in Louisiana and Texas. These permits were proposed on December 22, 1992 in the **Federal Register** (57 FR 60926).

SUMMARY: The proposed draft permits prohibit discharges of produced water and produced sand derived from Oil and Gas Point Source Category facilities to coastal waters of Louisiana and Texas. Facilities covered by these permits included those in the Coastal Subcategory (40 CFR 435, subpart D), the Stripper Subcategory (40 CFR 435, subpart F) that discharge to coastal waters of Louisiana and Texas, and the Offshore Subcategory (40 CFR 435, subpart A) that discharge to waters of Louisiana and Texas. As proposed the permits' prohibitions will become effective 30 days after their final publication. The Region may also issue an administrative order requiring that permittees discharging produced water from existing Coastal, Stripper or Offshore wells to other than "upland area" waters in Louisiana and other than "inland and fresh" water in Texas comply with the permits' produced water discharge prohibitions within three years after final publication of the permits.

Signed this 25th day of January, 1993.

Myron O. Knudson, P.E.,

Director, Water Management Division, EPA Region 6.

[FR Doc. 93–2542 Filed 2–2–93; 8:45 am]
BILLING CODE 6560–50–M

Office of Research and Development

[FRL 4559–9]

Ambient Air Monitoring Reference and Equivalent Methods; Equivalent Method Designations

Notice is hereby given that EPA, in accordance with 40 CFR part 53, has designated two additional equivalent methods for ambient air monitoring, one for the measurement of ambient concentrations of ozone, and the other for the measurement of ambient concentrations of sulfur dioxide.

The new equivalent method for ozone is an automated method (analyzer) which utilizes the measurement principle based on absorption of ultraviolet radiation by ozone at a wavelength of 254 nm. This new designated method is identified as follows:

EQSA–0193–091, "Lear Siegler Measurement Controls Corporation Model ML 9810 Ozone Analyzer," operated on any full scale range between 0–0.050 ppm and 0–1.0 ppm, with auto-ranging enabled or disabled, at any temperature in the range of 15 °C to 35 °C, with a five-micron Teflon filter element installed in the filter assembly behind the secondary panel, the service switch on the secondary panel set to the IN position; with the following menu choices selected: Filter type: Kalman, Pres/temp/flow comp: On, Span comp: Disabled, Diagnostic mode: Operate; with the 50-pin I/O board installed on the rear panel configured at any of the following output range settings: Voltage, 10 V, 5 V, 1 V, 0.1 V; Current 0–20 mA, 2–20 mA, 4–20 mA; and with or without any of the following options:

Valve Assembly for External Zero/Span (EZS)
Rack Mount Assembly
Internal Floppy Disk Drive.

The new equivalent method for sulfur dioxide is an automated method (analyzer) which utilizes a measurement principle based on UV fluorescence. The new designated method is identified as follows:

EQSA–0193–092, "Lear Siegler Measurement Controls Corporation Model ML 9850 Sulfur Dioxide Analyzer," operated on any full scale range between 0–0.050 ppm and 0–1.0 ppm, with auto-ranging enabled or disabled, at any temperature in the range of 15 °C to 35 °C, with a five-micron Teflon filter element installed in the filter assembly behind the secondary panel, with the service switch on the secondary panel set to the IN position; with the following menu choices selected: Filter type: Kalman, Pres/temp/flow comp: On, Span comp: Disabled, Background: NOT Disabled, Diagnostic mode: Operate; with the 50-pin I/O board installed on the rear panel configured at any of the following output range settings: Voltage, 10 V, 5 V, 1 V, 0.1 V; Current 0–20 mA, 2–20 mA, 4–20 mA; and with or without any of the following options:

Valve Assembly for External Zero/Span (EZS)
Rack Mount Assembly
Internal Floppy Disk Drive.

Both of these methods are available from Lear Siegler Measurement Controls Corporation, 74 Inverness Drive East, Englewood, CO 80112–5189. A notice of of selected institutions. The FDIC select reinsurers to engage in actual reinsurance receipt of application for these methods appeared in the **Federal Register**, Volume 57, Number 183, September 21, 1992, page 43456.

A test analyzer representative of each of these methods has been tested by the applicant, in accordance with the test procedures specified in 40 CFR part 53. After reviewing the results of these tests and other information submitted by the applicants, EPA has determined, in accordance with part 53, that these methods should be designated as equivalent methods. The information submitted by the applicants will be kept on file at EPA's Atmospheric Research and Exposure Assessment Laboratory, Research Triangle Park, North Carolina 27711 and will be available for inspection to the extent consistent with 40 CFR part 2 (EPA's regulations implementing the Freedom of Information Act).

As a designated equivalent method, either of these methods is acceptable for use by States and other air monitoring agencies under requirements of 40 CFR part 58, Ambient Air Quality Surveillance. For such purposes, the method must be used in strict accordance with the operation or instruction manual associated with the method and subject to any limitations (e.g., operating temperature range) specified in the applicable designation (see description of the methods above). Vendor modifications of a designated method used for purposes of part 58 are permitted only with prior approval of EPA, as provided in part 53. Provisions concerning modification of such methods by users are specified under § 2.8 of appendix C to 40 CFR part 58 (Modifications of Methods by Users).

In general, a designation applies to any analyzer which is identical to the analyzer described in the designation. In some cases, similar analyzers manufactured prior to the designation may be upgraded (e.g., by minor modification or by substitution of a new operation or instruction manual) so as to be identical to the designated method and thus achieve designated status at a modest cost. The manufacturer should be consulted to determine the feasibility of such upgrading.

Part 53 requires that sellers of designated methods comply with certain conditions. These conditions are given in 40 CFR 53.9 and are summarized below:

(1) A copy of the approved operation or instruction manual must accompany the analyzer when it is delivered to the ultimate purchaser.

(2) The analyzer must not generate any unreasonable hazard to operators or to the environment.

(3) The analyzer must function within the limits of the performance specifications given in Table B–1 of part 53 for at least one year after delivery when maintained and operated in accordance with the operation manual.

(4) Any analyzer offered for sale as a reference or equivalent method must bear a label or sticker indicating that it has been designated as a reference or equivalent method in accordance with part 53.

(5) If such an analyzer has two or more selectable ranges, the label or sticker must be placed in close proximity to the range selector and indicate which range or ranges have been included in the reference or equivalent method designation.

(6) An applicant who offers analyzers for sale as reference or equivalent methods is required to maintain a list of ultimate purchasers of such analyzers and to notify them within 30 days if a reference or equivalent method designation applicable to the analyzer has been canceled or if adjustment of the analyzer is necessary under 40 CFR 53.11(b) to avoid a cancellation.

(7) An applicant who modifies an analyzer previously designated as a reference or equivalent method is not permitted to sell the analyzer (as modified) as a reference or equivalent method (although he may choose to sell it without such representation), nor to attach a label or sticker to the analyzer (as modified) under the provisions described above, until he has received notice under 40 CFR 53.14(c) that the original designation or a new designation applies to the method as modified, or until he has applied for and received notice under 40 CFR 53.8(b) of a new reference or equivalent method determination for the analyzer as modified.

Aside from occasional breakdowns or malfunctions, consistent or repeated noncompliance with any of these conditions should be reported to: Director, Atmospheric Research and Exposure Assessment Laboratory, Methods Research and Development Division (MD–77), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

Designation of these equivalent methods will assist the States in establishing and operating their air quality surveillance systems under part 58. Technical questions concerning either method should be directed to the manufacturer. Additional information concerning this action may be obtained from Frank F. McElroy, Methods Research and Development Division (MD–77), Atmospheric Research and Exposure Assessment Laboratory, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, (919) 541–2622.

Erich Bretthauer,

Assistant Administrator for Research and Development.

[FR Doc. 93–2536 Filed 2–2–93; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

January 27, 1993.

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

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, (202) 857–3800. For further information on this submission contact Judy Boley, Federal Communications Commission, (202) 632–7513. Persons wishing to comment on this information collection should contact Jonas Neihardt, Office of Management and Budget, room 3235 NEOB, Washington, DC 20503, (202) 395–4814.

OMB Number: 3060–0105.
Title: Licensee Qualification Report.
Form Number: FCC Form 430.
Action: Extension of a currently approved collection.
Respondents: Businesses or other for-profit (including small businesses).
Frequency of Response: On occasion and annual reporting.
Estimated Annual Burden: 1,900 responses; 2 hours average burden per response; 3,800 hours total annual burden.
Needs and Uses: The FCC Form 430, Licensee Qualification Report is filed by new applicants or annually be licensees if substantial changes occur in the organizational structure to provide information concerning corporate structure, alien ownership, and character of applicant or licensee. Part 22 applicants are required to file FCC Form 430 when soliciting authority for assignment or transfer of control if a current one is not on file as required by item 18 on FCC Form 490. Information is used by Commission staff to determine whether applicants are legally qualified to become or to remain common carrier telecommunications licensees, as required by the

Communications Act. If the information is not submitted, the Commission would be unable to fulfill its responsibility under the Communications Act to make a finding as the legal qualifications of an applicant or licensee.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 93–2451 Filed 2–2–93; 8:45 am]

BILLING CODE 6712–01–M

[DA 93–85]

Clarification of Mellon Bank Stamp and Receipt Procedures for Feeable Application

January 29, 1993.

The Federal Communications Commission is taking this opportunity to clarify its Mellon Bank stamping procedures and how receipted copies are obtained.

Applicants wishing a stamped receipt copy of any filing must provide an additional copy (to be stamped and returned) with each filing submitted. Each application package must be assembled with the requested stamped receipt copy on top, followed by the remittance, the original application with FCC Form 155 (if required) on top, then any other supporting documentation.

Applications that are mailed or otherwise shipped must contain a self-addressed stamped envelope of sufficient size to accommodate the stamped receipt copy to be returned. If the envelope is not of sufficient size, the requested stamped receipt copy will *not* be returned to the applicant. The receipt copy of the submission and the self-addressed stamped envelope must be placed inside the mailing envelope, but on top of the original application.

When hand delivering an application, the receipt copy must be attached to the outside of the envelope containing the original application. The copy will be stamped and immediately returned when presented to the acceptance clerk at Mellon Bank.

Only those receipt copies which conform to the above filing procedures will be stamped and receipted. Any submission of receipt copies apart from the original application or any receipt copies submitted in any other packaging order will not be receipted. This policy will not prevent the original application from being processed in accordance with established procedures.

Questions concerning this Public Notice should be addressed to Regina Dorsey, Chief, Billings and Collections Branch, at 202–632–0241.

A copy of this Public Notice shall be published in the **Federal Register.**

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 93–2452 Filed 2–2–93; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Coastal Barrier Improvement Act; Property Availability; Prince George Joint Venture Tract "Waccamaw Neck" Area of Georgetown County, SC

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice.

SUMMARY. Notice is hereby given that the property known as the Prince George Joint Venture Tract (a/k/a the Arcadia II Tract or Carolina Dunes Tract), located in the "Waccamaw Neck" area of Georgetown County, South Carolina, is affected by Section 10 of the Coastal Barrier Improvement Act of 1990.

DATES: Written notice of serious interest to purchase the property must be received on or before May 4, 1993;

ADDRESSES: Copies of detailed descriptions of the property, including maps, may be obtained by contacting Pete Brown, ORE Specialist, at the Federal Deposit Insurance Corporation, Addison Consolidated Office, 5080 Spectrum Drive, suite 1000E, Dallas, Texas 75248. Telephone (800) 759–9314, Extension 4744, or (214) 385–4744; Telecopier (214) 385–6273.

SUPPLEMENTARY INFORMATION: The approximately 1951.81 acre tract of land is located on both the east and west sides of U.S. Highway 17, about 7.7 miles north of Georgetown, South Carolina. The property has frontage along the Atlantic Ocean, Pawleys Inlet and the Waccamaw River. The property currently is undeveloped, but has been approved by Georgetown County, South Carolina, as a Planned Unit Development, to be comprised of three golf courses, a 500 room hotel, a marina, approximately 2308 residential units, and neighborhood commercial land uses. Several hundred acres of the property contain wetlands, ponds and saltwater marshes. Several sites of possible archaeological significance are believed to be located on the property. There also is an unconfirmed suspicion that endangered or protected species, including without limitation, the Loggerhead Turtle, Red-Cockaded Woodpecker, American Osprey and American Bald Eagle or their habitats exists in the area.

Those entities eligible to submit written notices of serious interest are:

1. Agencies or entities of the federal government;
2. Agencies or entities of state or local government; and
3. "Qualified organizations" pursuant to section 170(h) of the Internal Revenue Code of 1986 (26 U.S.C. 170(h)(s)).

Form of Notice

Notices of serious interest should be in the following form:

Notice of Serious Interest:
Prince George Joint Venture Tract, Georgetown County, South Carolina

1. Name of eligible entity.
2. Declaration of eligibility to submit notice under criteria set forth in Public Law 101–591, section 10(b)(2).
3. Brief description of proposed terms of purchase or other offer (e.g., price and method of financing).
4. Declaration by entity that it intends to use the property primarily for wildlife refuge, sanctuary, open space, recreational, historical, cultural or natural resource conservation purposes.

Dated: January 28, 1993.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 93–2480 Filed 2–2–93; 8:45 am]

BILLING CODE 6714–07–M

Pilot Reinsurance Program

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Request for comment.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC) is soliciting public comment on all aspects of a planned Pilot Reinsurance Program authorized by section 322 of the Federal Deposit Insurance Corporation Improvement Act of 1991 including the reinsurance process, the terms and conditions of participation by private reinsurers, and the appropriate criteria for determining which insured depository institutions may be included in the Program. The FDIC is also soliciting public comment on alternate methods of structuring a Pilot Reinsurance Program.

DATES: Written comments must be received on or before April 5, 1993.

ADDRESSES: Written comments shall be addressed to Hoyle L. Robinson, Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429. Comments may be hand-delivered to room F–402,

1776 F Street NW., Washington, DC on business days between 8:30 a.m. and 5 p.m. Comments may also be inspected in the FDIC's Reading Room, room 7118, 550 17th Street NW., between 9 a.m. and 4:30 p.m. on business days. [FAX number (202) 898–3838]

FOR FURTHER INFORMATION CONTACT: Arthur J. Murton, Deputy Director, Division of Research and Statistics (202) 898–3938; Jennifer L. Eccles, Senior Financial Analyst, Division of Research and Statistics, (202) 898–8537; or Lisa M. Stanley, Senior Attorney, Legal Division, (202) 898–7494.

SUPPLEMENTARY INFORMATION:

I. Background and Authority

Section 322 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA), Public Law 102–242, requires the Board of Directors of the FDIC, in consultation with the Secretary of the Treasury and individuals from the private sector with expertise in private insurance, private reinsurance, depository institutions, or economics, to conduct a study of the feasibility of establishing a private reinsurance system. The study must include a demonstration project consisting of a simulation, by a sample of private reinsurers and insured depository institutions, of the activities required for a private reinsurance system. These activities include—

(1) Establishing a pricing structure for risk-based premiums;
(2) Formulating insurance or reinsurance contracts; and
(3) Identifying and collecting information necessary for evaluating and monitoring risks in insured depository institutions.

Section 322(a)(3) of FDICIA authorizes the FDIC to engage in actual reinsurance transactions as part of the demonstration project. As part of the new risk-based assessment system required by section 302(a) of FDICIA, the FDIC is authorized to obtain private reinsurance covering not more than 10 percent of any loss the FDIC incurs with respect to an insured depository institution and to base that institution's semiannual assessment, wholly or partially, on the cost of the reinsurance. Pursuant to section 302(g) of FDICIA, the new risk-based assessment system will become effective no later than January 1, 1994.

The FDIC intends to conduct a Pilot Reinsurance Program (Pilot Program) in 1993 and 1994 with reinsurance coverage to commence with the semiannual assessment period beginning January 1, 1994.

The FDIC may consider reinsurance information in making assessment risk classification assignments.

Before June 19, 1993, the FDIC must submit to the Congress a report on the study which must include—

(1) An analysis and review of the demonstration project;

(2) Conclusions regarding the feasibility of a private reinsurance system;

(3) Recommendations regarding whether—

(A) A private reinsurance system should be restricted to depository institutions over a certain asset size;

(B) Similar reinsurance systems are feasible for depository institutions or groups of such institutions with total assets below any recommended asset size restriction; and

(C) Public policy goals can be satisfied by such reinsurance systems; and

(4) Recommendations for administrative and legislative action as may be necessary to establish such reinsurance systems.

Before June 19, 1993, the FDIC intends to submit to the Congress a report on the study. After completion of the Pilot Program, the FDIC intends to submit an additional report to the Congress based on the results of the Pilot Program.

II. Description of Pilot Reinsurance Program

Section 322 of FDICIA requires the FDIC to conduct a private reinsurance study which must include a demonstration project and may include actual reinsurance transactions. In order to ascertain whether establishing a private reinsurance system is feasible, the FDIC has determined to engage in a Pilot Program.[1] The goal of the Pilot Program would be to determine whether private reinsurance may be a useful supplement to federal deposit insurance without compromising the public policy objectives of deposit insurance. The FDIC solicits comments on all aspects of the Pilot Program described below.

Private reinsurers would be invited to participate in the Pilot Program for the purpose of deriving market-based deposit reinsurance prices for eligible insured depository institutions. Participating reinsurers would be required to enter into contracts with the FDIC which set the terms and conditions of participation. The FDIC intends to develop a "Request for Proposal" (RFP) delineating the terms and conditions of participation based in part on comments received in response to this request for comment. Reinsurers would then submit bids or price quotes to the FDIC for reinsurance of selected institutions. The FDIC would select reinsurers to engage in actual reinsurance transactions.

A reinsurer would participate in the reinsurance transactions by agreeing to be liable for some portion of the loss or cost of assistance incurred by the FDIC in connection with an insured depository institution that fails or is provided assistance during the period for which reinsurance coverage is in effect. A reinsurer would assume liability for individual insured depository institutions. All reinsurers would operate under uniform terms with the FDIC and charge the FDIC premiums for assuming risk.

III. Description of Proposed Process

The Pilot Program would commence in 1993, with reinsurance coverage to commence with the semiannual assessment period beginning on January 1, 1994. The Pilot Program would be divided into three phases. The first phase would include the selection of participating reinsurers. The FDIC would issue an RFP to solicit participation in the Pilot Program by all interested reinsurers. The RFP would include detailed terms and conditions of participation in the Pilot Program. Interested reinsurers would be required to demonstrate that they meet the eligibility criteria established by the FDIC. In order to participate in the Pilot Program, a reinsurer must enter into a contractual agreement with the FDIC binding the reinsurer to a set of uniform terms and conditions of participation.

During the second phase of the Pilot Program, participating reinsurers would be provided with approximately six months during which to complete their analysis of insured depository institutions deemed eligible by the FDIC for reinsurance. This phase would culminate in submission of a reinsurance bid to the FDIC by each participating reinsurer. The bid would include prices for each insured depository institution the participating reinsurer is willing to reinsure and a statement of the total volume of reinsurance business desired. All other terms and conditions of reinsurance would have been established previously by the participation contract. The FDIC would assign reinsurance on the basis of price, among other possible factors, for each insured depository institution to be reinsured. Reinsurance would be

[1] Actual reinsurance transactions would commence with the semiannual assessment period beginning January 1, 1994. At that time, section 7(b) of the Federal Deposit Insurance Act, 12 U.S.C. 1817(b), will authorize the FDIC to obtain private reinsurance in connection with the new risk-based assessment system

allocated until the desired volume of business based on total exposure per reinsurer is reached.

The FDIC intends to set a maximum acceptable reinsurance price for all insured depository institutions deemed eligible by the FDIC for reinsurance. The FDIC is interested in receiving comments concerning how a maximum acceptable reinsurance price should be determined and what maximum is appropriate.

During the third phase of the Pilot Program, a separate reinsurance contract would be signed by each reinsurer for each insured depository institution to be reinsured. Reinsurance coverage would be provided for the first and second semiannual assessment periods during 1994.

The FDIC is considering requiring each participating reinsurer to assume a fixed dollar amount of liability for a particular insured depository institution. The amount of liability would be determined at the time of entering into the contract. Alternatively, the FDIC is considering ceding reinsurance equal to a percentage of the FDIC's loss from the resolution of an insured depository institution with reinsurance or the FDIC's cost of assistance.

The FDIC intends to solicit bids for participation through an RFP during the Spring of 1993. Reinsurers would be selected for participation shortly thereafter. Final Pilot Program participation contracts would be signed during late Spring of 1993. Reinsurers would begin the pricing analysis and submit prices to the FDIC by a deadline in the Fall of 1993. Actual reinsurance transactions would commence with the semiannual assessment period beginning January 1, 1994.

IV. Participants

All segments of the insurance industry and other financial firms would be eligible for participation. One requirement for selection would be the approval of the reinsurer's primary regulator. This requirement would ensure that a participant has adequate financial capacity to participate and that the type of business is authorized by the participant's primary regulator. The FDIC may establish certain financial criteria for participation including a minimum capital requirement. Furthermore, participants would be required to agree to and be bound by the terms and conditions established in the participation contract. These terms and conditions may include a strict confidentiality agreement and provisions relating to conflicts of interest.

The Pilot Program may be difficult to manage if the FDIC seeks reinsurance coverage for all insured depository institutions. Therefore, it may be necessary to select a limited group of insured institutions for which the FDIC will seek coverage. The FDIC is considering limiting the Pilot Program to insured depository institutions with assets over a given asset size, perhaps $1 billion. An alternative under consideration is to select a random sample of insured institutions. The FDIC believes that selecting institutions on the basis of financial condition or allowing institutions to opt out of the Pilot Program could severely bias the results of the study. The FDIC seeks comments on the appropriate manner of limiting the number of insured depository institutions in the Pilot Program.

Insured depository institution subsidiaries of a depository institution holding company which meet the criteria established for inclusion in the Pilot Program would be reinsured separately from affiliated insured depository institutions.

V. Process Issues

The FDIC is interested in receiving comments on alternate methods of structuring a Pilot Program. Additionally, the FDIC is interested in receiving comments on all general process issues relating to the Pilot Program under consideration, including:

1. How should the pricing information received by the FDIC during the Pilot Reinsurance Program affect an insured depository institution's assessment rate, if at all?

2. What should be the effect of an insured depository institution being considered "unreinsurable" as determined based on the bids received from participating reinsurers?

3. Should participating reinsurers be reimbursed for development costs? If so, should reinsurers be reimbursed fully or should development costs be shared between the FDIC and reinsurers? How should any reimbursement for development costs factor into the FDIC's acceptance or bids?

4. Should the FDIC accept only one bid for reinsurance for each insured depository institution or accept multiple bids for reinsurance up to the total amount of reinsurance desired?

VI. Issues Related to Terms and Conditions of Participation by Private Reinsurers

The FDIC is interested in receiving comments relating to establishing appropriate terms and conditions of participation in the Pilot Program by private reinsurers, including the following possible terms and conditions:

1. General Terms

Reinsurance contracts would be entered into between the FDIC and participating reinsurers. An insured depository institution deemed eligible for reinsurance by the FDIC would not be a party to the reinsurance contract.

All reinsurers would be required to agree to a uniform set of terms and must enter into identical participation contracts with the FDIC. Terms and conditions of participation in the Pilot Program and for actual reinsurance would be set forth in contracts prepared by the FDIC. Commenters may wish to recommend specific contract language for consideration by the FDIC. Reinsurers would be required to enter into separate contracts for participation in the Pilot Program and for reinsurance of individual insured depository institutions. Separate reinsurance contracts identifying the insured depository institution to be reinsured and setting the reinsurance premium would be signed for each transaction. Reinsurers would be excluded from any participation in the supervision, resolution, and liquidation processes.

The FDIC intends to reserve the right to cancel a reinsurance contract at any time during the term of the contract. The FDIC does not intend to permit reinsurers to cancel reinsurance during the term of the contract.

2. Duration

The FDIC envisions an appropriate term for reinsurance contracts as a period of one to two years. The FDIC requests comments on whether one year or some longer term is appropriate for such contracts.

3. Pricing

The FDIC would determine a maximum acceptable reinsurance price for all eligible insured depository institutions. The FDIC would not enter into reinsurance contracts in which the premium quoted exceeds the maximum acceptable reinsurance price, as determined by the FDIC. All bids received with reinsurance prices in excess of this maximum amount would be rejected. Each reinsurer would charge the FDIC directly for the reinsurance premium.

4. Repricing

The FDIC seeks comments on whether reinsurers should be permitted to adjust premiums during the term of the reinsurance contract. If so, should there

be a cap on the amount of repricing permitted?

5. Exposure

The FDIC is considering setting a fixed dollar amount of reinsurer liability for the cost of resolution or assistance at the time of entering into reinsurance contracts. Alternatively, the FDIC is considering ceding reinsurance equal to 1 percent of the FDIC's loss from the resolution of an insured depository institution with reinsurance or the FDIC's cost of assistance. This alternative may be subject to a stop-loss provision whereby the maximum loss exposure to a reinsurer would be tied to the size of the institution. The FDIC requests comment on the appropriate percentage of loss to cede for reinsurance and the appropriate stop-loss provisions.

6. Information Requirements

Most data necessary for determining reinsurance premiums would be generated based on the quarterly consolidated reports of condition and income and other publicly available information.

The FDIC requests comments on whether access to reports of examination is essential to providing reinsurance. If access to examination reports were permitted for the purpose of formulating a reinsurance bid, such access would be subject to appropriate privacy safeguards, confidentiality agreements, and the receipt of express permission of the appropriate Federal banking agency.

The FDIC is also interested in receiving comments concerning the anticipated burden on insured depository institutions of possible contacts from reinsurers interested in submitting a reinsurance bid for a particular insured depository institution.

7. Bidding Requirements

Each participating reinsurer would be required to submit a list of reinsurance prices to the FDIC by a deadline established by the FDIC for receipt of bids. Each such reinsurer would be required to specify which insured depository institutions it is willing to reinsure, under the terms previously established by the participation contract. The bid must also state the total volume of reinsurance exposure that the reinsurer is willing to accept, based on the price and exposure established per insured depository institution.

8. Conflicts of Interest

The FDIC intends to require interested reinsurers to disclose to the FDIC all potential conflicts of interest prior to entering into the participation contract.

9. Captive Insurance Companies

Insured depository institutions may own or control a subsidiary engaged in insurance or reinsurance activities. The FDIC intends to prohibit such "captive" insurance companies from reinsuring affiliated insured depository institutions.

10. Eligibility

The FDIC may require the approval of a reinsurer's regulator in order to affirm that the reinsurer is in sound financial condition and authorized by the regulator to engage in reinsurance business. The FDIC is considering establishing certain minimum financial criteria for participating reinsurers such as a minimum capital requirement to be maintained throughout the duration of the Pilot Program. The FDIC is interested in receiving comments concerning whether minimum financial criteria for participating reinsurers are feasible, and, if so, how the appropriate minimum requirements should be determined.

VII. Issues Related to Eligibility of Insured Depository Institutions To Be Included in the Pilot Reinsurance Program

The FDIC is interested in receiving comments relating to establishing appropriate criteria for eligibility of insured depository institutions to be included in the Pilot Program.

1. Insured Depository Institutions

All insured depository institutions would be eligible for reinsurance, except insured branches of foreign banks. To make the Pilot Program manageable, the FDIC intends to select a limited group of insured institutions for which the FDIC will seek coverage. As discussed earlier, the FDIC is seeking comments on the appropriate manner of limiting the number of insured depository institutions in the Pilot Program.

2. Depository Institution Holding Companies

Insured depository institution subsidiaries of a depository institution holding company which meet the criteria that may be established for inclusion in the Pilot Program would be reinsured separately from affiliated insured depository institutions.

By Order of the Board of Directors. Dated at Washington, DC, this 26th day of January, 1993.

Federal Deposit Insurance Corp.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 93–2482 Filed 2–2–93; 8:45 am]

BILLING CODE 6714–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–977–DR]

Arizona; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Arizona (FEMA–977–DR), dated January 19, 1993, and related determinations.

EFFECTIVE DATE: January 19, 1993.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated January 19, 1993, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of Arizona, resulting from flooding on January 5, 1993, and continuing is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the State of Arizona.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance and Public Assistance in the designated areas. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Richard A. Buck of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Arizona to have been affected adversely by this declared major disaster:

The counties of Apache, Coconino, Gila, Graham, Greenlee, Maricopa, Navajo, Pima, Pinal, and Yavapai for Individual Assistance and Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

William C. Tidball,

Acting Director.

[FR Doc. 93–2512 Filed 2–2–93; 8:45 am]

BILLING CODE 6718–02–M

[FEMA–974–DR]

New York; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of New York (FEMA–974–DR), dated December 21, 1992, and related determinations.

EFFECTIVE DATE: January 23, 1993.

FOR FURTHER INFORMATION CONTACT:

Pauline C. Campbell, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, effective this date and pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Stephen Kempf, Jr. of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

This action terminates the appointment of Jose Bravo as Federal Coordinating Officer for this disaster.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

William C. Tidball,

Acting Director.

[FR Doc. 93–2513 Filed 2–2–93; 8:45 am]

BILLING CODE 6718–02–M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed; Jacksonville Port Authority and Columbus Line, Inc., et al.

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.: 224–200609–001.

Title: Jacksonville Port Authority and Columbus Line, Inc. Marine Terminal Agreement.

Parties:

The Jacksonville Port Authority ("JPA") Columbus Line, Inc.

Synopsis: The Agreement reflects rate increases and enlarges the leased premises under the basis Agreement.

Agreement No.: 224–200727.

Title: San Francisco/Central American Container Line Terminal Agreement.

Parties:

San Francisco Port Commission
Central American Container Line, S.A. ("CACL")

Synopsis: In return for making San Francisco its Northern California port of call CACL will receive a reduction in dockage and wharfage rates specified in the Port's tariff. The Agreement will remain in effect for three years.

Dated: January 28, 1993.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 93–2515 Filed 2–2–93; 8:45 am]

BILLING CODE 6730–01–M

Agreement(s) Filed; State of Hawaii/ Matson Terminals, Inc., et al.

The Federal Maritime Commission hereby gives notice that the following agreement(s) has been filed with the Commission pursuant to section 15 of the Shipping Act, 1916, and 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 protests or 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 and protests are found in § 560.602 and/or 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.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No.: 224–003813–014.

Title: State of Hawaii/Matson Terminals, Inc., Terminal Agreement.

Parties:

Department of Transportation of the State of Hawaii
Matson Terminals, Inc.

Filing Party: Rex D. Johnson, Director of Transportation, State of Hawaii, Department of Transportation, 869 Punchbowl Street, Honolulu, Hawaii 96813–5097.

Synopsis: The subject modification reflects revisions in the size of several areas and easements incorporated in the lease between the parties.

Dated: January 29, 1993.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 93–2516 Filed 2–2–93; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Bankers Trust New York Corporation, et al.; Notice of Applications to Engage de novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to

banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 19, 1993.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. Bankers Trust New York Corporation, New York; New York; to engage *de novo* through its subsidiary, Bankers Trust Company Connecticut Ltd., Greenwich, Connecticut, in trust company functions through organization of a limited purpose state chartered trust company in Greenwich, Connecticut, pursuant to § 225.25(b)(3) of the Board's Regulation Y.

B. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. Mellon Bank Corporation, Pittsburgh, Pennsylvania; to engage *de novo* through its subsidiary, InvestNet, in permissible securities brokerage activities and investment advisory services pursuant to § 225.25(b)(15) and (b)(4) of the Board's Regulation Y.

C. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. Union Bancorp, Inc., Bowling Green, Virginia; to engage *de novo* through its subsidiary, Union Investment Services, Inc., Bowling Green, Virginia, in providing securities brokerage services pursuant to § 225.25(b)(15)(i); and investment advisory services pursuant to § 225.25(b)(15)(ii) of the Board's Regulation Y. These activities will be conducted in the State of Virginia.

D. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Columbus Bancorp, Inc., Indianapolis, Indiana; to engage *de novo* in making and servicing loans pursuant to § 225.25(b)(1); and investing in a low income housing project pursuant to § 225.25(b)(6) of the Board's Regulation Y.

2. Salin Bancshares, Inc., Indianapolis, Indiana; to engage *de novo* in making and servicing loans pursuant to § 225.25(b)(1) of the Board's Regulation Y.

E. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. Bank of Tokyo, Ltd., Tokyo, Japan; to engage *de novo* through its subsidiary, BOT Financial Corporation, Boston, Massachusetts, in higher residual value leasing pursuant to § 225.25(b)(5)(ii) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, January 28, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93–2487 Filed 2–2–93; 8:45 am]

BILLING CODE 6210–01–F

Firstar Corporation, et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than February 26, 1993.

A. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Firstar Corporation, Milwaukee, Wisconsin, and Firstar Corporation of Iowa, Des Moines, Iowa; to merge with Metro Bancorporation, Waterloo, Iowa, and thereby indirectly acquire The Waterloo Savings Bank, Waterloo, Iowa.

2. Illinois State Bancorp, Inc., Wheaton, Illinois, and Bourbonnais Bancorp, Inc., Bourbonnais, Illinois, to acquire 99 percent of the voting shares of Presidential Holdings, Inc., Bourbonnais, Illinois, and thereby indirectly acquire Bank of Bourbonnais, Bourbonnais, Illinois. In connection with this application, Bourbonnais Bancorp, Inc. has applied to become a bank holding company by merging with Presidential Holdings, Inc.

3. River Forest Bancorp, Inc., Chicago, Illinois; to acquire 100 percent of the voting shares of Belmont National Bank, Chicago, Illinois.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Old National Bancorp, Evansville, Indiana; to merge with DCB Corporation, Jasper, Indiana, and thereby indirectly acquire Dubois County Bank, Jasper, Indiana.

C. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Commerce Bancshares, Inc., Kansas City, Missouri, and its subsidiary, CBI Security Corp., Kansas City, Missouri; to acquire Republic Bancshares, Inc., Neosho, Missouri, and thereby indirectly acquire Republic Bank, Republic, Missouri. In connection with this application, CBI Security Corp. has applied to become a bank holding company by merging with Republic Bancshares, Inc.

2. The Farmers State Bank of Hardtner, Kansas, Employee Stock Ownership Plan, Hardtner, Kansas; to become a bank holding company by acquiring 50 percent of the voting shares of B-K Agency, Inc., Hardtner, Kansas, and thereby indirectly acquire The Farmers State Bank, Hardtner, Kansas.

Board of Governors of the Federal Reserve System, January 28, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93–2486 Filed 2–2–93; 8:45 am]

BILLING CODE 6210–01–F

David Walthall; Change in Bank Control Notice

Acquisition of Shares of Banks or Bank Holding Companies

The notificant listed below has applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notice is available for immediate inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for the notice or to the offices of the Board of Governors. Comments must be received not later than February 19, 1993.

A. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. David Walthall, Dallas, Texas; to acquire an additional 29.0 percent of the voting shares of Equitable Bancshares, Inc., Dallas, Texas, for a total of 52.8 percent, and thereby indirectly acquire Equitable Bank, N.A., Arlington, Texas, and Equitable Bank, Dallas, Texas.

Board of Governors of the Federal Reserve System, January 28, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93–2488 Filed 2–2–93; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse Mental Health Services Administration

Drug Testing Advisory Board; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Drug Testing Advisory Board.

The Drug Testing Advisory Board will be performing reviews of the National Laboratory Certification Program inspections and operations; therefore portions of this meeting will be closed to the public as determined by the Acting Administrator, SAMHSA, in accordance with 5 U.S.C. 552b(c)(2), (4), and (6) and 5 U.S.C. app. 2 10(d).

A summary of the meeting and a roster of committee members may be obtained from: Ms. Peggy Cockrill, Committee Management Officer, Substance Abuse and Mental Health Services Administration, Parklawn Building, room 12C–26, 5600 Fishers Lane, Rockville, MD 20857 (Telephone: 301–443–4266).

Substantive program information may be obtained from the contact whose name, room number, and telephone number is listed below.

Committee Name: Drug Testing Advisory Board.

Meeting Date(s): March 11, 1993.

Place: Bethesda Marriott Hotel, 5151 Pooks Hill Road, Bethesda, Maryland 20814.

Open: 8:30 a.m.–10:15 a.m.

Closed : Otherwise.

Contact: Donna Bush, room 9A–53, Parklawn Building, Telephone: (301) 443–6014.

Dated: January 28, 1993.

Peggy W. Cockrill,

Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 93–2496 Filed 2–2–93; 8:45 am]

BILLING CODE 4160–20–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. N–93–3570]

Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notices.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comment on the subject proposals.

ADDRESSES: Interested persons are invited to submit comment regarding these proposals. Comments should refer to the proposal by name and should be sent to: Angela Antonelli, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals for the collections of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The Notices list the following information:

(1) The title of the information collection proposal;

(2) The Office of the agency to collect the information;

(3) The description of the need for the information and its proposed use;

(4) The agency form number, if applicable;

(5) What members of the public will be affected by the proposal;

(6) How frequently information submissions will be required;

(7) An estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response;

(8) Whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and

(9) The names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: January 28, 1993.

Kay Weaver,

Director, IRM Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Preauthorization Debit-HUD PAD Authorization

Office: Housing.

Description of the Need for the Information and its Proposed Use: The preauthorized debit is a method for making monthly payments using electronic funds transfer to debit a program participant's checking or, in some instances, savings account. The program participant owes the Department a specific monthly amount and may elect to pay by this method. This form is needed to obtain the data to effect a preauthorized debit.

Form Number: HUD–56144.

Respondents: Individuals or Households.

Frequency of Submission: On Occasion.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Questionnaire	2,000		1		.25		500

Total Estimated Burden Hours: 500
Status: Extension.
Contact: Ann Baird-Bridges, (202) 708–3206. Angela Antonelli, OMB, (202) 395–6880.

Dated: January 28, 1993.

Proposal: Request for Insurance Endorsement Under the Direct Endorsement Program.

Office: Housing.

Description of the Need for the Information and its Proposed Use: The Direct Endorsement Program permits mortgage lenders to underwrite applications for mortgage insurance applications without prior HUD review. Lenders then submit the closing package to the Department with a request for insurance endorsement.

Form Number: HUD–5411.

Respondents: Businesses or Other For-Profit.

Frequency of Submission: On Occasion and Recordkeeping.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
HUD–54111	4,800		125		0.167		100,000

Total Estimated Burden Hours: 100,000.
Status: Extension.
Contact: Roxanne Zimmerman, HUD, (202) 708–2700, Angela Antonelli, OMB, (202) 395–6880.

Dated: January 28, 1993.

[FR Doc. 93–2511 Filed 2–2–93; 8:45 am]
BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming; Sisseton-Wahpeton Sioux Tribe, North Dakota

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of approved tribal-state compact.

SUMMARY: Pursuant to 25 U.S.C. 2710, of the Indian Gaming Regulatory Act of 1988 (Pub. L. 100–497), the Secretary of the Interior shall publish, in the Federal Register, notice of approved Tribal-State Compacts for the purpose of engaging in Class III (casino) gambling on Indian reservations. The Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority, has approved the Tribal-State Compact for Control of Class III Games of Chance for the Sisseton-Wahpeton Sioux Tribe in North Dakota, enacted on December 9, 1992.

DATES: This action is effective February 3, 1993.

FOR FURTHER INFORMATION CONTACT: Hilda Manuel, Interim Staff Director, Indian Gaming Management Staff, Bureau of Indian Affairs, Washington, DC 20240, (202) 219–0994.

Dated: January 25, 1993.

Eddie F. Brown,
Assistant Secretary—Indian Affairs.

[FR Doc. 93–2483 Filed 2–2–93; 8:45 am]
BILLING CODE 4310–02–M

Bureau of Land Management

[OR–030–03–4333–01: G3–101]

Call for Nominations for District Advisory Council

AGENCY: Vale District, Bureau of Land Management, Interior.

ACTION: Call for nominations for District Advisory Council.

SUMMARY: The purpose of this notice is to solicit public nominations to fill the position of Non-Renewable Resources on the BLM Vale District Multiple-Use Advisory Council for the term expiring December 31, 1994.

To assure council membership that is fairly balanced in terms of points of view represented and functions performed, nominees must be qualified to provide advice in the area identified, Non-Renewable Resources (Mining, oil and gas, extractive industries).

The purpose of the council is to provide informed advice to the respective BLM District Manager on the management of the public lands. Members will serve without salary, but will be reimbursed for travel and per diem expenses at current rates for Government employees.

Each council normally will meet at least twice annually. Additional meetings may be called by the District Manager or his designee in connection with special needs for advice.

Persons wishing to nominate individuals or to be nominated to serve on an advisory council should contact the appropriate District Manager at the corresponding BLM District Office.

DATES: All nominations should be received by March 31, 1993.

ADDRESSES: The nominations should be mailed to the BLM Vale District Office, 100 Oregon Street, Vale, Oregon 97918.

FOR FURTHER INFORMATION CONTACT: Jeanette Davis, Bureau of Land Management, Vale District, 100 Oregon Street, Vale, OR 97918, (Telephone 503–473–3144).

James E. May,
District Manager.

[FR Doc. 93–2450 Filed 2–2–93; 8:45 am]
BILLING CODE 4310–33–M

[NV–930–4210–05; N–52545]

Realty Action; Lease/Purchase Recreation and Public Purposes (R&PP) Act, Nye County, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: R&PP lease/purchase of public lands in Nye County.

SUMMARY: The following described public land in Armagosa Valley, Nye County, Nevada has been examined and found suitable for lease/purchase for recreational or public purposes under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 et seq.). The Nye County

School District proposes to use the land for school site expansion of the existing facilities which are developed under a Recreation and Public Purposes patent.

Mount Diablo Meridian, Nevada

T. 16 S., R. 49 E.,
Section 9, NW¼SW¼SE¼.
Containing 10 acres more or less.

The land is not required for any federal purpose. The lease/purchase is consistent with current Bureau planning for this area and would be in the public interest.

The lease/patent, when issued, will be subject to the provisions of the Recreation and Public Purposes Act and applicable regulations of the Secretary of the Interior, and will contain the following reservations to the United States:

1. A right-of-way thereon for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

2. All minerals shall be reserved to the United States, together with the right to prospect for, mine and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe.

And will be subject to:

1. An easement for roads, public utilities and flood control purposes in accordance with the transportation plan for Nye County.

Detailed information concerning this action is available for review at the office of the Bureau of Land Management, Las Vegas District, 4765 W. Vegas Drive, Las Vegas, Nevada.

Upon publication of this notice in the **Federal Register**, the above described land will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for lease or purchase under the Recreation and Public Purposes Act, leasing under the mineral leasing laws and disposals under the mineral material laws.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the District Manager, Las Vegas District, P.O. Box 26569, Las Vegas, Nevada 89126. Any adverse comments will be reviewed by the State Director.

In the absence of any adverse comments, the classification of the land described in this Notice will become effective 60 days from the date of publication in the **Federal Register**. The land will not be offered for lease/purchase until after the classification becomes effective.

Dated: January 20, 1993.

Ben F. Collins,

District Manager, Las Vegas, NV.

[FR Doc. 93–2475 Filed 2–2–93; 8:45 am]

BILLING CODE 4310–HC–M

Fish and Wildlife Service

Migratory Bird Hunting and Conservation Stamp (Duck Stamp) Contest

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The Service announces the dates and locations of the 1993 Federal Duck Stamp Contest, and the public is invited to attend.

DATES: 1. This action is effective July 1, 1993, the beginning of the 1993–1994 contest.

2. The public may view the 1993 Federal Duck Stamp Contest entries on Sunday, November 7, from 1–5 p.m., and Monday, November 8, 1993, from 10 a.m. to 2 p.m., in the Department of the Interior Auditorium.

3. This year's contest will be held from November 9–10, 1993, beginning at 10:30 a.m. on Tuesday and continuing at 9 a.m. on Wednesday.

4. Persons wishing to enter this year's contest may submit entries anytime after July 1, but all must be postmarked no later than midnight September 15.

ADDRESSES: Requests for complete copies of the regulations, reproduction rights and the display and participation agreements should be addressed to: Federal Duck Stamp Contest, U.S. Fish and Wildlife Service, Department of the Interior, 1849 C Street, NW., Suite 2058, Washington, DC 20240.

Location of contest: Department of the Interior Building Auditorium (C Street Entrance), 1849 C Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Wyman, Acting Chief, Federal Duck Stamp Program, U.S. Fish and Wildlife Service, Washington, DC 20240, Telephone: (202) 208–4354.

SUPPLEMENTARY INFORMATION: The following five eligible species for the 1993–1994 Duck Stamp Contest are listed below:

(1) Black Scoter
(2) Barrow's Goldeneye
(3) Red-Breasted Merganser
(4) Surf Scoter
(5) Mottled Duck

The primary author of this document is Barbara Wyman, U.S. Fish and Wildlife Service.

Dated: January 27, 1993.

Richard N. Smith,

Deputy Director

[FR Doc. 93–2543 Filed 2–2–93; 8:45 am]

BILLING CODE 4310–55–M

National Park Service

Vancouver Historical Study Commission; Meetings

AGENCY: National Park Service.

ACTION: Notice of correction of meetings dates for the Vancouver Historical Study Commission.

This notice corrects the February meeting date published in the **Federal Register** December 24, 1993, (Volume 57, No. 248, Page 61448) for a public meeting of the Vancouver Historical Study Commission. The scheduled meeting for February 9, 1993, has been cancelled. The cancelled meeting will be replaced by a conference call on Tuesday, February 16, 1993, to be held in the Vancouver City Council Chambers, 210 East 13th Street, Vancouver, Washington. The Commission conference call will start at 9 a.m., and will adjourn no later than 11 a.m.

The public is welcome to monitor the conference call in the Vancouver City Council Chambers. No further public meetings are anticipated to be held by the Vancouver Historical Study Commission. It is expected that the final Commission report will be printed and sent to the Secretary of the Interior and the Secretary of the Army on or before March 30, 1993.

Further information concerning the conference call, please contact the Superintendent, Fort Vancouver National Historic Site, 612 E. Reserve St., Vancouver, Washington 98661–3811, or by telephone (206) 696 7655.

Dated: January 26, 1993.

Charles H. Odegaard,

Regional Director.

[FR Doc. 93–2449 Filed 2–2–93; 8:45 am]

BILLING CODE 4310–70–M

INTERNATIONAL TRADE COMMISSION

[Investigation 337–TA–338]

Certain Bulk Bags and Process for Making Same; Initial Determination Terminating Respondent on the Basis of Settlement Agreement

AGENCY: U.S. International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial

determination from the presiding officer in the above captioned investigation terminating the following respondents on the basis of a settlement agreement: Sanwey Industria de Containers, Ltda.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon parties on January 26, 1993.

Copies of the initial determination, the settlement agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

WRITTEN COMMENTS: Interested persons may file written comments with the Commission concerning termination of the aforementioned respondents. The original and 14 copies of all such documents must be filed with the Secretary to the Commission, 500 E Street, SW., Washington, DC 20436, no later than 10 days after publication of this notice in the **Federal Register**. Any person desiring to submit a document (or portions thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, Telephone (202) 205–1802.

Issued: January 26, 1993.

By order of the Commission.

Paul R. Bardos,

Acting Secretary.

[FR Doc. 93–2520 Filed 2–2–93; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 731–TA–571 (Final)]

Professional Electric Cutting and Sanding/Grinding Tools From Japan

AGENCY: United States International Trade Commission.

ACTION: Institution and scheduling of a final antidumping investigation.

SUMMARY: The Commission hereby gives notice of the institution of final antidumping investigation No. 731–TA–571 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Japan of professional electric cutting and sanding/grinding tools.[1]

For further information concerning the conduct of this investigation, hearing procedures, and rules or general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

EFFECTIVE DATE: January 4, 1993.

FOR FURTHER INFORMATION CONTACT: Olympia DeRosa Hand (202–205–3182), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted as a result of an affirmative preliminary determination by the Department of Commerce that imports of professional electric cutting and sanding/grinding tools from Japan are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigation was requested in a petition filed on May 29, 1992, by Black & Decker Corp., Towson, MD.

Participation in the Investigation and Public Service List

Persons wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, not later than twenty-one (21) days after publication of this notice in the **Federal Register**. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this final investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made not later than twenty-one (21) days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff Report

The prehearing staff report in this investigation will be placed in the nonpublic record on May 10, 1993, and a public version will be issued thereafter, pursuant to § 207.21 of the Commission's rules.

[1] For purposes of this investigation, professional electric cutting tools have blades or other cutting devices used for cutting wood, metal, and other materials. This category of tools includes chop saws, circular saws, jig saws, reciprocating saws, miter saws, portable band saws, cut-off machines, shears, nibblers, planers, routers, joiners, jointers, metal cutting saws, and similar cutting tools, provided for in subheadings 8508.20.00, 8461.50.00, and 8465.91.00 of the Harmonized Tariff Schedule of the United States (HTS).

Professional electric sanding/grinding tools have moving abrasive surfaces used primarily for grinding, scraping, cleaning, deburring, and polishing wood, metal, and other materials. This category of tools includes angle grinders, finishing sanders, disc sanders, orbital sanders, belt sanders, polishers, straight grinders, die grinders, and similar sanding/grinding tools, provided for in HTS subheading 8508.80.00.

The products subject to this investigation may be assembled or unassembled (in kits), corded or cordless, and include all hand-held professional electric cutting and sanding/grinding tools and the following bench-top, hand-operated professional electric cutting tools: cut-off saws, PVC saws, chop saws, cutoff machines, miter saws (including slide compound saws), and band saws with detachable bases, provided for in HTS subheadings 8461.50.00 and 8465.91.00. The subject products do not include consumer electric tools, professional electric drilling/fastening tools, lawn and garden tools, heat guns, paint and wallpaper strippers, and chain saws.

For a more detailed description of the products subject to this investigation, see the Department of Commerce's notice of preliminary determinations published on January 4, 1993 (58 FR 81).

Hearing

The Commission will hold a hearing in connection with this investigation beginning at 9:30 a.m. on May 21, 1993, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before May 13, 1993. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 10 a.m. on May 17, 1993, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by §§ 201.6(b)(2), 201.13(f), and 207.23(b) of the Commission's rules. Parties are strongly encouraged to submit as early in the investigation as possible any requests to present a portion of their hearing testimony in camera.

Written Submissions

Each party is encouraged to submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of § 207.22 of the Commission's rules; the deadline for filing is May 17, 1993. Parties may also file written testimony in connection with their presentation at the hearing, as provided in § 207.23(b) of the Commission's rules, and posthearing briefs, which must conform with the provisions of § 207.24 of the Commission's rules. The deadline for filing posthearing briefs is June 1, 1993; witness testimony must be filed no later than three (3) days before the hearing. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before June 1, 1993. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules.

In accordance with §§ 201.16(c) and 207.3 of the rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules.

By order of the Commission.

Issued: January 27, 1993.

Paul R. Bardos,

Acting Secretary.

[FR Doc. 93–2519 Filed 2–2–93; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 731–TA–572 (Final)]

Certain Special Quality Carbon and Alloy Hot-Rolled Steel Bars and Semifinished Products From Brazil

AGENCY: United States International Trade Commission.

ACTION: Institution and scheduling of a final antidumping investigation.

SUMMARY: The Commission hereby gives notice of the institution of final antidumping investigation No. 731–TA–572 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Brazil of certain special quality carbon and alloy hot-rolled steel bars and semifinished products, provided for in subheadings 7207.11.00, 7207.12.00, 7207.19.00, 7207.20.00, 7214.30.00, 7214.40.00, 7214.50.00, 7214.60.00, 7224.10.00, 7224.90.00, and 7228.30.80 of the Harmonized Tariff Schedule of the United States.[1]

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

EFFECTIVE DATE: January 11, 1993.

FOR FURTHER INFORMATION CONTACT: Stephanie Kaplan (202–205–3199) or Jim McClure (202–205–3191), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information of this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted as a result of an affirmative preliminary determination by the Department of Commerce that imports of certain special quality carbon and alloy hot-rolled bars and semifinished products from Brazil are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigation was requested in a petition filed on June 9, 1992, by Republic Engineered Steels, Inc., Massillon, OH, and the Timken Company, Canton, OH.

Participation in the Investigation and Public Service List

Persons wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules not later than twenty-one (21) days after publication of this notice in the **Federal Register**. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this final investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made not later than twenty-one (21) days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff Report

The prehearing staff report in this investigation will be placed in the nonpublic record on May 19, 1993, and a public version will be issued thereafter, pursuant to § 207.21 of the Commission's rules.

Hearing

The Commission will hold a hearing in connection with this investigation beginning at 9:30 a.m. on June 2, 1993, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in

[1] For a more detailed description of the products subject to this investigation, see the Department of Commerce's notice of preliminary determination (58 FR 3533, Jan. 11, 1993).

writing with the Secretary to the Commission on or before May 20, 1993. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on May 26, 1993, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by §§ 201.6(b)(2), 201.13(f), and 207.23(b) of the Commission's rules. Parties are strongly encouraged to submit as early in the investigation as possible any requests to present a portion of their hearing testimony *in camera*.

Written Submissions

Each party is encouraged to submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of § 207.22 of the Commission's rules; the deadline for filing is May 26, 1993. Parties may also file written testimony in connection with their presentation at the hearing, as provided in § 207.23(b) of the Commission's rules, and posthearing briefs, which must conform with the provisions of § 207.24 of the Commission's rules. The deadline for filing posthearing briefs is June 10, 1993; witness testimony must be filed no later than three (3) days before the hearing. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before June 10, 1993. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules.

In accordance with §§ 201.16(c) and 207.3 of the rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules.

By order of the Commission.

Issued: January 28, 1993.

Paul R. Bardos,

Acting Secretary.

[FR Doc. 93–2518 Filed 2–2–93; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–341]

Decision Not To Review an Initial Determination Granting in Part Motion for Summary Determination on the Issue of Domestic Industry

In the Matter of Certain Static Random Access Memories, Components Thereof, and Products Containing Same

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (ID) (Order No. 5) issued on December 30, 1992, by the presiding administrative law judge (ALJ) in the above-captioned investigation granting in part the motion of complainant SGS-Thomson Microelectronics, Inc. ("ST") for summary determination on the issue of domestic industry.

FOR FURTHER INFORMATION CONTACT: Marc A. Bernstein, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–205–3087.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation, which concerns allegations of section 337 violations in the importation and sale of static random access memories (SRAMs), components thereof, and products containing same, on September 25, 1992. Complainant ST alleges infringement of claims 1 and 4 of U.S. Letters Patent 4,125,854 ("the '854 patent") and claims 1, 2, 3, 6, 7, 8, 11, 12, 15, and 17 of U.S. Letters Patent 4,251,876 ("the '876 patent").

ST filed a motion for summary determination on the domestic industry issue on November 20, 1992. As originally framed, the motion sought a determination that a domestic industry existed with respect to the '854 and '876 patents. ST, however, subsequently withdrew its request for a determination that it practices the '854 and '876 patents. Instead, it limited its motion to the question of whether its economic activities in the United States are sufficient to satisfy the requirements of section 337(a)(2). ST's motion was opposed, both as originally framed and as limited, by respondent United Microelectronics Corporation and by the Commission investigative attorney.

In the ID, the ALJ granted the motion as limited by ST. In other words, the ALJ concluded that, if ST can establish that it practices the '854 and '876 patents, it satisfies the remaining elements of the "domestic industry" requirement with respect to these patents. No petitions for review of the ID or agency comments were filed. This action is taken under the authority of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, and Commission interim rule 210.53(h), 19 CFR 210.53(h).

Copies of the nonconfidential version of the ID and all nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202–205–2000. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

Dated: January 25, 1993.

By order of the Commission.

Paul R. Bardos,

Acting Secretary.

[FR Doc. 93–2521 Filed 2–2–93; 8:45 am]

BILLING CODE 7020–02–M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–6 (Sub-No. 343X)]

Burlington Northern Railroad Co.—Abandonment Exemption—In Latah County, ID

Burlington Northern Railroad Company (BN) has filed a notice of exemption under 49 CFR 1152 subpart F—*Exempt Abandonments* to abandon a 0.333-mile rail line between milepost 90.424 and milepost 90.091 in Moscow, in Latah County, ID.

BN has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or by a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7(b), 49 CFR 1105.8, 49 CFR 1105.12 (newspaper publication), and

49 CFR 1152.50(d)(1) (notice to government agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 306 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on March 5, 1993, unless stayed pending reconsideration.[1] Petitions to stay that do not involve environmental issues,[2] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[3] and trail use/rail banking requests under 49 CFR 1152.29[4] must be filed by February 15, 1993. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by February 23, 1993, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any pleading filed with the Commission should be sent to BN's representative: Sarah J. Whitley, Burlington Northern Railroad Company, 3800 Continental Plaza, 777 Main Street, Fort Worth, TX 76102.

If the notice contains false or misleading information, the exemption is void *ab initio*.

BN has filed an environmental report which addresses the abandonment's effects, if any, on the environmental and historic resources. The Section of Energy and Environment (SEE) will issue an environmental assessment (EA) by February 8, 1993. Interested persons may obtain a copy of the EA by writing to SEE (room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief of SEE, at (202) 927–6248. Comments on environmental and historic preservation matters must be filed within 15 days after the EA is available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: January 28, 1993.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–2547 Filed 2–2–93; 8:45 am]

BILLING CODE 7035–01–M

[1] Pursuant to 49 CFR 1152.50(d)(2), the railroad must file a verified notice with the Commission at least 50 days before the abandonment or discontinuance is to be consummated. BN indicated in its verified notice a proposed consummation date of February 1, 1993; however, because the verified notice was not filed until January 14, 1993, consummation should not take place prior to March 5, 1993. BN's representative has confirmed the corrected consummation date.

[2] A stay will be issued routinely by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Commission's Section of Energy and Environment in its independent investigation) cannot be made before the effective date of the notice of exemption. *See Exemption of Out-of Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any entity seeking a stay involving environmental concerns is encouraged to file its request as soon as possible in order to permit this Commission to review and act on the request before the effective date of this exemption.

[3] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987)

[4] The Commission will accept a late-filed trail use request as long as it retains jurisdiction to do so.

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Under the Clean Air Act

In accordance with Department policy, 28 CFR 50.7, notice is hereby given that on the 20th day of January, 1993, a proposed Consent Decree in *United States* v. *Arizona Electric Power Cooperative*, Civil Action CIV 92–383 TUC RBM, was lodged with the United States District Court for the District of Arizona. The Complaint was filed in this case for civil penalties and injunctive relief against Arizona Electric Power Cooperative pursuant to sections 111(e) and 113(b) of the Clean Air Act ("Act"), 42 U.S.C. 7411(e) and 7413(b), for violations of the Arizona State Implementation Plan (SIP) by failing to obtain a State permit before modifying its pollution control operating procedures and for violations of the New Source Performance Standards at 40 CFR 60.11(d), that prohibits operation of a major source without practicing good air pollution control to minimize discharges of pollutants. The violations involved operations of Generating Units Nos. 2 and 3 at the Apache Generating Station, near Cochise, Arizona.

The proposed Consent Decree requires that the defendant pay $120,000 in settlement of the United States' claims for civil penalties. The defendant is subject to an injunction requiring future operations to be in compliance with the Arizona regulations contained in the SIP. Additionally, the consent decree requires the installation of redesigned and modified sootblower on Unit No. 2 and testing to determine the need for modifying, and modifying if found necessary, its electrostatic precipitator on Unit No. 2. The decree requires payment of stipulated penalties in the event of violation of emissions standards specified in the decree or of time requirements for modifying and testing of equipment.

For thirty (30) days from the date of publication of this notice, the Department of Justice will receive written comments relating to the Consent Decree from persons who are not parties to the action. Comments should be addressed to the Acting Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, Washington, DC 20530 and should refer to *United States* v. *Arizona Electric Power Cooperative*, D.J. Ref. No. 90–5–2–1–1441.

The proposed Consent Decree may be examined at the Region IX office of the U.S. Environmental Protection Agency, 75 Hawthorne Street, San Francisco, California 94105.

Copies of the Consent Decree also may be examined at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005, telephone number (202) 634–0892. A copy of the Consent Decree may be obtained in person or by mail from the Consent Decree Library. In requesting a copy, please tender a check in the amount of $6.00 (25 cents per page reproduction charge) payable to "Consent Decree Library."

John C. Cruden,

Chief, Environmental Enforcement Section.

[FR Doc. 93–2474 Filed 2–2–93; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Consent Decree Pursuant to the Clean Air Act

In accordance with Departmental policy, set out in 28 CFR 50.7, notice is hereby given that on January 19, 1993, a proposed consent decree in settlement of *United States* v. *Industrial Resources, Inc., R.H.S. Lee, Inc., and Santa Fe Engineers, Inc.*, Civil Action No. 93–00038 HMF, was lodged with the United States District Court for the District of Hawaii. In the Complaint in that action, the United States seeks civil penalties and injunctive relief for alleged violations of the National Emission Standards for Hazardous Pollutants promulgated under section 112 of the Clean Air Act, 42 U.S.C. 7412, and codified at 40 CFR part 61, subpart M. The alleged violations occurred in December 1988 and February 1989 at the renovation of the Tripler Army Hospital, Ft. Shafter, Honolulu, Hawaii, and in June 1989 at the Market Place, Kauai, Hawaii. The proposed settlement requires the payment of a civil penalty

of $30,000 and imposes injunctive relief regarding future work involving asbestos.

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 of the Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Washington, DC 20044. Comments should refer to *United States v. Industrial Resources, Inc., et al.*, D.J. Ref. No. 90–5–2–1–1403.

The consent decree may be examined at the Office of the United States Attorney, District of Hawaii, room C–242, United States Courthouse, 300 Ala Moana Blvd., Honolulu, Hawaii 96850; at the Region IX Office of the Environmental Protection Agency, 75 Hawthorne Street, San Francisco, California 94105; and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC (20005) Tel. (202) 624–0892. A copy of the consent decree may be obtained in person or by mail from the Document Center. In requesting a copy, please tender a check in the amount of $5.25 (25 cents per page reproduction charge) payable to the Consent Decree Library.

John C. Cruden,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 93–2472 Filed 2–2–93; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Consent Decree in United States v. Town of Lowell, IN

In accordance with 28 CFR 50.7, notice is hereby given that on January 19, 1993, a proposed Consent Decree in *United States of America v. Town of Lowell, Indiana*, Civil Action No. H91–191, was lodged with the United States District Court for the Northern District of Indiana. This action was brought pursuant to the Safe Drinking Water Act ("SDWA"), 42 U.S.C. 300f et seq. The complaint alleged that Defendant Town of Lowell violated certain requirements of the SDWA, the National Primary Drinking Water Regulations, codified at 40 CFR part 141, and an Administrative Order issued by the United States Environmental Protection Agency pursuant to SDWA section 1414(g), 42 U.S.C. 300–g–3, requiring the Town to comply with the fluoride maximum contaminant level by December 1, 1989.

Under the proposed Decree, the Town of Lowell will abide by a schedule that will bring the Town into compliance with the fluoride maximum contaminant level by June 16, 1995, through either (1) construction of a new water well source, or (2) connection with an existing water system. In addition, the Town will pay a civil penalty of $65,000.

The Department of Justice will receive comments on the proposed Consent Decree for a period of 30 days from the date of publication of this Notice. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, Washington, DC 20530. All comments should refer to *United States v. Town of Lowell, Indiana*, D.J. Ref. No. 90–5–1–1–3644.

The proposed Consent Decree may be examined at the Region V Office of the U.S. Environmental Protection Agency, 111 West Jackson Street, Third Floor, Chicago, Illinois 60604 (312–886–0556); the Office of the United States Attorney for Northern Indiana, 507 State St., 4th Floor, Hammond, Indiana 46320 (219–937–5364); and the U.S. Department of Justice, 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. In requesting a copy, please specify the document sought, together with a check payable to the "Consent Decree Library" for $4.25 ($.25 per page reproduction costs).

John C. Cruden,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 93–2473 Filed 2–2–93; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Consent Decree Pursuant to the Clean Air Act (CAA)

In accordance with 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States v. Twin County Recycling Corp.* (Twin County) (E.D.N.Y.), Civil Action No. 89–0946, was lodged with the United States District Court for the Eastern District of New York on January 22, 1993. The Consent Decree requires Twin County of Hicksville, New York to apply to the New York State Department of Environmental Conservation for a special condition, to be included in its facility's Certificate to Operate a source of air contamination, which would limit the facility's operation to 7,092 hours per calendar year. The Consent Decree further requires Twin County to pay a civil penalty in the amount of $6,500 to the United States for its failure to comply timely with an information request under section 114 of the CAA and an Administrative Order issued by the Environmental Protection Agency under section 113(a) of the CAA to conduct stack emissions testing at the facility.

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. Twin County Recycling Corp.*, D.O.J. No. 90–5–2–1–1345.

The proposed consent decree may be examined at the Office of the United States Attorney for the Eastern District of New York, 1 Pierrepont Plaza, 11th Floor, Brooklyn, New York 11021; the Region II Office of the Environmental Protection Agency, 26 Federal Plaza, New York, New York, 10278; and the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005, (202) 624–0892. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $2.75 (25 cents per page reproduction costs) payable to Consent Decree Library.

John C. Cruden,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 93–2471 Filed 2–2–93; 8:45 am]

BILLING CODE 4410–01–M

[AAG/A Order No. 73–93]

Privacy Act of 1974; Systems of Records

Pursuant to the Privacy Act of 1974 (5 U.S.C. 552a) and Office of Management and Budget Circular No. A–130, Department components have reviewed their Privacy Act systems of records to identify any minor changes that will clarify and/or more accurately describe their systems of records. As a result, the Department is republishing four systems of records and one appendix of system locations.

Specifically, the Office of the Pardon Attorney is republishing three systems of records entitled "Executive Clemency Files, Justice/OPA–001," "Miscellaneous Correspondence File, Justice/OPA–002," and "Freedom of Information/Privacy Acts (FOI/PA) Request File, Justice/OPA–003." In addition, the Executive Office for United States Attorneys is republishing the "Appendix of United States Attorneys' Office Locations, Justice/USA–999." Finally, the Antitrust Division is republishing its "Congressional and White House

Referral Correspondence Log File, Justice/ATR–002" system to show that the records will be retrieved from the system not only by name of the person who originated the inquiry but, on occasion, by name of the individual who may have "referred" the inquiry to the Antitrust Division. As a result, the system will now cover a new category of individuals. Accordingly, we are providing an opportunity to comment on the routine uses of the system in accordance with 5 U.S.C. 552a(e) (4) and (11). Address any comments to Patricia E. Neely, Staff Assistant, Systems Policy Staff, Justice Management Division, Department of Justice, Washington, DC. 20530 (room 850, Washington Center Building).

All changes to the systems of records have been italicized for public convenience.

Dated: December 7, 1992.

Harry H. Flickinger,

Assistant Attorney General for Administration.

JUSTICE/OPA–001

SYSTEM NAME:

Executive Clemency Files.

SYSTEM LOCATION:

Office of the Pardon Attorney (OPA), U.S. Department of Justice, *500 First Street, NW., Seventh Floor, Washington, DC. 20530*

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have applied for or been granted Executive clemency.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains the individual petitions for executive clemency and accompanying oath and character affidavits, investigatory material, evaluative reports, official and other correspondence, both solicited and unsolicited and inter-agency and intra-agency correspondence and memoranda relating to individual petitions for clemency. The system includes Presidential Clemency Board files transferred to the OPA upon termination of the Board on September 15, 1975.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The system is established and maintained in accordance with the United States Constitution, Article II, Section 2; Executive Order of the President dated June 16, 1893; Order of the Attorney General No. 1011–83, 48 FR 22290 (1983), as codified in 28 CFR 1.1 et seq.; Order of the Attorney General No. 1012–83, 48 FR 22290 (1983), as codified in 28 CFR 0.35 and 0.36; E.O. 11878 dated September 10, 1975; and 44 U.S.C. 3101.

PURPOSE OF THE SYSTEM:

Exectutive clemency files are maintained by the Attorney General or his designee to investigate each petition for Executive clemency, to review each petition and the information developed by the investigation and to determine whether, in his judgment, the request for clemency is of sufficient merit to warranty a recommendation for favorable action by the President. The information also is used by Federal parole authorities and other Department of Justice employees to assist them in the performance of their official duties.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records in the system may be used as follows: (a) To provide information to the President and member of his staff to facilitate the consideration of the Attorney General's recommendation regarding each petition for Executive clemency; (b) to prepare notices to the public of the name of each grantee of clemency, date of Presidential action, nature of clemency granted, nature of grantee's offense, date and place of sentencing, description of sentence imposed, and names of character affiants and interested parties; to disclose similar information to that specified above with respect to clemency denials of general public interest if the disclosure does not constitute an unwarranted invasion of privacy; (c) to prepare bound and indexed volumes containing photocopies of the official warrant of clemency granted each recipient of clemency as a public and official record of Presidential action; (d) upon specific request, to advise the requester whether a named person has applied for, been granted or denied clemency, the date thereof, and the nature of the clemency granted or denied; (e) upon specific request, to make closed files available for historical research purposes when in the public interest and in conformity with Department of Justice policy; (f) to provide information which indicates a violation or apparent violation of law, whether civil, criminal or regulatory in nature, to the appropriate agency, whether Federal, State, local or foreign; or to provide information either in connection with the solicitation of information necessary and relevant to Executive clemency review or to assist these agencies, where appropriate, in performing their law enforcement responsibilities in situations other than those involving a violation or apparent violation of law, e.g., state parole or clemency review; (g) to provide information to present and former law enforcement and judicial authorities to permit the formulation of comments and recommendations regarding individual clemency matters arising from cases with which they may be familiar; (h) to provide information to assist sentencing authorities in executing appropriate actions subsequent to Presidential clemency decisions; (i) to release information in a proceeding before a court or adjudicative body before which the OPA is authorized to appear when (1) one of the following is a party to or has an interest in the litigation: i. the OPA; ii. any employee of the OPA in his or her official capacity; iii. any employee of the OPA in his or her individual capacity where the Department of Justice has agreed to represent the employee; or, iv. the United States where the OPA determines that it is likely to be affected by the litigation; and (2) the records, or information derived therefrom, are determined by the OPA to be arguably relevant to the litigation; (j) to disseminate information to the news media and the public pursuant to 28 CFR 50.2 unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy; (k) to make information available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record; and (1) to make records available to the National Archives and Record Administration and to the General Services Administration in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information in the system is maintained in its original form (i.e., paper letters, notes and memoranda) and stored in locked file cabinets in the OPA and in the Federal Records Center in Suitland, Maryland.

RETRIEVABILITY:

Information is retrieved by using a name index to obtain the case file number assigned to each applicant for Executive clemency.

SAFEGUARDS:

Information contained in the system is protected in accordance with Department of Justice security regulations for Privacy Act systems of records. Files are maintained in the OPA or in the Federal Records Center, are not commingled with other Department of Justice records, and are made available only in accordance with the aforementioned routine uses. When not in the custody of an appropriate official, records are stored in a central file room *in a secure government building.*

RETENTION AND DISPOSAL:

Records are stored in the OPA and closed cases generally are transferred to the Federal Records Center in Suitland, Maryland when two years old. Except for clemency reports which are furnished to the President in connection with clemency application, Presidential responses, warrants or other documents signifying the President's action in a clemency case, and cases which may be designated by the Pardon Attorney as having significant public interest, records are destroyed after 15 years.

SYSTEM MANAGER(S) AND ADDRESS:

Pardon Attorney, Office of the Pardon Attorney, Department of Justice, *500 First Street, NW., Seventh Floor, Washington, DC 20530*

NOTIFICATION PROCEDURE:

Address inquiries to the Pardon Attorney, Department of Justice, *500 First Street, NW., Seventh Floor, Washington, DC 20530*

RECORD ACCESS PROCEDURES:

While the Attorney General has exempted Executive Clemency files from the access provisions of the Privacy Act, requests for discretionary releases of records shall be made in writing to the system manager listed above with the envelope and letter clearly marked "Privacy Access Request." Include in the request the general subject matter of the document. Provided full name, current address, date and place of birth, signature (which must be notarized) and a return address for transmitting the information.

CONTESTING RECORD PROCEDURES:

While the Attorney General has exempted Executive Clemency files from the correction (contest and amendment) provisions of the Privacy Act, requests for the discretionary correction (contest and amendment) of records should be directed to the system manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Sources of information are the OPA staff, individual applicants for clemency and their representatives, Federal Bureau of Investigation or other official investigatory reports. Bureau of Prisons records, Armed Forces reports, probation of parole reports, and reports from individuals or non-Federal organizations, both solicited and unsolicited.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsection (d) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the Federal Register.

Justice/OPA–002

SYSTEM NAME:

Miscellaneous Correspondence File.

SYSTEM LOCATION:

Office of the Pardon Attorney (OPA), U.S. Department of Justice, *500 First Street, NW., Seventh Floor Washington D.C. 20530*

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who are the named subjects of OPA incoming and outgoing correspondence, but who have not formally applied for or received Executive clemency. Also, individuals who have corresponded with the OPA, either directly or by referral, but whose correspondence either may or may not pertain to a particular named individual, including the correspondent, or whose correspondence does not contain a request for information under the Freedom of Information/Privacy Acts.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains miscellaneous correspondence originated by OPA and received by OPA, either directly or by referral, excluding correspondence pertaining to (1) individuals who have formally applied for or received Executive clemency and (2) individuals who have made formal requests for records under the Freedom of Information/Private Acts.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The system is established and maintained in accordance with the United States Constitution, Article II, Section 2; Executive Order of the President dated June 16, 1893; Order of the Attorney General No. 1011–83, 48 FR 22290 (1983), as codified in 28 CFR 1.1 *et seq.*; Order of the Attorney General No. 1012–83, 48 FR 22290 (1983), as codified in 28 CFR 0.35 and 0.36; E.O. 11878 dated September 10, 1975; and 44 U.S.C. 3101.

PURPOSE OF THE SYSTEM:

Records in the system are used by employees in the performance of their duties for reference and informational purposes to facilitate efficient, accurate and consistent responses to oral and written inquiries, particularly successive inquiries, and to provide access for a reasonable period of time to any relevant and necessary information which may assist in formulating policy and/or in considering potential and/or in considering potential candidates for Executive clemency.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records in the system may be used as follows: (a) To provide information to the President and members of his staff which may be of political, policy or official interest and/or which may assist them in formulating policy decisions regarding the exercise of Executive clemency; (b) to release information in a proceeding before a court or adjudicative body before which the OPA is authorized to appear when (1) one of the following is a party to or has an interest in the litigation: i. The OPA; ii. any employee of the OPA in his or her official capacity; iii. any employee of the OPA in his or her individual capacity where the Department of Justice has agreed to represent the employee; or, iv. the United States where the OPA determines that it is likely to be affected by the litigation; and (2) the records, or information derived therefrom, are determined by the OPA to be arguably relevant to the litigation; (c) to disseminate information to the news media and the public pursuant to 28 CFR 50.2 unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy; (d) to make information available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record; (e) to make records available to the National Archives and Records Administration and the General Services Administration in records management inspections conducted

under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information in the system is maintained in its original form (i.e., paper letters, notes and memoranda) and stored in locked file cabinets in the OPA.

RETRIEVABILITY:

Information is retrieved by the name of the individuals covered by the system.

SAFEGUARDS:

Information in the system is protected in accordance with Department of Justice security regulations for Privacy Act systems of records. Records are maintained in the OPA and are not commingled with other Department of Justice records. When not in the custody of an appropriate official, records are stored in a central file room *in a secure government building.*

RETENTION AND DISPOSAL:

Records are destroyed at the end of the calendar year following the calendar year in which they were received (incoming correspondence). If an individual covered by the system formally applies for or receives Executive clemency, all records pertaining to that individual will be transferred immediately to the Executive Clemency Files (JUSTICE/OPA–001).

SYSTEM MANAGER(S) AND ADDRESSES:

Pardon Attorney, Office of the Pardon Attorney, Department of Justice, *500 First Street, NW., Seventh Floor, Washington, DC 20530.*

NOTIFICATION PROCEDURE:

Address inquiries to the Pardon Attorney, Department of Justice, *500 First Street, NW., Seventh Floor, Washington, DC 20530.*

RECORD ACCESS PROCEDURES:

Requests for records in the system shall be made in writing with the envelope and letter clearly marked "Privacy Access Request" and shall be addressed to the system manager listed above. Include in the request the general subject matter and date of correspondence. Provide full name, current address, date and place of birth, signature (which must be notarized) and a return address for transmitting the information.

CONTESTING RECORD PROCEDURES:

Requests to contest or amend records shall be addressed in writing to the system manager and shall state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information.

RECORD SOURCE CATEGORIES:

Sources of information are the individuals covered and the OPA staff.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/OPA–003

SYSTEM NAME:

Freedom of Information/Privacy Acts (FOI/PA) Request File

SYSTEM LOCATION:

Office of the Pardon Attorney (OPA), U.S. Department of Justice, *500 First Street, NW., Seventh Floor Washington, DC. 20530*

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have submitted requests pursuant to the FOI/PA (5 U.S.C. 552 and 552a) for copies of records in the custody of the OPA.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains the FOI/PA requests and a copy of the outgoing response advising the requester of the disposition of the request. The system includes copies of the requested records which have not been released either in whole or in part. In addition, it also contains copies of memoranda addressed to the Office of Information and Privacy prepared in connection with any administrative appeals of the Pardon Attorney's determination, and copies of the pleadings filed in connection with any judicial appeals.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The system is established and maintained in accordance with the United States Constitution, Article II, Section 2; Executive Order of the President dated June 16, 1893; Order of the Attorney General No. 1011–83, 48 FR 22290 (1983), as codified in 28 CFR 1.1 *et seq.*; Order of the Attorney General No. 1012–83, 48 FR 22290 (1983), as codified in 28 CFR 0.35 and 0.36; E.O. 1187 dated September 10, 1975; and 44 U.S.C. 3101.

PURPOSES OF THE SYSTEM:

The FOI/PA Request File is maintained to facilitate complete, accurate and consistent responses to written FOI/PA requests and to expedite response time. The system also assists the OPA in compiling its contribution to the Department of Justice annual FOI/PA statistical reports and enables it to readily determine that portion of its resources devoted to FOI/PA processing. The FOI/PA Request File also aids in processing administrative and judicial appeals of access and amendment denials.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records in the system may be used as follows: (a) To release information in a proceeding before a court or adjudicative body before which the OPA is authorized to appear when (1) one of the following is a party to or has an interest in the litigation: i. The OPA; ii. any employee of the OPA in his or her official capacity; iii. any employee of the OPA in his or her individual capacity where the Department of Justice has agreed to represent the employee; or iv. the United States where the OPA determines that it is likely to be affected by the litigation; and (2) the records, or information derived therefrom, are determined by the OPA to be arguably relevant to the litigation; (b) to make available information to the news media and the public pursuant to 28 CFR 50.2 unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy; (c) to provide information to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record; (d) to release records to the National Archives and Records Administration and the General Services Administration in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information in the system is maintained in its original form (i.e., paper letters, notes and memoranda) and stored in locked file cabinets in the OPA.

RETRIEVABILITY:

Records are retrieved by the name of the individual submitting the FOI/PA request.

SAFEGUARDS:

Records in the system are protected in accordance with Department of Justice

security regulations for Privacy Act systems of records. Records are maintained in the OPA and are not commingled with other Department of Justice records. When not in the custody of an appropriate official, records are stored in a central file room *in a secure government building.*

RETENTION AND DISPOSAL:

Records in the system are retained according to General Records Schedule (GRS) No. 14, Informational Services Records, which contains the mandatory records disposition standards for FOI/PA requests as promulgated by the National Archives and Records Administration. GRS 14, item 16a(3)(a) requires that denied requests not appealed be retained for six years and item 17a requires that appealed requests be retained for six years after final agency determination or three years after final adjudication by the courts, whichever is later.

SYSTEM MANAGER(S) AND ADDRESS:

Pardon Attorney, Office of the Pardon Attorney, Department of Justice, *500 First Street, NW., Seventh Floor Washington, DC. 20530*

NOTIFICATION PROCEDURE:

Address inquiries to the Pardon Attorney, Department of Justice, *500 First Street, NW., Seventh Floor Washington, DC. 20530*

RECORD ACCESS PROCEDURE:

While the Attorney General has exempted the FOI/PA Request File from the access provisions of the Privacy Act, requests for discretionary releases of records shall be made in writing to the system manager listed above with the envelope and letter clearly marked "Privacy Access Request." Include in the request the general subject matter of the document. Provide full name, current address, date and place of birth, signature (which must be notarized) and return address for transmitting the information.

CONTESTING RECORD PROCEDURES:

While the Attorney General has exempted the FOI/PA Request File from the correction (contest and amendment) provisions of the Privacy Act, requests for the discretionary correction (contest and amendment) of records should be directed to the system manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Sources of information are the FOI/PA requester and the OPA staff.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsection (d) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the **Federal Register.**

JUSTICE/USA–999

SYSTEM NAME:

Appendix of United States Attorneys' office locations: (Written requests for access to records in any of the following U.S. Attorneys' offices except the District of Columbia may be addressed to: FOIA/Privacy Unit, Patrick Henry Building, 601 D Street NW., room 6410, Washington, DC 20530.

Requests for access to records in the District of Columbia may be addressed to: FOIA/Privacy, United States Attorney's Office for the District of Columbia, Judiciary Center Building, 555 4th Street NW., Washington, DC 20001.)

Systems are located as listed below:

ALABAMA

Northern District

200 Federal Bldg., 1800 5th Ave. N., Birmingham 35203

Middle District

P.O. Box 197, Montgomery 36101

Southern District

169 Dauphin St., Suite 200, Mobile 36602

ALASKA

222 W. 7th Ave., #9, Federal Bldg. & Courthouse, Rm. C–253, Anchorage, 99513-7567

*Rm. 310, New Federal Bldg. & Courthouse, 101 12th Ave., Box 2, Fairbanks 99701

ARIZONA

4000 U.S. Courthouse, 230 N. First Ave., Phoenix 85025

*Suite 8310, 110 South Church Ave., Tucson 85701

ARKANSAS

Eastern District

P.O. Box 1229, Little Rock 72203

Western District

P.O. Box 1524, Fort Smith 72902

CALIFORNIA

Northern District

450 Golden Gate Ave., Box 36055, San Francisco 94102

*280 South First St., Rm. 371, San Jose 95113

Eastern District

3305 Federal Bldg., 650 Capitol Mall, Sacramento 95814

*4304 Federal Bldg., 1130 O St., Fresno 93721

Central District

312 N. Spring St., Los Angeles 90012

*751 West Santa Ana Blvd., Santa Ana 92701

Southern District

5–N–19 U.S. Courthouse, 940 Front St., San Diego 92189

COLORADO

Suite 1200, Federal Bldg., Drawer 3615, 1961 Stout St., Denver 80294

CONNECTICUT

P.O. Box 1824, New Haven 06508

*250 Federal Bldg., 450 Main St., Hartford 06103

*309 Federal Building & Courthouse, 915 Lafayette Blvd., Bridgeport 06603

DELAWARE

Manufacturer's Hanover Plaza, 1201 Suite 1100, P.O. Box 2046, Wilmington 19899–2046

DISTRICT OF COLUMBIA

Judiciary Center Bldg. 555 4th St., NW, Washington, DC 20001 (Information)
Superior Court Division (Information)

FLORIDA

Northern District

315 S. Calhoun St., Suite 510, Tallahassee, 32301

*114 East Gregory St., Pensacola 32501

*401 SE 1st Ave., Room 318, Gainesville, 32602

Middle District

Rm. 400 Robert Timberlake Bldg., 500 Zack Street, Tampa 33602

*P.O. Box 600, Jacksonville 32201

*201 Federal Bldg., 80 N. Hughey Ave., Orlando 32801

*2000 Main St., The Barnett Centre, Suite 701,
Fort Myers, 33901

Southern District

155 South Miami Ave., Miami 33130

*Rm. 202B, 299 E. Broward Blvd., Fort Lauderdale 33301

*701 Clematis St., West Palm Beach 33401

*505 S. 2nd St., Suite 200, Ft. Pierce, 34950

GEORGIA

Northern District

Rm. 1800 Richard Russell Bldg., 75 Spring St. SW, Atlanta 30335

Middle District

P.O. Box U, Macon 31202

Southern District

P.O. Box 8999, Savannah 31412

*P.O. Box 2017, Augusta 30903—All mail goes to Savannah

GUAM

Suite 502–A, Pacific News Bldg., 238 Archbishop Flores St., Agana 96910

*3rd Floor, Horiguchi Bldg., P.O. Box 377, Saipan, MP 96950

HAWAII

Rm. 6100, PJKK Federal Bldg., Box 50183, 300 Ala Moana Blvd., Honolulu 96850

IDAHO

Rm. 328, Federal Bldg., Box 037, 550 W. Fort St., Boise 83724

ILLINOIS

Northern District

1500 South, Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Chicago 60604
*211 South Court St., Rockford 61101

Southern District

9 Executive Dr., Suite 300, Fairview Heights, 62208

Central District

PO Box 375, Springfield 62705
*Rm. 253, Federal Building, 100 NE Monroe St., Peoria 61602
*14 Towne Centre, 2 East Main St., Danville 61832
*211 19th St., Room 14, Rock Island 61201

INDIANA

Northern District

1001 Main St., Suite A, Dyer 46311
*3128 Federal Bldg., 1300 S. Harrison St., Fort Wayne 46802
*MO–1 Federal Bldg., 204 S. Main St., South Bend 46601

Southern District

U.S. Courthouse, 5th Floor, 46 East Ohio St., Indianapolis 46204

IOWA

Northern District

425 2nd St., SE., Suite 950, The Center, Cedar Rapids 52401
*PO Box 3629, Sioux City 51102

Southern District

115 U.S. Courthouse, East 1st & Walnut Sts., Des Moines 50309

KANSAS

1200 Epic Center, 301 N. Main, Wichita 67202–4812
*444 Quincy St., Topeka 66683
*412 Federal Bldg., 812 N. Seventh St., Kansas City 66101

KENTUCKY

Eastern District

110 W. Vine St., Suite 400, Lexington 40507
*PO Box 72, Covington 41012

Western District

Bank of Louisville Bldg., 510 W. Broadway, 10th Floor, Louisville 40202

LOUISIANA

Eastern District

Hale Boggs Federal Bldg., Rm., 210, 501 Magazine St., New Orleans 70130

Middle District

339 Florida St., 6th Floor, Baton Route 70801

Western District

401 Edwards St., Suite 2100, Shreveport 71101–6133
*600 Jefferson St., Suite 1000, Lafayette 70501–7206

MAINE

East Tower, 6th Floor, 100 Middle St. Plaza, Portland 04101
99 Franklin St., Bangor 04401

MARYLAND

8th Floor, U.S. Courthouse, 101 W. Lombard St., Baltimore 21201

MASSACHUSETTS

1107 John W. McCormack Federal Bldg., USPO & Courthouse, Boston 02109
*1550 Main Street, Rm. 533, U.S. Courthouse, Springfield 01103

MICHIGAN

Eastern District

817 Federal Bldg., 231 W. Lafayette, Detroit 48226
*PO Box 26, 204 Federal Bldg., 1000 Washington St., Bay City 48707
*204 Federal Bldg., 600 Church St., Flint 48502

Western District

399 Federal Bldg., 110 Michigan St. NW., Gerald Ford Fed. Bldg., Grand Rapids 49503
*D&N Bank of Marquette Bldg., PO Box 20, Marquette 29855

MINNESOTA

234 U.S. Courthouse, 110 South 4th St., Minneapolis 55401
*678 U.S. Courthouse, 316 N. Robert St., St. Paul 55101

MISSISSIPPI

Northern District

PO Drawer 886, Oxford 38655

Southern District

188 East Capitol St., Rm. 500, Jackson 39201
*PO Box 1417, Biloxi 39533

MISSOURI

Eastern District

401 U.S. Court & Custom House, 1114 Market St., St. Louis 63101
*PO Box 2107, Cape Girardeau, 63702–2107

Western District

1201 Walnut, Suite 300, Kansas City 64106–2149
*Hammons Tower Suite 500, 901 St. Louis St., Springfield 65806–2511

MONTANA

PO Box 1478, Billings 59103
*167 Federal Bldg., 400 N. Main, Butte 59703
*PO Box 3447, Great Falls 59401
*Drawer 10031, Federal Bldg., 301 South Park Ave., Helena 59626

NEBRASKA

PO Box 1228, DTS, Omaha 68101–1228
*487 Federal Bldg., 100 Centennial Mall North, Lincoln 68508

NEVADA

Box 16030, Las Vegas 89101
*Rm. 2–032, 300 Booth St., Reno 89509

NEW HAMPSHIRE

55 Pleasant Street Rm. 439, PO Box 480, Concord 03302–0480

NEW JERSEY

Federal Bldg., 970 Broad St., Room 502, Newark 07102
*402 East State St., Rm. 502, Trenton 08608
*PO Bldg., 401 Market St., Fifth Floor, Camden 08101

NEW MEXICO

PO Box 607, Albuquerque 87103
*U.S. Courthouse, 200 East Griggs St., Rm. E–108, Las Cruces 88001

NEW YORK

Northern District

PO Box 7198, 100 South Clinton St., Syracuse 13261–7198
* U.S. Courthouse & Post Office, Room 231, 445 Broadway, Albany 12207
*319 Federal Bldg., Binghamton 13901

Eastern District

U.S. Courthouse, 225 Cadman Plaza East, Brooklyn 11201
*825 East Gate Blvd., Garden City 11530
*300 Rabro Drive, Hauppauge 11788

Western District

502 U.S. Courthouse, 68 Court St., Buffalo 14202
*233 U.S. Courhouse, 100 State St., Rochester 14614

Southern District

One St. Andrews Plaza, New York 10007
*150 Grand St., 4th Floor, White Plains, NY 10601

NORTH CAROLINA

Eastern District

310 New Bern Ave., Suite 800, Raleigh 27601–1461

Middle District

PO Box 1858, Greensboro 27402

Western District

Rm. 306, U.S. Courthouse, 100 Otis St., Asheville 28801–2611 (all mail goes to Charlotte)
*Rm. 260, U.S. Courthouse, 401 W. Trade St., Charlotte 28202

NORTH DAKOTA

PO Box 2505, Fargo 58108
*PO Box 699, Bismarck 58502

OHIO

Northern District

1800 Bank One Center, 600 Superior Ave. East, Cleveland 44114–2600
*208 Federal Bldg., 2 South Main St., Akron 44308
*307 U.S. Courthouse, 1716 Spielbusch Ave., Toledo 43624

Southern District

2 Nationwide Plaza, 280 N High St., 4th Floor, Columbus 43215
*5th & Walnut Sts., 220 U.S. Post Office & Courthouse, Cincinnatti 45202
PO Box 280, Mid City Station, Dayton 45402

OKLAHOMA

Northern District

3900 U.S. Courthouse, 333 W. Fourth St., Tulsa 74103

Eastern District

333 Federal Courthouse, 5th & Okmulgee, Muskogee 74401

Western District

Rm. 4434, U.S. Courthouse & Federal Office Bldg., Oklahoma City 73102

OREGON

888 S.W. 5th Ave., Suite 1000, Portland 97204–2024
*701 High St., Eugene 97401

PENNSYLVANIA

Eastern District

3310 U.S. Courthouse, Independence Mall West, 601 Market St., Philadelphia 19106

Middle District

PO Box 309, Scranton 18501–0309 (send USA mail to Harrisburg)
*Suite 1162 Federal Bldg. 3rd & Walnut Sts., PO Box 11754 Harrisburg 17108
*Rm. 307, US Post Office Bldg., Lewisburg 17837

Western District

633 USPO & Courthouse, 7th Ave. & Grant St., Pittsburgh 15219
*Rm. 137, U.S. Courthouse & Federal Bldg., 617 State St., Erie 16501
*Suite 224, 10 Traffic Bldg., 319 Washington Ave., Johnstown, 15901

PUERTO RICO

Federal Office Bldg., Rm. 452, Carlos E. Chardon Ave., Hato Rey 00918

RHODE ISLAND

10 Dorrance St., 10th Floor, Providence 02903

SOUTH CAROLINA

1st Union Blvd., 1441 Main St., Suite 500, Columbia 29201
*PO Box 978, Charleston 29402
*PO Box 10067, Greenville 29603
*PO Box 1567, Florence 29503

SOUTH DAKOTA

PO Box 1073, Sioux Falls 57101
*PO Box 2893, Rapid City 57709
*326 Federal Bldg. & Courthouse, 225 S. Pierre St., Pierre 57501
*311 PO & Courthouse Bldg., 102 SE Fourth Ave., Aberdeen 57401

TENNESSEE

Eastern District

PO Box 872, Knoxville 37901
*1100 Market St., Suite 301, Chattanooga 37402
*104 ½ W. Summer St., Greenville 37743
*208 Sunset Drive, Suite 509, Johnson City 37604

Middle District

110 9th Ave. S., Suite A961, Nashville 37203–3870

Western District

1026 Federal Office Bldg., 167 N. Main St., Memphis 38103
USPO & Courthouse Bldg., Rm. 308, 109 South Highland, Jackson 38302

TEXAS

Northern District

Burnett Plaza, Suite 1700, 801 Cherry St., Ft. Worth 76102–6897
*Rm. 16G28, U.S. Federal Bldg. & Courthouse, 1100 Commerce St., Dallas 75242
*Rm. C–201, U.S. Federal Bldg. & Courthouse, 1205 Texas Ave., Lubbock 79401
PO Box 13236, Amarillo 79101–1559

Southern District

PO Box 61129, Houston 77208
*PO Box 886, Laredo 78042–0886
*PO Box 1671, Brownsville 78522
*Wilson Plaza, Suite 1400, 606 N. Carancahua, Corpus Christi 78476
*Texas Commerce Bldg., 1701 West Highway 83, Suite 305, McAllen 78501–5159

Eastern District

350 Magnolia St., Suite 150, Beaumont 77701–2237
*110 N. College, Suite 600, Tyler 75702
*One Grand Centre, Suite 504, 1 Grand Ave., Sherman 75090

Western District

727 East Durango Blvd., Suite A–601, San Antonio 78206
*Rm. 353 U.S. Courthouse Bldg., 511 E. San Antonio Ave., El Paso 79901
*816 Congress Ave., Suite 650, First City Centre, Austin 78701
*U.S. Courthouse, 200 E. Wall St., Midland 79701
*700 University Parks Dr., Suite 770, Waco 76706

UTAH

U.S. Courthouse, Room 476, 350 South Main Street, Salt Lake City 84101

VERMONT

P.O. Box 570, Burlington 05402
*P.O. Box 10, Rutland 05701

VIRGIN ISLANDS

P.O. Box 1440, Charlotte Amalie, St. Thomas 00804–1440
All Mail to This Office
*1108 King St., Suite 201, Christiansted, St. Croix 00820–4951

VIRGINIA

Eastern District

1101 King Street, Suite 502, Alexandria 22314
*Main Street Center, Suite 1800, 600 E. Main St., Richmond 23219
*World Trade Center, Suite 1800, 101 W Main St., Norfolk 23510

Western District

*P.O. Box 1709, Roanoke 24008
*P.O. Box 1098, Abingdon 24210

WASHINGTON

Eastern District

P.O. Box 1494, Spokane 99210–1494
*P.O. Box 1363, Yakima 98907–1363

Western District

3600 Seafirst 5th Ave. Plaza, 800 5th Ave., Seattle 98104
*Suite 400, 1201 Pacific Ave., Tacoma 98402

WEST VIRGINIA

Northern District

P.O. Box 591, Wheeling 26003
*P.O. Box 190, Elkins 26241
*P.O. Box 750, Clarksburg 26302
*U.S. Courthouse, Room 236, Martinsburg 25401

Southern District

P.O. Box 3234, Charleston 25332
*P.O. Box 1239, Huntington 25714

WISCONSIN

Eastern District

330 Federal Bldg., 517 E. Wisconsin Ave., Milwaukee 53202

Western District

600 West Washington Ave., P.O. Box 1585, Suite 200, Madison 53703

WYOMING

P.O. Box 668, Cheyenne 82003

NORTH MARIANNA ISLANDS

c/o U.S. Attorney's Office, 6th Floor, Naura Bldg., P.O. Box 377, Saipan, CM 96950

JUSTICE/ATR–002

SYSTEM NAME:

Congressional and White House Referral Correspondence Log File.

SYSTEM LOCATIONS:

U.S. Department of Justice; 10th & Constitution Avenue, NW., Washington, DC 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present and former members of Congress and citizens whose correspondence is received directly or referred by *government officials,* members of Congress or Congressional or White House staff. *Government officials, Members of Congress, Congressional or White House staff who refer the correspondence.*

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains an index record to correspondence *received from the individuals covered by this system.*

*Branch Office

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority for the establishment and maintenance of this system exists under 44 U.S.C. 3101 and 5 U.S.C. 301.

PURPOSE(S):

The purpose of this system is to enable Antitrust Division personnel to monitor responses *to the correspondence and to identify any other related correspondence/material.*

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record maintained in this system, or any facts derived therefrom, may be disseminated in a proceeding before a court or adjudicative body before which the Antitrust Division is authorized to appear, when (1) the Antitrust Division, or any subdivision thereof; or (2) any employee of the Antitrust Division in his or her official capacity; or (3) any employee of the Antitrust Division in his or her individual capacity where the Department of Justice has agreed to represent the employee; or (4) the United States, or any agency or subdivision thereof; or (5) the United States, where the Antitrust Division determines that the litigation is likely to affect it or any of its subdivisions, is a party to litigation and such record are determined by the Antitrust Division to be arguably relevant to the litigation.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined the release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to Members of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is subject of the record.

Release of information to the National Archives and Records Administration (NARA) and to the General Services Administration (GSA): A record from a system of records may be disclosed as a routine use to NARA and GSA in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper documents are stored in looseleaf binders and file folders; abbreviated or summarized information is stored in a computerized tracking system.

RETRIEVABILITY:

Inquiry and response documents are retrieved by date or through manual and automated indexes which are accessed by name, subject matter, control number, etc. Summary data on inquiries received prior to March 7, 1983, is retrieved from the manual index cards; as of March 7, 1983, a summary data is retrieved from magnetic disks and tapes. Summary data *includes such data elements as name of the individual and/or entity who originated the inquiry or referral,* subject matter, date of inquiry, date assigned, date of response, etc.

SAFEGUARDS:

Information contained in the system is unclassified. During working hours access to the system is controlled and monitored by Antitrust division personnel in the area where the system is maintained; during non-duty hours all doors to such area are locked. In addition only Antitrust Division personnel who have a need for the information contained in the system have the appropriate password for access to the system.

RETENTION AND DISPOSAL:

Indefinite.

SYSTEM MANAGER(S) AND ADDRESS:

Chief. Legislative Unit: Antitrust Division: U.S. Department of Justice: 10th & Constitution Avenue NW., Washington, DC 20530.

NOTIFICATION PROCEDURE:

Address inquiries to the Assistant Attorney General; Antitrust Division; Department of Justice; 10th & Constitution Avenue NW., Washington, DC 20530.

RECORD ACCESS PROCEDURES:

Request for access for a record from this system shall be written and clearly identified as "Privacy Access Request". The request should include the name of the *individual and/or entity who originated the inquiry or* referral and the date thereof. Requester should indicate a return address.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should state clearly and concisely what information is being contested, the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

The individuals covered by the system are the record sources of this system.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 93–2476 Filed 2–2–93; 8:45 am]

BILLING CODE 4410–01–M

Antitrust Division

Notice Pursuant to the National Cooperative Research Act of 1984—the Frame Relay Forum

Notice is hereby given that, on January 4, 1993, pursuant to Section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), the Frame Relay Forum ("FRF") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership.

The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the identifies of the additional members of FRF are: Newport Systems Solutions, Newport Beach, CA and Primary Access, San Diego, CA.

No other changes have been made in either the membership or planned activities of the FRF. Membership remains open, and FRF intends to file additional written notifications disclosing all changes in membership.

On April 10, 1992, FRF filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on July 2, 1992 (57 FR 29537).

The last notification was filed with the Department on October 6, 1992. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on November 13, 1992 (57 FR 53932).

Joseph H. Widmar,

Director of Operations Antitrust Division.

[FR Doc. 93–2470 Filed 2–2–93; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OMB)

Background: The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. chapter 35), considers comments on the reporting/recordkeeping requirements that will affect the public.

List of Recordkeeping/Reporting Requirements Under Review: As necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of the particular submission they are interested in.

Each entry may contain the following information:

- The Agency of the Department issuing this recordkeeping/reporting requirement.
- The title of the recordkeeping/reporting requirement.
- The OMB and/or Agency identification numbers, if applicable.
- How often the recordkeeping/reporting requirement is needed.
- Whether small businesses or organizations are affected.
- An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements and the average hours per respondent.
- The number of forms in the request for approval, if applicable.
- An abstract describing the need for and uses of the information collection.

Comments and Questions: Copies of the recordkeeping/reporting requirements may be obtained by calling the Departmental Clearance Officer, Kenneth A. Mills [(202) 219–5095].

Comments and questions about the items on this list should be directed to Mr. Mills, Office of Information Resources Management Policy, U.S. Department of Labor, 200 Constitution Avenue NW., room N–1301, Washington, DC 20210. Comments should also be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for (BLS/DM/ESA/ETA/OLMS/MSHA/OSHA/PWBA/VETS), Office of Management and Budget, room 3001, Washington, DC 20503 [(202) 395–6880].

Any member of the public who wants to comment on recordkeeping/reporting requirements which have been submitted to OMB should advise Mr. Mills of this intent at the earliest possible date.

Extension

Employment and Training Administration

Job Training Partnership Act (JTPA) Semiannual and JTPA Summer Performance Reports

1205–0200; ETA 9009, 9010

Form No.	Affected public	Respondents	Frequency	Average time per response
ETA 9009	State or local governments	59	2	7 hours.
ETA 9010	State or local governments	59	1	2 hours.
ETA 9009 recordkeeping	State or local governments	59	1	2 hours.
ETA 9010 recordkeeping	State or local governments	59	1	30 minutes.
Recordkeeping for audit purposes	State or local	59	1	25 minutes.

2,541 total hours.

This information collections will be used to assess JTPA statewide programs and learn who is served by Title II–B summer programs. Participant and financial data will be used to respond to congressional oversight, to prepare budget requests and make annual reports to Congress as required by statute.

Signed at Washington, DC this 28th day of January, 1993.

Kenneth A. Mills,

Departmental Clearance Officer.

[FR Doc. 93–2527 Filed 2–2–93; 8:45 am]

BILLING CODE 4510–30–M

Employment and Training Administration

[TA–W–27,882]

American Optical Corp., Southbridge, MA; Affirmative Determination Regarding Application for Reconsideration

On January 13, 1993, the company requested administrative reconsideration of the Department of Labor's notice of determinations for workers at the subject firm. The Department's notice was issued on December 4, 1992 and published in the Federal Register on December 30, 1992, (57 FR 62389).

The company states that all lens production has been transferred to Mexico and that company imports of both plastic and glass lenses have arrived in the U.S.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 26th day of January 1993.

Stephen A. Wandner,

Deputy Director, Office of Legislation & Actuarial Services, Unemployment Insurance Service.

[FR Doc. 93–2528 Filed 2–2–93; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–28,037]

BethEnergy Mines, Inc., 84 Complex, Bethlehem, PA; Negative Determination Regarding Application for Reconsideration

By an application dated December 30, 1992, District 5 of the United Mine Workers of America (UMW) requested administrative reconsideration of the subject petition for trade adjustment assistance. The denial notice was signed on December 15, 1992 and was

published in the **Federal Register** on December 30, 1992 (57 FR 62388).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The Department's denial was based on the fact that the increased import criterion and the decreased sales or production criteria of the Group Eligibility Requirements of the Trade Act were not met.

The investigation findings show that U.S. imports of coal are negligible in the periods relevant to the petition. Other findings show that sales and production at Complex 84 of the BethEnergy Mines, Inc., increased, in value and quantity, during the relevant periods.

The union contends that the Department should have considered the loss of jobs through the imports of steel. Coal and steel are not interchangeable. Imported steel is not like or directly competitive with coal within the meaning of section 222(3) of the Trade Act. Accordingly, steel imports cannot be considered in determining import injury to workers engaged in employment related to the production of coal.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 26th day of January 1993.

Stephen A. Wandner,

Deputy Director, Office of Legislation & Actuarial Service, Unemployment Insurance Service.

[FR Doc. 93–2529 Filed 2–2–93; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–27,869]

Monessen, Inc., Monessen, PA; Negative Determination Regarding Application for Reconsideration

By an application dated December 27, 1992, Cokeworkers' Local #2698 of the United Steelworkers of America requested administrative reconsideration of the subject petition for trade adjustment assistance. The denial notice as signed on December 18, 1992 and was published in the **Federal Register** on January 13, 1993 (58 FR 4186).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The Department's denial was based on the fact that the "contributed importantly" test of the group Eligibility Requirements of the Trade Act was not met. This test is generally demonstrated through a survey of the customers of the subject firm. However, all of Monessen coke production was shipped to its parent company, Sharon Steel. The findings show that Sharon Steel Does not import coke.

With respect to the union's fresh mushroom and canned mushroom example, the Department does not see any relevance to the case at hand. One has to do with packaging the same product while the other is a raw material used in making a different product. Coke and steel are not interchangeable. Imported steel is not like or directly competitive with coke within the meaning of section 222(3) of the Trade Act. Accordingly, steel imports cannot be considered in determining import injury to workers engaged in employment related to the production of coke.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 26th day of January 1993.

Stephen A. Wandner,

Deputy Director, Office of Legislation & Actuarial Service, Unemployment Insurance Service.

[FR Doc. 93–2530 Filed 2–2–93; 8:45 am]

BILLING CODE 4510–30–M

Job Training Partnership Act Section 402: Identification of Qualified Sources to Administer Farmworker Housing Assistance Projects.

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The Employment and Training Administration seeks to identify qualified sources currently operating housing assistance programs serving the migrant and seasonal farmworker community in order to explore the possibility of their participation in the Department of Labor's Farmworker Housing Program under section 402 of the Job Training Partnership Act.

DATES: Interested organizations shall submit the information requested in this notice by March 5, 1993.

ADDRESSES: Responses to this notice shall be mailed to Department of Labor, Employment and Training Administration, Division of Acquisition and Assistance, 200 Constitution Avenue NW., rm. C–4305, Washington, DC 20210, Attention: FR–SOURCES SOUGHT DESK.

FOR FURTHER INFORMATION CONTACT: James DeLuca, Grant Officer; Telephone: (202) 219–8702 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Employment and Training Administration seeks to identify qualified organizations which currently operate housing assistance programs serving the migrant and seasonal farmworker community in order to explore the possibility of their participation in the Department of Labor's (Department) Farmworker Housing Program under section 402 of the Job Training Partnership Act.

The general purpose of the Farmworker Housing Program is to expand and improve the existing housing stock for migrant and seasonal farmworkers. Thus, the Department funds certain private non-profit and public organizations, including local housing administrations, to provide housing information and assistance to migrant and seasonal farmworkers eligible under section 402 of the Job Training Partnership Act, and others.

Among the allowable housing services provided by these organizations to eligible farmworkers and others are:

(1) *Technical Assistance and Training,* including assisting existing farmworker housing agencies and organizations, training housing program staff and boards, assisting in the preparation of funding applications, networking, developing new housing alternatives on behalf of farmworkers, creating agencies to assist farmworkers, etc.;

(2) *Housing Rehabilitation,* including but not limited to program development, target area identification, program design, environmental review, promotion of citizen participation, applications for Community Development Block Grants and other funds, weatherization, construction, repair and renovation assistance, etc.;

(3) *Single Family Housing,* including but not limited to, program development, participation in FmHA 523 programs, self-help housing activities, land acquisition, family recruitment, site identification, engineering selection, contractor selection, 502 packaging, administrative support, loan assistance, etc.;

(4) *Rental Housing Assistance,* including but not limited to housing survey/market analysis, sponsor development, project identification, architect selection, environmental review, mortgage loan assistance, rental assistance, coordination with other housing programs, etc.;

(5) *Sewer and Water hook-up assistance;*

(6) *Housing Counseling;* and

(7) *New Program Development.*

Interested non-profit and public organizations which are interested in conducting housing assistance for migrant and seasonal farmworkers on a county, multi-county, State, multi-State, regional or in any given geographic area are invited to respond to this sources-sought notice by submitting the following information:

(1) Capability statement of organization;

(2) Previous and current housing assistance activities on behalf of farmworkers;

(3) A description of the professional personnel specifically qualified to provide the identified services; and

(4) Other available descriptive material concerning the organization and the services it provides.

Note: This is not a Solicitation for Grant Applications announcement and no selection for funding will result from this notice.

Signed at Washington, DC this 25th day of January 1993.

Robert D. Parker,

Grant Officer.

[FR Doc. 93–2531 Filed 2–2–93; 8:45 am]

BILLING CODE 4510–30–M

Occupational Safety and Health Administration

Advisory Committee on Construction Safety and Health; Full Committee Meeting

Notice is hereby given that the Advisory Committee on Construction Safety and Health, established under section 107(e)(1) of the Contract Work Hours and Safety Standard Act (40 U.S.C. 333) and section 7(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656), will meet on February 16–17, 1993, at the Frances Perkins Building, U.S. Department of Labor, 200 Constitution Avenue NW., room S–4215A and B, Washington, DC. The meeting is open to the public and will begin at 9 a.m. on each day.

The agenda for this meeting includes reports regarding the OSHA/EPA incinerator inspection protocol, the incorporation of general industry standards in part 1926, the State plan State programs for construction, the VPP construction program and the status of OSHA's regulatory efforts with regard to lead, permissible exposure limits for air contaminants, ergonomics, cranes and asbestos. The agenda also includes discussion of the definition of the term "construction", the indemnification of general contractors by subcontractors and work group procedures.

Written data, views or comments may be submitted preferably with 20 copies, to the Division of Consumer Affairs. Any such submissions received prior to the meeting will be provided to the members of the Committee and will be included in the record of the meeting. Anyone wishing to make an oral presentation should notify the Division of Consumer Affairs before the meeting. The request should state the amount of time desired, the capacity in which the person will appear and a brief outline of the content of the presentation. Persons who request the opportunity to address the Advisory Committee may be allowed to speak, as time permits, at the discretion of the Chairman of the Advisory Committee.

For additional information contact: Tom Hall, Division of Consumer Affairs, Occupational Safety and Health Administration, room N–3647, 200 Constitution Avenue NW., Washington, DC 20210, Telephone 202–219–8615. An official record of the meeting will be available for public inspection at the Division of Consumer Affairs.

Signed at Washington, DC this 29th day of January 1993.

David C. Zeigler,

Acting Assistant Secretary of Labor.

[FR Doc. 93–2582 Filed 2–2–93; 8:45 am]

BILLING CODE 4510–26–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Institute of Museum Services

Information Collection Submitted to OMB for Review

AGENCY: Institute of Museum Services, NFAH.

ACTION: Notice of information collection submitted to OMB for review.

SUMMARY: The Institute of Museum Services (IMS) is submitting an information collection entitled "1993 Survey of MAP Grantees" for review by the Office of Management and Budget under the Paperwork Reduction Act.

IMS needs this information to determine why some museums choose not to participate in the Museum Assessment Program, and to determine how the program could be made more attractive to them. The information will be used for a statistical analysis.

The respondents will be museums that have requested information about the Museum Assessment Program, but have not subsequently participated.

The extimated average burden hours is .33, the frequency of response is once, and the estimate number of respondents is 60. The total annual reporting and recordkeeping burden is 20 hours.

ADDRESSES: Submit comments to Mr. Steve Semenuk, Office of Information and Regulatory Affairs, Office of Management and Budget, room 3002 NEOB, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT:

Submit requests for information, including copies of the proposed collection of information and supporting documentation, to MAP Evaluation, Institute of Museum Services, room 609, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

Linda Bell,

Acting Director, Institute of Museum Services.

[FR Doc. 93–2467 Filed 2–2–93; 8:45 am]

BILLING CODE 7036–01–M

Information Collection Submitted to OMB for Review

AGENCY: Institute of Museum Services, NFAH.

ACTION: Notice of information collection submitted to OMB for review.

SUMMARY: The Institute of Museum Services (IMS) is submitting an information collection entitled "1993 Survey of MAP Grantees" for review by the Office of Management and Budget under the Paperwork Reduction Act.

IMS needs this information to assess the effects of the Museum Assessment Program, and to determine how the program could be improved. The information will be used for a statistical analysis.

The respondents will be museums that have received Museum Assessment Program grants from IMS.

The estimated average burden hours is .75, the frequency of response is once, and the estimate number of respondents is 150. The total annual reporting and recordkeeping burden is 113 hours.

ADDRESSES: Submit comments to Mr. Steve Semenuk, Office of Information and Regulatory Affairs, Office of Management and Budget, room 3002 NEOB, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Submit requests for information, including copies of the proposed collection of information and supporting documentation, to MAP Evaluation, Institute of Museum Services, room 609, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

Linda Bell,

Acting Director, Institute of Museum Services.

[FR Doc. 93–2466 Filed 2–2–93; 8:45 am]

BILLING CODE 7036–01–M

Arts in Education Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Arts in Education Advisory Panel (Arts Education Partnership Grants Section) to the National Council on the Arts will be held on February 24, 1993 from 9 a.m.–5:30 p.m., February 25 from 9 a.m.–6 p.m., and February 26 from 9 a.m.–3 p.m. in room M–07 at the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

Portions of this meeting will be open to the public on February 24 from 9 a.m.–2:30 p.m. and February 26 from 11:15 a.m.–1:30 p.m. for orientation, guidelines review and policy discussion.

The remaining portions of this meeting on February 24 from 2:30 p.m.–5:30 p.m., February 25 from 9 a.m.–6 p.m., and February 26 from 9 a.m.–11:15 a.m. and 1:30 p.m.–3 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of November 24, 1992, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5439.

Dated: January 28, 1993.

Yvonne M. Sabine,

Director, Panel Operations, National Endowment for the Arts.

[FR Doc. 93–2479 Filed 2–2–93; 8:45 am]

BILLING CODE 7537–01–M

Expansion Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Expansion Arts Advisory Panel (Services to the Field Section) to the National Council on the Arts will be held on February 24, 1993 from 9 a.m.–5 p.m. in room 730 at the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC, 20506.

Portions of this meeting will be open to the public from 9 a.m.–9:45 a.m. and 4 p.m.–5 p.m. for opening remarks, general program overview, and policy discussion.

The remaining portion of this meeting from 9:45 a.m.–4 p.m. is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of November 24, 1992, this session will be closed to the public pursuant to subsection (c) (4), (6), and (9)(B) of section 552b of title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5439.

Dated: January 28, 1993.

Yvonne M. Sabine,

Director, Panel Operations, National Endowment for the Arts.

[FR Doc. 93–2478 Filed 2–2–93; 8:45 am]

BILLING CODE 7537–01–M

Museum Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Museum Advisory Panel (Special Exhibitions: Contemporary Section) to the National Council on the Arts will be held on February 22–26, 1993 from 9 a.m.–5:30 p.m. in room 714 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on February 22 from 9 a.m.–10 a.m. The topics will be introductory remarks and policy discussion.

The remaining portions of this meeting on February 22 from 10 a.m.–5:30 p.m. and February 23–26 from 9 a.m.–5:30 p.m. are for the purpose of Panel review, discussion, evaluation,

and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of November 24, 1992, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5439.

Dated: January 28, 1993.

Yvonne M. Sabine,

Director, Panel Operations, National Endowment for the Arts.

[FR Doc. 93–2477 Filed 2–2–93; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL INSTITUTE FOR LITERACY

National Institute for Literacy Advisory Board; Meeting

AGENCY: National Institute for Literacy Advisory Board, National Institute for Literacy.

ACTION: Notice of partially closed meeting.

SUMMARY: This Notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Institute for Literacy Advisory Board (Board). This notice also describes the function of the Board. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend the open portions of the meeting.

DATE AND TIME: March 1, 1993, 9 a.m. to 4 p.m.; March 2, 1993, 9 a.m. to 4 p.m.

ADDRESS: National Institute for Literacy, 800 Connecticut Avenue, NW., suite 200, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Thomas R. Hill, Executive Officer, National Institute for Literacy, 800 Connecticut Avenue, NW., suite 200, Washington, DC 20006. Telephone (202) 632–1500.

SUPPLEMENTARY INFORMATION: The Board is established under section 384 of the Adult Education Act, as amended by title I of Public Law 102–73, the National Literacy Act of 1991. The Board consists of ten individuals appointed by the President with the advice and consent of the Senate. The Board is established to advise and make recommendations to the Interagency Group, composed of the Secretaries of Education, Labor, and Health and Human Services, which administers the National Institute for Literacy (Institute). The Interagency Group considers the Board's recommendations in planning the goals of the Institute and in the implementation of any programs to achieve the goals of the Institute. Specifically, the Board performs the following functions:

(a) Makes recommendations concerning the appointment of the Director and the staff of the Institute;

(b) Provides independent advice on operation of the Institute; and

(c) Receives reports from the Interagency Group and the Director of the Institute.

In addition, the Institute consults with the Board on the award of fellowships.

The Board will meet in Washington, DC on March 1 and 2, 1993. On March 1, 1993, the Board will meet from 9 a.m. to 12 p.m. in open session to discuss the status of the recruitment process for the Director position and to be briefed on amended standards of conduct rules.

From 1 p.m. to 4 p.m. on March 1, 1993 and from 9 a.m. to 4 p.m. on March 2, 1993, the Board will meet in closed session to discuss scopes of work options and associated costs for proposed request for proposals (RFP). The discussion will focus on the expected costs of different scopes of work options. The scopes of work options must be presented in closed session because premature disclosure of costs associated with proposed RFP options might have the economic interest of the Institute, and might frustrate implementation of proposed agency action. Such matters are protected by exemption 9(b) of section 552(c) of title 5 U.S.C.

A summary of the activities at the closed session and related matters which are informative to the public consistent with the policy of title 5 U.S.C. 552b will be available to the public within fourteen days of the meeting.

Records are kept of all Board proceedings and are available for public inspection at the National Institute for Literacy, 800 Connecticut Avenue, NW., suite 200, Washington, DC 20006 from 8:30 a.m. to 5 p.m.

Franmarie Kennedy-Keel,

Interim Director, National Institute for Literacy.

[FR Doc. 93–2517 Filed 2–2–93; 8:45 am]

BILLING CODE 6055–01–M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements: Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission (NRC) has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

1. *Type of submission, new, revision, or extension:* Revision.

2. *The title of the information collection:* 10 CFR part 30—Domestic Licensing of Byproduct Material.

3. *The form number if applicable:* Not applicable.

4. *How often the collection is required:* Required reports are collected and evaluated on a continuing basis as events occur. Applications for new licenses and amendments are submitted only once. Applications for renewal licenses are submitted every five years. Information submitted in previous applications may be referenced without being resubmitted.

5. *Who will be required or asked to report:* Persons applying for or holding a license to manufacture, produce, transfer, receive, acquire, own, possess, or use radioactive byproduct material.

6. *An estimate of the number of responses:* Approximately 5,600 Material License Application responses subject to 10 CFR part 30 requirements are accounted for separately under the clearance previously approved for NRC Form 313, OMB No. 3150–0120, and other clearances. An additional 526

responses are accounted for under this information collection clearance request.

7. *An estimate of the total number hours needed to complete the requirement or request:* Approximately 7.5 hours per Material License Application subject to part 30, for a total of 42,250 hours, is accounted for separately under the clearance previously approved for NRC Form 313, OMB No. 3150–0120. An additional 53.77 hours per response and 17.06 hours per recordkeeper, for a total annual industry burden of 149,425 hours, is accounted for under this information collection clearance request.

8. *An indication of whether section 3504(h), Public Law 96–511 applies:* Not applicable.

9. *Abstract:* 10 CFR part 30 establishes requirements governing domestic licensing of radioactive byproduct material. The application, reporting and recordkeeping requirements are necessary to permit the NRC to make a determination whether the use of byproduct material is in conformance with the Commission's regulations for protection of the public health and safety. The revision primarily reflects the inclusion of burden imposed by a previously approved rulemaking that added decommissioning financial assurance requirements.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC.

Comments and questions may be directed by mail to the OMB reviewer: Ronald Minsk, Office of Information and Regulatory Affairs (3150–0017), NEOB–3019, Office of Management and Budget, Washington, DC 20503.

Comments may also be communicated by telephone at (202) 395–3084. The NRC Clearance officer is Brenda Jo. Shelton, (301) 492–8132.

Dated: at Bethesda, Maryland, this 26th day of January 1993.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 93–2491 Filed 2–2–93; 8:45 am]

BILLING CODE 7590–01–M

Documents Containing Reporting or Recordkeeping Requirements: Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission (NRC) has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

1. *Type of submission, new, revised, or extension:* Revision.

2. *The title of the information collection:* 10 CFR parts 30, 40, 50, 70, and 72: Procedures and Criteria for On-site Storage of Low-Level Radioactive Waste.

3. *The form number, if applicable:* Not applicable.

4. *How often the collection is required:* Annually, whenever low-level radioactive waste (LLW) is stored after January 1, 1996.

5. *Who will be required or asked to report:* Approximately 13,286 NRC and Agreement State licensees storing LLW on-site after January 1, 1996.

6. *An estimate of the number of annual responses:* 79,716 (approximately 39,858 records kept by licensees storing LLW on-site after January 1, 1996, and approximately 39,858 responses by LLW disposal facilities).

7. *An estimate of the total number of hours needed to complete the requirement or request:* 179,361 (an average of 0.5 hours per response for LLW disposal sites and an average of 4 hours per record for licensees storing waste on-site).

8. *An indication of whether section 3504(h), Public Law 96–511 applies:* Applicable.

9. *Abstract:* The amendments to 10 CFR parts 30, 40, 50, 70, and 72 would require licensees to document and maintain a record showing that they have exhausted other reasonable management options in order to be permitted to store LLW on-site after January 1, 1996.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC.

Comments and questions may be directed by mail to the OMB reviewer: Ronald Minsk, Office of Information and Regulatory Affairs, NEOB–3019, (3150–0017, –0020, –0011, –0009, –0132), Office of Management and Budget, Washington, DC 20503.

Comments may be communicated by telephone at (202) 395–3084.

The NRC Clearance Officer is Brenda Jo. Shelton, (301) 492–8132.

Dated at Bethesda, Maryland, this 27th day of January 1993.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 93–2490 Filed 2–2–93; 8:45 am]

BILLING CODE 7590–01–M

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 January 8, 1993, through January 22, 1993. The last biweekly notice was published on January 21, 1993 (58 FR 5427).

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 March 5, 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.

Arizona Public Service Company, et al., Docket Nos. STN 50-528, STN 50-529, and STN 50-530, Palo Verde Nuclear Generating Station, Unit Nos. 1, 2, and 3, Maricopa County, Arizona

Date of amendment requests: December 28, 1992

Description of amendment requests: The amendments would change the frequency of several channel functional tests for the reactor protection system (RPS) and engineered safety feature actuation system (ESFAS) instrumentation from once per month to quarterly.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensees have provided their analysis about the issue of no significant hazards consideration, which is presented below:

Standard 1—Involve a significant increase in the probability or consequences of an accident previously evaluated.

Increasing the surveillance interval for RPS and ESFAS instrumentation has two principle effects with opposing impacts on core melt risk. The first impact is a slight increase in core melt frequency that results from the increased unavailability of the instrumentation in question. The unavailability of the tested instrumentation components is translated to result in a failure of the reactor to trip, an Anticipated Transient Without Scram, or a failure of the appropriate engineered safety features to actuate when required. The opposing impact is the corresponding reduction in core melt frequency that would result due to the reduced exposure of the plant to test induced transients.

Representative fault tree models were developed for Palo Verde and the corresponding core melt frequency increases and decreases were quantified in CEN-327-A and CEN-327-A, Supplement 1. The NRC Staff found that changes in the RPS unavailabilities that result from extending the surveillance test intervals from 30 days to 90 days were not considered to be significant. Estimates of the reduction in scram frequency from the reduction in test-induced scrams and the corresponding reduction in core melt frequency were found acceptable. Extended surveillance intervals were found to result in a net reduction in core melt risk. Operation of the facility in accordance with this proposed amendment, therefore, will not involve a significant increase in the probability or consequence of an accident previously evaluated.

Standard 2—Create the possibility of a new or different kind of accident from any accident previously evaluated.

This amendment request does not involve any changes in equipment and will not alter the manner in which the plant will be operated. For this reason, this amendment will not create the possibility of a new or different kind of accident from any previously evaluated.

Standard 3—Involve a significant reduction in a margin of safety.

The margin of safety is not significantly reduced. There are no changes to the equipment or plant operations. The changes to [plant protection system] PPS setpoints and allowable values, while nonconservative, are not significant. The only impact of this change is the development of a more appropriate balance between increased core melt risk due to slightly increased equipment unavailability and reduced core melt risk due to a reduction in plant exposure to test-induced transients. Implementation of the proposed change is expected to result in an overall improvement in safety due to the fact that reduced testing intervals will result in fewer inadvertent reactor trips and less frequent actuation of ESFAS components. The conclusions of the accident analyses in the [Palo Verde Nuclear Generating Station] PVNGS [Updated Final Safety Analysis Report] UFSAR remain valid and the safety limits continue to be met.

The NRC staff has reviewed the licensees' analysis and, based on that review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: Phoenix Public Library, 12 East McDowell Road, Phoenix, Arizona 85004Attorney for licensees: Nancy C. Loftin, Esq., Corporate Secretary and Counsel, Arizona Public Service Company, P.O. Box 53999, Mail Station 9068, Phoenix, Arizona 85072-3999

NRC Project Director: Theodore R. Quay

Commonwealth Edison Company, Docket Nos. STN 50-454, STN 50-455, STN 50-456 and STN 50-457, Byron Station, Unit Nos. 1 and 2, Ogle County, Illinois, and Braidwood Station, Unit Nos. 1 and 2, Will County, Illinois

Date of amendment request: December 22, 1992

Description of amendment request: The proposed amendment would add requirements to the Braidwood Technical Specifications (TS) to address the staff concerns cited in Generic Letter (GL) 91-13. The proposed TS would be applicable when one unit is shut down while the other is operating and would ensure that an Essential Service Water system (SX) pump and crossover path is available from the shutdown unit to serve as a backup to the operating unit. In addition, requirements would be added to require the unit crosstie to be open, or capable of being opened from the Main Control Room, whenever either, or both, units are in an operating mode (mode 1, 2, 3, or 4). Byron addressed the concerns raised in GL 91-13 in a previous TS amendment. The proposed amendment for Byron would provide clarifications to the SX system TS.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

For Byron

A. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

Periodic testing of the Essential Service Water system crosstie and manipulating during a loss of service water accident have been addressed by Commonwealth Edison (CECo) for Byron and Braidwood stations during the NRC's review of CECo's LCO Relaxation Program and the licensing of Byron Unit 2. Byron Station adopted Technical Specifications governing the availability of the third SX pump and the crosstie valves to support an operating unit. These commitments have been previously reviewed and accepted by the NRC. NRC SER dated November 23, 1988 documents that the NRC staff found the Technical Specifications issued in Amendment 24 acceptable.

The proposed changes do not affect the application of the Technical Specifications. The additional surveillance provides an additional limitation and is therefore more stringent than the current requirements. The rewording ensures that the specifications are applied uniformly. The proposed change to 3.7.4.1 is more restrictive than the existing specification to ensure that an SX pump from a shut down unit is always available to support operation of the opposite unit. Adding to the Bases has no impact on plant operation; the requirements that ensure that the crosstie will service its design function are in Specification 3/4.7.4.2.

B. The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The change is consistent with the previously approved Technical Specifications that were added to address concerns not controlled by existing Technical Specifications. The proposed changes to the original Technical Specifications enhance

readability without changing the requirements. The modified specifications are consistent with previous single failure analysis criteria, since they do not delete or modify any current requirements that were utilized in the accident analysis. The proposed addition of controls to verify SX pump availability increases the level of protection. Since there are no changes to equipment or equipment operation, no new accidents or failures are created.

C. The proposed changes do not involve a significant reduction in a margin of safety.

The Bases for Technical Specification 3/4.7.4 states that the operability of the SX system ensures that sufficient cooling capacity is available for continued operation of safety related equipment. The proposed changes retain controls to ensure that cooling capacity is available for both units without deleting the requirements for operability of any other Technical Specification. These editorial changes provide enhancements and do not compromise the system's ability to fulfill the function described in the bases. The NRC review of the original Technical Specifications concluded that Byron's SX system has suitable redundancy to transfer heat from structures, systems and components important to safety to a heat sink under both normal operating and accident conditions. The change to the Bases emphasizes the importance of the SX crosstie feature. The refinements to the Technical Specifications enhance the availability of the SX system and crosstie.

For Braidwood

A. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

No additional plant equipment will be installed as a result of any of the proposed changes. Additionally, none of the proposed changes will require currently installed plant equipment to be operated in a new or different manner. Therefore, none of the proposed changes will increase the probability of any accident that has been previously evaluated.

The proposed addition of Specification 3/4.7.4.1 which requires an Essential Service Water pump on a shut down unit be available to support an operating unit and the proposed addition of Specification 3/4.7.4.2 which requires the Essential Service Water System Unit Crosstie to be open, or capable of being open from the Main Control Room, any time one or more units are operating are simply the formalization of commitments made to the USNRC by letter dated August 5, 1986, A. D. Miosi to H. R. Denton. These commitments were made as the result of a concern identified by the USNRC regarding a loss of essential service water accident during their review of WCAP 10526, Byron Generating Station Limiting Condition for Operation Relaxation Program. These commitments were made to reduce the consequences of a loss of essential service water accident.

The proposed addition to the Bases of Specifications 3/4.7.4 only serve to describe the addition of proposed Specifications 3/4.7.4.1 and 3/4.7.4.2. Therefore, this proposed change will not increase the consequences of any accident previously evaluated.

The deletion of Specification 4.7.4.b will not cause any physical conditions to be changed at the plant. The essential Service Water System Return Valves, OSX165A and OSX165B, will continue to be maintained in the open position with power removed. Valve position will be verified less frequently than the current Specification and be governed by plant administrative procedures. However, if these valves were to be closed, there would be significant changes in Essential Service Water System parameters indicated on instrumentation in the Main Control Room which is continuously monitored by licensed operators. This does not represent an increase in the consequences of any accident previously evaluated.

B. The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

No additional plant equipment will be installed as a result of any of the proposed changes. Additionally, none of the proposed changes will require currently installed plant equipment to be operated in a new or different manner. The proposed additions of Specifications 3/4.7.4.1 and 3/4.7.4.2 and the addition to the Bases of Specifications 3/4.7.4 formalize commitments made to the USNRC by letter dated August 5, 1986, A. D. Miosi to H. R. Denton, and already incorporated into plant administrative procedures. The deletion of Specification 4.7.4.b affects only the manner and frequency by which the Essential Service Water System Return Valves, OSX165A and OSX165B, will be verified in the open position. Therefore, there is no possibility of a new or different kind of accident from any accident previously evaluated occurring as a result of these proposed changes.

C. The proposed changes do not involve a significant reduction in the margin of safety.

The margin of safety was increased when Braidwood Station committed to make an Essential Service Water pump on a shut down unit available to support an operating unit by providing additional redundant cooling capacity. This commitment was made by letter dated August 5, 1986, A. D. Miosi to H. R. Denton. The proposed additions of Specifications 3/4.7.4.1 and 3/4.7.4.2 and the addition to the Bases of Specifications 3/4.7.4 formalize that commitment in the OL. Formalizing that commitment has no effect on the margin of safety. The proposed deletion of Specification 4.7.4.b affects only the manner and frequency by which the Essential Service Water System Return Valves, OSX165A and OSX165B, will be verified in the open position. However, if these valves were to be closed, there would be significant changes in Essential Service Water System parameters indicated on instrumentation in the Main Control Room which is continuously monitored by licensed operators. Therefore, this proposed change also has no effect on 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: For Byron, the Byron Public Library, 109 N. Franklin, P.O. Box 434, Byron, Illinois 61010; for Braidwood, the Wilmington Township Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481.

Attorney for licensee: Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60690

NRC Project Director: James E. Dyer

Entergy Operations, Inc., Docket No. 50-313, Arkansas Nuclear One, Unit No. 1, Pope County, Arkansas

Date of amendment request: September 28, 1992

Description of amendment request: The proposed amendment revises the required sodium hydroxide (NaOH) tank level specified in Technical Specification (TS) 3.3.4(B), deletes the stated value for the weight of NaOH specified in TS 3.3.4(B), and revises the Bases for TS 3.3.4 to reflect the new required level for the NaOH solution in the tank.

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.

NaOH tank level is not an initiator of any event analyzed in the Safety Analysis. The accident mitigation features of the plant are not affected by the proposed amendment, as the most limiting analysis affected by the change in minimum NaOH tank level has been shown to be bounded by the proposed level range. The proposed level range adequately ensures that values assumed for the minimum NaOH tank level remain bounded with an allowance for worst case instrument error. The deletion of NaOH weight is intended to remove extraneous and redundant information from the specification and is administrative in nature. The minimum and maximum NaOH concentrations are not affected by this change. The Bases change is proposed to maintain consistency in the ANO-1 [Arkansas Nuclear One, Unit 1] TS and is also administrative in nature.

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 scope of the change does not establish a potential new accident precursor. All

analyses associated with NaOH tank level and volume have been shown to be bounded by the proposed level range for the NaOH tank with adequate margin for worst case instrument loop error. The deletion of NaOH weight is intended to remove extraneous and redundant information from the specification and is administrative in nature. The minimum and maximum NaOH concentrations are not affected by this change. The Bases change is proposed to maintain consistency in the ANO-1 TS and is also administrative in nature.

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.

All analyses associated with NaOH tank level and volume have been shown to be bounded by the proposed range for the NaOH tank level with adequate margin for worst case instrument loop error. The deletion of NaOH weight is intended to removed extraneous and redundant information from the specification and is administrative in nature. The minimum and maximum NaOH concentrations are not affected by this change. The Bases change is proposed to maintain consistency in the ANO-1 TS and is also administrative in nature.

Therefore, this change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, 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 Hubbard (acting)

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: September 28, 1992

Description of amendment request: The amendment revises the Technical Specifications (TS) for each unit to add limiting conditions for operation and surveillance requirements for the main steam line radiation monitors (MSLRMs) in accordance with U.S. Nuclear Regulatory Commission Generic Letter 83-37. This application for amendment supersedes the request dated October 19, 1989, as published in the **Federal Register** on February 7, 1990 (55 FR 4262).

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 Main Steam Line Radiation Monitors (MSLRM) do not provide information that is required to safely shutdown the plant. The monitors provide release information for evaluating offsite emergency action when venting through the steam safety and atmospheric dump valve paths. Also, with this change there are no modifications to the configuration or the operation of the plant. This change only adds operability and surveillance requirements for these monitors. 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 MSLRMs are used to provide passive monitoring of radiation levels during and following an accident in which a primary to secondary system leak has occurred. The accident conditions for which the monitors would provide useful information have previously been analyzed. 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 MSLRMs are not required to safely shutdown the plant. The proposed change imposes additional limitations, restrictions, or controls not presently in the TS. 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: John T. Larkins

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: September 28, 1992, as supplemented by letter dated December 2, 1992

Description of amendment request: The proposed changes are to the ANO Industrial Security Plan (ISP). These changes would allow added flexibility to determine the security shift staffing requirements and compensatory measures based on plant activities and the status of the overall security program.

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 accident mitigation features of the plant are not affected by the proposed changes. The minimum staffing levels required by 10CFR73.55 are still maintained. These changes provides [sic] flexibility in the staffing levels only. Ample protection against a design basis security threat is provided. Therefore, these changes do not increase the probability or consequences of an accident previously evaluated.

Criterion 2—Does Not Create the Possibility of A New or Different Kind of Accident from Any Previously Evaluated.

These changes add flexibility in the staffing levels only. New systems, modes of operation, failure modes or other plant perturbation are not introduced by these changes. Therefore, the possibility of a new or different kind of accident from any previously evaluated is not created.

Criterion 3—Does Not Involve A Significant Reduction in the Margin of Safety.

These changes add flexibility in the staffing levels only. The proposed changes do not change a safety limit, an LCO [limiting condition for operation], or a surveillance requirement on equipment required to operate the plant. Adequate physical protection of the plant is maintained. Therefore, the margin of safety is not reduced.

Therefore, based on the reasoning presented above and the previous discussion of the amendment request, Entergy Operations has concluded that the requested change does not involve a significant hazards consideration.

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: John T. Larkins

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket No. 50-366, Edwin I. Hatch Nuclear Plant, Unit No. 2, Appling County, Georgia

Date of amendment request: November 10, 1992

Description of amendment request: The proposed amendment would temporarily revise Hatch Unit 2 Technical Specifications (TS) 3.6.6.1 regarding the operability of Hatch Unit 1 standby gas treatment system (SGTS). This temporary revision will allow both subsystems of the Unit 1 standby gas treatment system to be simultaneously inoperable for a cumulative total of up to 7 days during Unit 2 power operation for the purpose of installing the torus hardened vent pursuant to the recommendations of NRC Generic Letter (GL) 89-16.

As a result of the NRC Mark I containment Performance Improvement Program, NRC GL 89-16, "Installation of a Hardened Wetwell Vent," encouraged licensees to install a hardened wetwell vent under the provisions of 10 CFR 50.59. By letter dated October 24, 1989, the licensee informed the NRC that both Plant Hatch units would install hardened vents.

Unit 2 TS requires the operability of two Unit 2 SGTS subsystems and two Unit 1 SGTS subsystems. This is based on a Unit 2 design basis accident (DBA) loss-of-coolant accident (LOCA) and takes into consideration the secondary containment (SC) design for the two units. Following a DBA LOCA on Unit 2, it is postulated a certain amount of leakage will occur out of the Unit 2 primary containment. some of this leakage will go into the Unit 2 reactor building area, and some will go up through the shield blocks above the Unit 2 primary containment into the Unit 1 and Unit 2 common area above the refueling floor. Therefore, to contain and treat the radioactive gases postulated to leak out of the Unit 2 primary containment, the SGTS must be able to simultaneously maintain a negative pressure in the SC of both units. Four operable SGTS subsystems can fulfill this requirement given the single failure of one of the subsystems. If one of the four subsystems is inoperable, a 7-day limiting condition for operation (LCO) is entered per Action a of TS 3.6.6.1. If two of the four subsystems are inoperable, immediate shutdown is required by Action b of TS 3.6.6.1. Safe Unit 2 operation can be met with only the two Unit 2 SGTS subsystems operable by taking advantage of a Unit 1 TS which allows reconfiguration of the Unit 1 SC.

Unit 1 TS 3.7.C.2 provides for a reconfiguration of the Unit 1 SC referred to as modified Unit 1 SC. In the modified SC mode, the Unit 1 reactor building area is segregated from the Unit 1 and Unit 2 common area above the refueling floor such that these two air volumes do not communicate. In this configuration, given a Unit 2 DBA LOCA, the SGTS is only required to maintain a negative pressure in the Unit 2 reactor building area and the Unit 1 and Unit 2 common area above the refueling floor. Two of the four SGTS subsystems can maintain a negative pressure in these areas.

During the time when both Unit 1 SGTS subsystems are inoperable for installation of the containment hardened vents, the Unit 1 SC will be maintained in the modified configuration per Unit 1 TS 3.7.C.2, and both Unit 2 SGTS subsystems will be maintained operable.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The Unit 2 TS requirements for operability of two Unit 2 SGTS subsystems and two Unit 1 SGTS subsystems is based on a Unit 2 DBA LOCA and takes into consideration the secondary containment (SC) design for the two units and the possibility of a single failure. By taking advantage of the Unit 1 specification for modified Unit 1 SC, two Unit 2 SGTS subsystems can contain and treat the leakage of fission product gases from the Unit 2 primary containment following a DBA LOCA, assuming no single failure of a SGTS subsystem occurs. Applying a 7-day LCO in this situation is justifiable because of the low probability of a DBA LOCA, coupled with the single failure of a SGTS subsystem occurring during this time period. Therefore, this proposed amendment does not involve a significant increase in the consequences of an accident previously evaluated. The SGTS, and therefore the SGTS TS, have no impact on the probability of occurrence of any accident previously evaluated.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

This proposed amendment increases the allowable time limit for operation with both Unit 1 SGTS subsystems inoperable. Operation with the Unit 1 SC in the modified mode has been previously considered, and criteria for such operation are provided by the Unit 1 TS. Therefore, this proposed amendment does not create any new modes of operation or failure, nor does it create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed amendment does not involve a significant reduction in the margin of safety.

The compensatory measures being implemented as part of this proposed amendment will ensure the margin of safety is not significantly reduced. By maintaining the Unit 1 SC in the modified mode, the area which would contain fission product gases following a Unit 2 DBA LOCA is reduced such that only two SGTS subsystems are required to contain and treat these gases. Therefore, applying a 7-day LCO for the condition of two inoperable SGTS subsystems with the Unit 1 SC in the modified mode results in the same risk as a 7-day LCO for the condition of one inoperable Unit 1 SGTS subsystem with the Unit 1 SC in the normal mode, as is required by the current Unit 2 TS. Therefore, this proposed amendment 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: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia 31513

Attorney for licensee: Ernest L. Blake, Jr., Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037

NRC Project Director: David B. Matthews

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket No. 50-321, Edwin I. Hatch Nuclear Plant, Unit No. 1, Appling County, Georgia

Date of amendment request: December 21, 1992

Description of amendment request: The proposed amendment would delete two primary containment isolation valves (PCIVs), E11-F022 and E11-F023, associated with the residual heat removal (RHR) head spray mode from Hatch Unit 1 Technical Specification (TS) Table 3.7-1, "Primary Containment Isolation Valves Which Receive a Primary Containment Isolation Signal;" Table 4.2-1, "Check, Functional Test, and Calibration Minimum Frequency for Instrumentation Which Initiates Reactor Vessel and Primary Containment Isolation;" and Table 3.7-4, "Primary Containment Testable isolation Valves." In addition, Table 3.7-3, "Testable Penetrations with Testable Bellows," will be revised to identify Penetration

X-17 as a spare. The testable bellows for Penetration X-17 will not be removed and surveillance testing of the bellows will continue.

The purpose of this change is to support the physical removal of the above valves. The function of the head spray mode of RHR is to spray water in the reactor vessel head area, while in the process of reactor shutdown, to provide a rapid reactor head cooldown. It is a low flow, low pressure system designed to supply water to the vessel steam dome, through the head spray nozzle. Hatch Unit 1 was designed with this capability when it was anticipated that reactor vessel head conditions would be critical path for beginning a refueling outage. However, operating experience has shown that the RHR head spray mode is unnecessary for cooldown of the vessel head, does not perform any safety-related functions, and is not addressed in the emergency operating procedures. In addition, use of the head spray mode of RHR is not practical given the restrictive cooldown rates established in TS 3.6. Additionally, removal of the RHR head spray piping spool piece delayed removal of the reactor head for refueling which resulted in unnecessary personnel exposure. Accordingly, the licensee deactivated the RHR head spray mode, and removed the spool piece (between the flanged connection on the reactor vessel head and the flanged connection just downstream of valve E11-F019) in 1986 in accordance with 10 CFR 50.59.

Although the RHR head spray mode of operation was deactivated and the spool piece removed, the associated PCIVS, E11-F022 and E11-F023, were not removed. Accordingly, testing in accordance with 10 CFR 50, Appendix J, has continued on the PCIVs, resulting in unnecessary personnel exposure. The licensee currently plans to physically remove these valves during the upcoming Unit 1, spring 1993, refueling outage. Following removal of the PCIVs, Penetration X-17 will be capped, thus, preserving containment integrity.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change to the TS does not involve a significant increase in the probability or consequences of an accident previously evaluated. The process lines associated with PCIVs E11-F022 and E11-F023 have been removed and therefore, the PCIVs are no longer needed. Accordingly, PCIVs E11-F022 and E11-F023 will be removed and replaced by a welded cap which will serve as the containment pressure boundary, subject to testing in accordance with 10 CFR 50, Appendix J. Therefore, containment integrity will be preserved in a manner equal to, or better than, that provided by PCIVs E11-F022 and E11-F023.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated. Incorporation of the proposed change does not create any new interfaces with safety-related equipment, systems, or structures or any new system subject to failure or malfunction. The proposed change does not create any new operating modes or accident initiating mechanisms.

3. The proposed change does not involve a significant reduction in a margin of safety because removal of PCIVs E11-F022 and E11-F023 does not affect any system that is required for normal operation, accident mitigation, or shutdown of Plant Hatch. Removal of PCIVs E11-F022 and E11-F023, and the installation of a welded cap on the penetration will provide an equivalent or better containment pressure boundary, without relying on the PCIVs to close on a containment isolation signal. Therefore, the proposed change will not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia 31513

Attorney for licensee: Ernest L. Blake, Jr., Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037

NRC Project Director: David B. Matthews

Gulf States Utilities Company, Docket No. 50-458, River Bend Station,Unit 1, West Feliciana Parish, Louisiana

Date of amendment request: December 22, 1992

Description of amendment request: Gulf States Utilities is requesting a change to River Bend Station (RBS) Technical Specification 4.5.1 to correct minor non-conservative calculational errors in technical specification surveillance requirements for Emergency Core Cooling System (ECCS) pumps. The licensee determined that the surveillance requirement acceptance criteria were not consistent with the Bases for Technical Specification 3/4.5.1.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change would not significantly increase the probability or the consequences of an accident previously evaluated because:

Each of the ECCS systems and subsystems are designed to provide cooling water to the reactor vessel following various transient and accident conditions. The performance of the ECCS was determined through application of the 10 CFR 50 Appendix K evaluation models and then showing conformance to the acceptance criteria of 10 CFR 50.4

The ECCS performance is evaluated for the entire spectrum of break sizes for postulated LOCAs [loss-of-coolant accidents]. The accidents, as listed in USAR [Updated Safety Analysis Report] Chapter 15, for which ECCS operation is required are:

15.2.8 Feedwater line break

15.6.4 Steam system piping break outside containment

15.6.5 Loss-of-coolant accidents (inside containment)

The applicable ECCS performance acceptance criteria from 10 CFR 50.46 are as follows:

a. Criterion 1, Peak Cladding Temperature - "The calculated maximum fuel element cladding temperature shall not exceed 2200°F."

b. Criterion 2, Maximum Cladding Oxidation - "The calculated total local oxidation of the cladding shall nowhere exceed 0.17 times the total cladding thickness before oxidation."

c. Criterion 3, Maximum Hydrogen Generation - "The calculated total amount of hydrogen generated from the chemical reaction of the cladding with water or steam shall not exceed 0.01 times the hypothetical amount that would be generated if all the metal in the cladding cylinder surrounding the fuel, excluding the cladding surrounding the plenum volume, were to react."

d. Criterion 4, Coolable Geometry - "Calculated changes in core geometry shall be such that the core remains amenable to cooling."

e. Criterion 5, Long-Term Cooling - "After any calculated successful initial operation of the ECCS, the calculated core temperature shall be maintained at an acceptably low value and decay heat shall be removed for the extended period of time required by the long-lived radioactivity remaining in the core."

The design of the various ECCS systems is such that the ECCS network will ensure that the above acceptance criteria are met for the various postulated transients and accidents of Chapter 15 of the USAR.

The technical specification surveillance requirements are specified to ensure that the various ECCS pumps are able to deliver the minimum required flows at the required reactor to suction source differential pressures as assumed in the ECCS performance analysis.

The proposed change to the technical specification surveillance requirements will ensure that the ECCS pumps can deliver the

required flows at design conditions and, thus, there is no increase in the possibility or consequences of a previously evaluated accident.

2. The proposed change would not create the possibility of a new or different kind of accident from any previously evaluated because:

The proposed change to the technical specification surveillance requirement will ensure that the ECCS pumps are able to meet their existing design bases. There are no physical modifications required as a result of this requested change. The proposed operability limits are more conservative than existing limits.

Based upon the above discussion, the proposed change will not create the possibility of a new or different kind of accident from any previously evaluated.

3. The proposed change would not involve a significant reduction in the margin of safety because:

The proposed changes to the surveillance requirements provide new operability limits calculated to ensure that the ECCS pumps meet the existing design bases for the systems as discussed in the current bases for Technical Specification 3/4.5.1, the existing USAR analyses, and the system design specifications. Some additional conservatism is included in the new operability limits by assuming a higher suppression pool temperature than required by the system design specifications. Therefore, it was concluded that there is no reduction in the margin of safety created by this requested revision.

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 Documents Department, Louisiana State University, Baton Rouge, Louisiana 70803

Attorney for licensee: Mark Wetterhahn, Esq., Bishop, Cook, Purcell and Reynolds, 1401 L Street, N.W., Washington, D.C. 20005

NRC Project Director: Suzanne C. Black

Illinois Power Company and Soyland Power Cooperative, Inc., Docket No. 50-461, Clinton Power Station, Unit No. 1, DeWitt County, Illinois

Date of amendment request: December 15, 1992

Description of amendment request: The proposed changes to Technical Specification 3/4.3.2, "Containment and Reactor Vessel Isolation Control System," would provide a reasonable period of time to detect and correct inoperabilities of differential temperature isolation instruments caused by air handling unit inoperabilities.

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 differential temperature instruments involved in these proposed changes are not assumed to function to mitigate any accidents described in Chapter 6 or 15 of the CPS [Clinton Power Station] Updated Safety Analysis Report (USAR). As a result, the proposed changes cannot increase the consequences of any accident previously evaluated. The ambient and differential temperature instruments are provided only to detect and initiate isolation of a 25-gpm equivalent steam leak. Although the proposed changes will allow a loss of diversity for mitigating the effects of a 25-gpm equivalent steam leak for a limited period of time, this loss of diversity would be allowed only when sufficient ambient temperature isolation instruments for the associated area are operable to initiate the associated isolation concurrent with a single failure. As a result, automatic isolation of a 25-gpm equivalent steam leak will still occur, even in the event of a single failure. The consequences of a 25-gpm equivalent steam leak will thus not be increased by these proposed changes. In addition, these proposed changes do not affect those factors which can initiate a line break. As a result, the probability of a line break or a 25-gpm equivalent steam leak occurring will not be increased by these proposed changes. Therefore, these proposed changes will not increase the probability or the consequences of any accident previously evaluated.

(2) The proposed changes do not result in a change to the plant design. As a result, no new failure modes are introduced. Therefore, the proposed changes cannot create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) The differential temperature instruments involved in these proposed changes are not assumed to function to mitigate any accidents described in Chapter 6 or 15 of the CPS USAR. These differential temperature instruments (in conjunction with the ambient temperature instruments) are provided only to detect and initiate isolation of a 25-gpm equivalent steam leak. The proposed changes will allow a loss of diversity for mitigating the effects of a 25-gpm equivalent steam leak for a limited period of time. However, the capability to isolate such a leak, even in the event of a single failure, would continue to be maintained by the ambient temperature instruments required to be operable during this extended time period. The proposed time limit permits a reasonable period of time to detect and correct problems with area unit coolers without requiring an unnecessary plant shutdown (transient). In addition, these proposed changes do not affect the setpoints of these ambient temperature isolation instruments. As a result, the associated automatic actions will occur as assumed by plant design. Further, an established IP [Illinois Power] program will ensure that the ambient temperature of plant areas are monitored and the impact on environmental qualification of equipment needed for safe shutdown is evaluated in the event of elevated area temperatures caused by loss of an air handling unit. Therefore, these proposed changes will not result in a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.Local Public Document Room locations: Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727

Attorney for licensee: Sheldon Zabel, Esq., Schiff, Hardin and Waite, 7200 Sears Tower, 233 Wacker Drive, Chicago, Illinois 60606

NRC Project Director: James E. Dyer

Illinois Power Company and Soyland Power Cooperative, Inc., Docket No. 50-461, Clinton Power Station, Unit No. 1, DeWitt County, Illinois

Date of amendment request: December 15, 1992

Description of amendment request: The proposed changes to Technical Specifications 3/4.7.1.1, "Shutdown Service Water System (Loops A, B, C)," and 3/4.7.2, "Control Room Ventilation System," would add exceptions to Technical Specification 3.0.4 to allow tensioning and detensioning the reactor pressure vessel head with one of the required divisions of the systems addressed by these Technical Specifications 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) The probability of occurrence of postulated accidents associated with plant shutdown conditions (inadvertent criticality and fuel handling accidents) is not increased by the proposed changes since those accidents are prevented or mitigated by other controls, design features, and requirements, such as the one-rod-out interlock, shutdown margin, crane physical stops, etc. Further, the applicable mode changes (RPV [reactor pressure vessel] head removal/installation) do not affect the probability of occurrence of such accidents. Since the proposed changes will still require one SX [Shutdown Service Water system] loop associated with an operable diesel generator, DC power source, electrical power distribution system, and main control room ventilation system to be operable during the applicable mode changes, these proposed changes will not increase the consequences of any accident previously evaluated. Therefore, the

proposed changes do not involve a significant increase in the probability or the consequences of any accident previously evaluated.

(2) The proposed changes do not involve any changes to plant design nor do they involve a significant change in plant operation from what is currently allowed by the CPS [Clinton Power Station] Technical Specifications. The impact of the proposed changes is limited to the potential effect on main control room air conditioning system availability and core decay heat removal during removal or installation of the RPV head. At least one main control room air conditioning subsystem associated with an operable SX loop must continue to be operable and two RHR [Residual Heat Removal] shutdown cooling mode loops (or their alternates) must also be operable while removing or installing the RPV head. Therefore, IP [Illinois Power] believes that the proposed changes do not involve a significant change to the requirements for these safety functions during these conditions. Based on the above, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) As noted above, at least one main control room air conditioning subsystem associated with an operable SX loop must continue to be operable and two RHR shutdown cooling mode loops (or their alternates) must also be operable while removing or installing the RPV head. As a result, the proposed changes do not involve a significant reduction in core decay heat removal capability or protection for main control room personnel during the period of time the RPV head is being removed or installed. Therefore, the proposed changes do not involve a significant reduction in a margin of safety assumed or required in any accident or transient analysis.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727

Attorney for licensee: Sheldon Zabel, Esq., Schiff, Hardin and Waite, 7200 Sears Tower, 233 Wacker Drive, Chicago, Illinois 60606

NRC Project Director: James E. Dyer

Illinois Power Company and Soyland Power Cooperative, Inc., Docket No. 50-461, Clinton Power Station, Unit No. 1, DeWitt County, Illinois

Date of amendment request: December 15, 1992

Description of amendment request: The proposed change will add a requirement to perform an evaluation prior to plant restart of the impact on the reactor coolant system of chemistry parameters exceeding their limit for specified time periods during plant shutdown conditions.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

(1) The proposed change merely brings the current CPS [Clinton Power Station] Technical Specifications into conformance with the Standard Technical Specifications. This change would ensure that an engineering evaluation is completed to assess the effects of any chemistry parameter exceeding its limit for more than 72 hours. The engineering evaluation will supply the needed assessment of the impact of the out-of-limit condition on the reactor coolant system prior to reactor startup. In addition, these changes do not affect any previous analyses. Therefore, this request does not result in a significant increase in the probability or the consequences of any accident previously evaluated.

(2) The proposed change does not involve any changes to plant design nor does it involve a significant change in current plant operation. No new failure modes are introduced as this change requires the performance of an engineering evaluation to determine the impact resulting from an out-of-limit parameter prior to reactor startup. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) The proposed change does not involve any changes to plant design nor does it involve a significant change in current plant operation. The proposed change does not involve changes to the currently specified chemistry limits nor to the specified time limits. The change to the Technical Specification would ensure that an engineering evaluation is completed to assess the out-of-limit parameter with respect to the impact on the structural integrity of the reactor coolant system prior to reactor startup. With approval of the proposed change, engineering evaluations will now be required where they previously were not. Therefore, this change does not involve a reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.Local Public Document Room locations: Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727

Attorney for licensee: Sheldon Zabel, Esq., Schiff, Hardin and Waite, 7200 Sears Tower, 233 Wacker Drive, Chicago, Illinois 60606

NRC Project Director: James E. Dyer

Iowa Electric Light and Power Company, Docket No. 50-331, Duane Arnold Energy Center, Linn County, Iowa

Date of amendment request: December 11, 1992

Description of amendment request: The proposed amendment would extend the Reactor Protection System (RPS) Electrical Protection Assembly (EPA) surveillance intervals for the channel functional test and channel calibration.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) The proposed amendment will not increase the probability or consequences of an accident previously evaluated. The proposed amendment extends the surveillance interval for the RPS EPA channel functional test from 6 months to a maximum of 18 months and extends the channel calibration interval from 12 months to an operating cycle (18 months). This amendment will have no adverse affect on the ability of the Reactor Protection System and Primary Containment Isolation System to perform their intended safety functions. The proposed surveillance frequencies will reduce the amount of time the plant is in a half scram condition and vulnerable to challenges to plant shutdown systems. As stated by the NRC in GL 91-09, this more than offsets any increased risk associated with the extended surveillance interval, resulting in a net increase in plant safety.

(2) The proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed amendment requires no plant modifications, does not alter the function of any affected systems, and creates no new mode of plant operation. The design capabilities of affected systems and components are not challenged in a manner which has not been previously addressed. Therefore, no new equipment failures or accidents are introduced.

(3) The proposed change will not involve a significant reduction in the margin of safety. As stated by the NRC in GL 91-09, any increased risk associated with the extended functional test surveillance interval is more than offset by the safety benefits associated with the reduction in safety system challenges. The extended channel calibration interval is necessary to eliminate RPS EPA testing during power operation and realize those same safety benefits. Since the proposed surveillance intervals are accounted for in our setpoint methodology, the reliability of the RPS EPAs is unaffected by this change. Therefore, the proposed change would result in a net increase in plant safety and would not involve a reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this

review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: 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: January 5, 1993.

Description of amendment request: The proposed amendment would revise the technical specifications (TS) for the Cooper Nuclear Station (CNS) to remove the Limiting Conditions for Operation (LCOs) and Surveillance Requirements for Residual Heat Removal (RHR) and Core Spray (CS) relays 27X3 1A/1B from the CNS TS. The following changes would be made to the TS:

(1) On TS page 53, Table 3.2.B (page 1), "Aux. Bus Low Voltage Relay 27X3 - 1A & 1B" would be completely removed.

(2) On TS page 55, Table 3.2.B (page 3), "Bus 1A Low Voltage Aux. Relay 27 X 3/1A" and "Bus 1B Low Voltage Aux. Relay 27 X 3/1B" would be completely removed.

(3) On TS page 70, Table 4.2.B (page 1), "Aux. Bus Low Voltage Relay 27X3 - 1A & 1B" would be completely removed.

(4) On TS page 71, Table 4.2.B (page 2), "Low Voltage Relays 27 X 3/1A" and "Low Voltage Relays 27 X 3/1B" would be completely removed..

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 license amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed license amendment will remove the Auxiliary Low Voltage Relays 27X3 1A/1B in both the Residual Heat Removal (RHR) and Core Spray (CS) systems These relays are used to provide a start permissive signal to the RHR and CS pump motors if voltage is available at buses 1A and 1B respectively and the tie breakers between 1A and 1F are closed or the tie breakers between 1B and 1G are closed. During accident conditions emergency Buses 1F and 1G normally receive power from the SSST [Startup Station Service Transformer] via buses 1A and 1B, with backup power directly provided by either the ESST [Emergency Station Service Transformer] or the EDG [Emergency Diesel Generator]. Removal of these relays will not affect the RHR and CS system logic that requires adequate bus voltage be available prior to initiating the start sequence of the ECCS [Emergency Core Cooling System] pumps. The existing plant configuration of the Bus 1F and 1G first and second level undervoltage relay logic schemes (References 1, 2, & 3) ensures that adequate voltage is available from either offsite power sources (SSST and ESST) or the onsite power source (EDG); therefore, adequate voltage at Bus 1F and 1G would be an acceptable condition to allow sequential loading. Identifying the actual power source (SSST, ESST, EDG) supplying power to buses 1F and 1G is no longer important since all available power sources can adequately power the RHR and CS pumps during sequential loading.

The safety function of the RHR and CS relay logic is to sense an accident condition, start the ECCS pumps, and open the injection valves at a preset pressure. The safety function of the RHR & CS 27X3 1A/1B relays is to monitor voltage on buses 1A and 1B, and tie breaker status for 1FS/1GS, and if adequate voltage is available and the tie breakers are closed to initiate a permissive signal to start the sequential loading timers for the ECCS pumps during a LOCA [Loss of Coolant Accident]. The ECCS pumps are loaded on buses 1F and 1G which are powered from buses 1A and 1B via the SSST. However, this safety function is also provided by the first and second level undervoltage relay schemes, which ensure buses 1F and 1G are always powered from a source with adequate voltage. The safety function of the bus 1F and 1G first level undervoltage relay is to provide an immediate loadshed of the ECCS loads and a transfer to an available power source after detecting a loss of voltage. The second level undervoltage relay system ensures that an offsite power source or the onsite power source with adequate voltage is available to buses 1F and 1G to start and run the ECCS loads. The proposed removal of the RHR & CS 27X3 1A/1B relays and RHR and CS relay logic modifications will not change the operation, duration, or timing of the sequential loading logic for the ECCS loads. Therefore, the safety function of the RHR and CS relay logic is not affected by the removal of RHR & CS 27X3 1A and 1B relays.

The RHR and CS Emergency Core Cooling Systems will still perform their intended safety function as described in the Updated Safety Analysis Report (USAR) for the Loss of Coolant Accident with the approval of this proposed change. By maintaining the safety function of these ECCS systems CNS will continue to meet the criteria prescribed in the 10 CFR 50.46 and Appendix K analysis assuring that the CNS ECCS are capable of meeting their design bases and licensing requirements. The probabilities of a LOCA or other design basis accident will not be increased with approval of this proposed change because, the performance characteristics of the RHR and CS systems are not affected by this change, only a change in the logic scheme for initiating ECCS sequential loading is taking place. This is accomplished by using the bus 1F and 1G first level undervoltage relay system instead of the first level RHR & CS 27X3 1A/1B relays to monitor the emergency buses 1F and 1G for voltage when powered by the SSST to initiate sequential loading of the ECCS pump motors. Furthermore, the first and second level undervoltage relays are currently controlled by the CNS Technical Specifications with attendant setpoints and surveillance frequencies, to ensure the components are operable.

The removal of the RHR & CS 27X3 1A/1B relays will simplify the RHR and CS pump start circuitry while providing the same safety function. The modified RHR and CS relay logic, will not change the desired performance or safety function of the RHR or CS systems. Therefore, based on the above discussions, the changes proposed in this amendment request do not represent 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?

This proposed change removes auxiliary relays RHR & CS 27X3 1A/1B which monitor voltage on buses 1A and 1B, and tie breaker status for 1FS/1GS, and if adequate voltage is available and the tie breakers are closed would initiate a permissive signal to start the sequential loading timers for the ECCS pumps during a LOCA. The function of auxiliary relays RHR & CS 27X3 1A/1B is unnecessary since the safety function is performed by the existing first and second level undervoltage relay logics, which ensures that Buses 1F and 1G are powered from either offsite power source (SSST or ESST) with adequate voltage, or the onsite power source (EDG). The bus 1F and 1G first level undervoltage relay system provides an immediate loadshed of the ECCS loads and a transfer to an available power source after detecting a loss of voltage with a subsequent initiation signal to the sequential loading timer. The second level undervoltage relay system ensures an offsite or onsite power source with adequate voltage is available to buses 1F and 1G to start and run the ECCS loads. The monitoring of Bus 1A and 1B by these relays will not be required since the first and second level undervoltage logic monitors voltage at Bus 1F and 1G which directly powers the ECCS loads from one of the three available power sources (SSST, ESST, or EDG). Bus 1F and 1G normally receive power from Bus 1A and 1B respectively, therefore, monitoring Bus 1F and 1G to initiate any ECCS sequential loading would be acceptable. Identifying the actual power source (SSST, ESST, EDG) to Buses 1F and 1G is no longer important since all power sources can adequately power the RHR and CS pumps during sequential loading. Therefore, the utilization of bus 1F and 1G voltage as a permissive signal to begin sequential loading of the ECCS pump motors does not create the possibility for a

new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in the margin of safety?

This proposed change to the Technical Specifications removes relays RHR & CS 27X3 1A/1B, that monitor available voltage on Buses 1A/1B and tie breaker status for 1FS/1GS. These relays are used to provide a start permissive signal to the RHR and CS pump motors if adequate voltage is available at buses 1A/1B respectively, and the 1FS/1GS tie breakers are closed. The adequacy of voltage at buses 1A and 1B provides an indirect indication of voltage at buses 1F and 1G, because buses 1F and 1G normally receive power from the SSST via buses 1A and 1B, respectively. The function that these relays performed will now be accomplished by the bus 1F and 1G first and second level undervoltage relay logic. The bus 1F and 1G first level undervoltage relay system provides an immediate loadshed of the ECCS loads and a transfer to an available power source with a subsequent initiation signal to the sequential loading timer after detecting a loss of voltage. The second level undervoltage relay system (References 1 & 2) ensures an offsite power source with adequate voltage is available to buses 1F and 1G to start and run the ECCS loads. Monitoring both Bus 1A/1B and 1F/1G is not needed or necessary, because buses 1F and 1G normally receive power from the SSST via buses 1A and 1B, with backup power directly provided by either the ESST or the EDG. By monitoring Bus 1F and 1G for adequate voltage to initiate sequential loading of the ECCS pump motors, the safety function of the RHR and CS logic systems is maintained. The RHR and CS Emergency Core Cooling Systems will still perform their intended safety function as described in the Updated Safety Analysis Report (USAR) for the Loss of Coolant Accident with the approval of this proposed change. By maintaining the safety function of these ECCS systems CNS will continue to meet the criteria prescribed in the 10 CFR 50.46 and Appendix K analysis assuring that CNS ECCS are capable of meeting their design bases and licensing requirements. Therefore, the removal of the RHR & CS 27X3 1A/1B relays for RHR and CS pump start circuitry will 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: 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)

North Atlantic Energy Service Corporation, Docket No. 50-443, Seabrook Station, Unit No. 1, Rockingham County, New Hampshire

Date of amendment request: November 25, 1992

Description of amendment request: The proposed amendment would modify the Seabrook Station Technical Specifications to allow the fixed incore detectors to be utilized in addition to the movable incore detectors to perform technical specification surveillances. The amendment proposes modifying Technical Specification sections 3.1.3 "Movable Control Assemblies," 4.2 "Power Distribution Limits," and 3.3.3.2 "Movable Incore Detectors" to incorporate the fixed incore detectors into the definition of the incore detection 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. 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.

A. The changes do not involve a significant increase in the probability or consequences of an accident previously evaluated (10 CFR 50.92(c)(1)) because the proposed changes do not involve any physical changes to the Seabrook Station. Neither the movable incore nor fixed incore detectors are used to mitigate any of the accidents described in the Updated Final Safety Analysis Report. The use of the fixed incore detectors to perform technical specification surveillances does not compromise the initial power distribution limits assumed in accident analyses.

B. The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated (10 CFR 50.92(c)(2)) because they do not modify any plant equipment, change any reactor core power distribution limits, or affect the manner by which the facility is operated. The proposed changes merely allow an additional incore flux monitoring system to be used to monitor core parameters for technical specification surveillances.

C. The changes do not involve a significant reduction in a margin of safety (10 CFR 50.92(c)(3)) because the proposed changes do not modify any reactor core flux distribution limits or affect the manner in which the facility is operated. The use of the fixed incore detectors does not reduce the accuracy of the measurements taken to perform technical specification surveillances.

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 proposed amendment does not involve a significant hazards consideration.

Local Public Document Room location: Exeter Public Library, 47 Front Street, Exeter, New Hampshire 03833.

Attorney for licensee: Thomas Dignan, Esquire, Ropes & Grey, One International Place, Boston, Massachusetts 02110-2624.

NRC Project Director: John F. Stolz

Pacific Gas and Electric Company, Docket Nos. 50-275 and 50-323,Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2,San Luis Obispo County, California

Date of amendment request: December 22, 1992 (Reference LAR 92-08)

Description of amendment request: The proposed amendments would revise the combined Technical Specifications (TS) for the Diablo Canyon Power Plant Unit Nos. 1 and 2 to change the second level undervoltage trip setpoint and allowable values and revise the diesel generator (DG) steady state voltage surveillance requirements. The specific TS changes proposed are as follows: (1) TS 3/4.3.2, "Engineered Safety Features Actuation System Instrumentation," Table 3.3-4 functional unit 7.b, Second Level Trip Setpoint and Allowable Values would be revised from 3600 volts to 3785 volts. And (2) TS 3/4.8.1, "A.C. Sources," Surveillance Requirements 4.8.1.1.2.a.2), 4.8.1.1.2.b.3), 4.8.1.1.2.b.5)b), 4.8.1.1.2.b.6), 4.8.1.1.2.b.7)b), and 4.8.1.1.2.b.8) would be revised to change the steady state voltage requirements for the Emergency Diesel Generators (EDGs) from 4160 + 420 volts to 4160 +240/-375 volts.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

a. Do the changes involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed changes to increase the [second level undervoltage relays] SLUR TS minimum setpoint and allowable value provide additional conservatism for the 4160 volt vital buses to provide safety-related equipment adequate voltage at the 4160 volt, 480 volt, and 120 volt levels, and therefore reduce the risk of tripping or damaging the vital equipment associated with accident mitigation.

The proposed changes to increase the minimum steady state voltage and decrease the maximum steady state voltage for EDG surveillance requirements provide additional conservatism for equipment powered by the EDG thereby reducing the risk of tripping or malfunction of vital equipment associated with accident mitigation.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously postulated.

b. Do the changes create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed changes do not alter the method by which any safety related system performs its function.

Increasing the TS minimum SLUR setpoint will have no adverse effect on the ability of the 4160 volt vital buses to perform their intended function; their function is enhanced by this proposed change. Increasing the EDG steady state minimum voltage and decreasing the maximum voltage surveillance requirement provide additional assurance of adequate voltage to equipment powered by the EDGs. Hence, no new failure mechanisms will be introduced.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

c. Do the changes involve a significant reduction in a margin of safety?

The proposed changes will not alter any accident analysis assumptions, initial conditions, or results. Consequently the proposed changes do not have any effect on the margin of safety.

Increasing the TS minimum SLUR setpoint is conservative; the change ensures adequate voltage is available for safety-related equipment at the 4160 volt, 480 volt, and 120 volt levels.

Increasing the EDG minimum voltage and decreasing the maximum voltage surveillance requirements are also conservative changes to ensure adequate voltage is available for safety-related equipment at the 4160 volt, 480 volt, and 120 volt levels.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: California Polytechnic State University, Robert E. Kennedy Library, Government Documents and Maps Department, San Luis Obispo, California 93407.

Attorney for licensee: Christopher J. Warner, Esq., Pacific Gas & Electric Company, P.O. Box 7442, San Francisco, California 94120

NRC Project Director: Theodore R. Quay

Pacific Gas and Electric Company, Docket Nos. 50-275 and 50-323, Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Date of amendment request: December 22, 1992 (Reference LAR 92-09)

Description of amendment request: The proposed amendments would revise the combined Technical Specifications (TS) for the Diablo Canyon Power Plant Unit Nos. 1 and 2 to change the Overtemperature Delta-T reactor trip setpoint as a result of a non-conservatism in the Westinghouse methodology used to calculate the f(delta I) penalty function. The specific TS changes proposed are as follows: The proposed changes to TS 2.2.1 would change Note 1 to Table 2.2-1 to replace the f(delta I) penalty slope of 1.76% with 2.38% and the delta I deadband of -19% - +9% with -19% - +7%.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

a. Do the changes involve a significant increase in the probability or consequences of an accident previously evaluated?

Operation with the revised f(delta I) function will not cause any design or analysis acceptance criteria to be exceeded. The structural and functional integrity of any plant system is unaffected. The f(delta I) penalty function is part of the accident mitigation response and is not itself an initiator for any transient.

The changes to the f(delta I) penalty function do not affect the integrity of the fission product barriers for mitigation of radiological dose consequences as a result of an accident. Both the margin to DNB and fuel temperature limits remain protected with the revised f(delta I) penalty function. In addition, the offsite mass releases used as input to the dose calculations are unchanged from those previously assumed. Therefore, the offsite dose predictions remain within acceptance criteria.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

b. Do the changes create the possibility of a new or different kind of accident from any accident previously evaluated?

The revised f(delta I) penalty function does not affect the assumed accident initiation sequences. No new operating configuration is being imposed by the f(delta I) penalty function that would create a new failure scenario. In addition, no new failure modes are being created for any plant equipment.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

c. Do the changes involve a significant reduction in a margin of safety?

The revision of the f(delta I) penalty function will not change any accident analysis assumptions, initial conditions, or results. The accident analysis acceptance criteria are unaffected by the revision to the f(delta I) penalty function. Thereby, the revised TS values will adequately maintain the plant in a safe operating range.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: California Polytechnic State University, Robert E. Kennedy Library, Government Documents and Maps Department, San Luis Obispo, California 93407.

Attorney for licensee: Christopher J. Warner, Esq., Pacific Gas & Electric Company, P.O. Box 7442, San Francisco, California 94120

NRC Project Director: Theodore R. Quay

Pacific Gas and Electric Company, Docket Nos. 50-275 and 50-323, Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Date of amendment request: December 22, 1992 (Reference LAR 92-10)

Description of amendment request: The proposed amendments would revise the combined Technical Specifications (TS) for the Diablo Canyon Power Plant Unit Nos. 1 and 2 to revise Technical Specification 6.9.1.6, "Semiannual Radioactive Effluent Release Report," extending the reporting period from semiannually to annually and to add a List of Effective Pages to the Technical Specifications. The specific TS changes proposed are as follows:(1) Section 6.0 regarding the semiannual radioactive effluent release report would be changed. TS 6.9.1.6 is proposed to be changed to revise the reporting period from semiannual to annual, and the report submission date would be revised from 60 days after January 1 and July 1 of each year to before May 1 of each year. And (2) a List of Effective TS Pages would be added as a preface.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards

consideration, which is presented below:

a. Do the changes involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed TS changes are administrative in nature. The proposed changes to TS 6.9.1.6 are consistent with 10 CFR 50.36a report requirements. The proposed changes do not affect accident evaluations. The proposed changes are administrative in nature, should result in improved administrative practices, and do not affect plant operations.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

b. Do the changes create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed changes are administrative in nature, do not result in physical alterations or changes to the operation of the plant, and cause no change in the method by which any safety-related system performs its function.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

c. Do the changes involve a significant reduction in a margin of safety?

These administrative changes do not alter the basic regulatory requirements and do not affect any safety analyses.

The proposed change to TS 6.9.1.6 does not alter any administrative controls over radioactive effluent, nor does the proposed change involve any physical alterations to the plant with respect to radioactive effluents. Therefore, the proposed change would not affect the meaning, application, and function of the TS requirements.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: California Polytechnic State University, Robert E. Kennedy Library, Government Documents and Maps Department, San Luis Obispo, California 93407.

Attorney for licensee: Christopher J. Warner, Esq., Pacific Gas & Electric Company, P.O. Box 7442, San Francisco, California 94120

NRC Project Director: Theodore R. Quay

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 amendment request: September 29, 1992, as supplementedDecember 23, 1992

Description of amendment request: The licensee commenced operating on a 24-month fuel cycle, instead of the previous 18-month fuel cycle, with fuel cycle 9. Fuel cycle 9 started in August 1992. In order to accommodate operation on a 24-month cycle, the licensee requested a Technical Specifications (TS) amendment to incorporate the changes listed below:

(1) The licensee proposed changing the frequency of auxiliary feedwater (AFW) pump full-flow testing (specified in TS Section 4.8) to accommodate operation on a 24-month cycle.

(2) The licensee proposed changing the frequency of verifying that the AFW pumps automatically start upon receipt of an actuation signal (specified in TS Section 4.8) to accommodate operation on a 24-month cycle.

(3) The licensee proposed changing the frequency of verifying that the AFW recirculation valve actuates to its correct position (specified in TS Section 4.8) to accommodate operation on a 24-month cycle.

(4) The licensee proposed changing the frequency of testing the AFW backup supply valves from the city water system (specified in TS Section 4.8) to accommodate operation on a 24-month cycle.

These proposed changes follow the guidance provided in Generic Letter 91-04, "Changes in Technical Specification Surveillance Intervals to Accommodate a 24-Month Fuel Cycle," as applicable.

In addition, the licensee proposed changing the wording of the AFW pump automatic start verification requirement (specified in TS Section 4.8.3.b.) from "each" actuation signal to "an" actuation signal. This proposed wording is consistent with the Westinghouse Standard Technical Specifications.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Consistent with the requirements of 10 CFR 50.92, the enclosed application is judged to involve no significant hazards based on the following information:

(1) Does the proposed license amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response:

The proposed changes do not involve a significant increase in the probability or consequences of a previously-analyzed accident. The changes propose extending the surveillance intervals for auxiliary feedwater system testing. The changes do not involve any physical changes to the plant, nor do they alter the way any equipment functions. On-line surveillances and testing help to assure equipment operability. A review of surveillance test records from 1986 to 1990 indicated that in each case, the system was able to perform its safety function. [However, a recirculation valve failed during one surveillance test. The valve was repaired and satisfactorily retested.] The change to Technical Specification 4.8.3.b (from "each" actuation signal to "an" actuation signal) is an administrative change that, when considered in combination with other existing technical specification requirements, does not reduce the overall testing of the auxiliary feedwater pump actuation test signals. The ABFP full flow test verifies the start of the ABFPs by simulating a loss of the Main Boiler Feed Pumps. Other start signals are governed by tech. spec. Table 4.1-1 and specification 4.5.A.1.b. The proposed wording is similar to the approach taken by the Westinghouse Standard Technical Specifications.

(2) Does the proposed license amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response:

The proposed license amendment does not create the possibility of a new or different kind of accident. The changes propose extending the surveillance intervals for auxiliary feedwater system testing. The changes do not involve any physical changes to the plant, nor do they alter the way any equipment functions. On-line surveillances and testing help to assure equipment operability. The change to Technical Specification 4.8.3.b (from "each" actuation signal to "an" actuation signal) is an administrative change that, when considered in combination with other existing technical specification requirements, does not reduce the overall testing of the auxiliary feedwater pump actuation test signals. The ABFP full flow test verifies the start of the ABFPs by simulating a loss of the Main Boiler Feed Pumps. Other start signals are governed by tech. spec. Table 4.1-1 and specification 4.5.A.1.b. The proposed wording is similar to the approach taken by the Westinghouse Standard Technical Specifications.

(3) Does the proposed amendment involve a significant reduction in a margin of safety?

The proposed amendment does not involve a significant reduction in a margin of safety. The changes propose extending the surveillance intervals for auxiliary feedwater system testing. The changes do not involve any physical changes to the plant, nor do they alter the way any equipment functions. On-line surveillances and testing help to assure equipment operability. A review of surveillance test records from 1986 to 1990 indicated that in each case, the system was able to perform its safety function. [However, a recirculation valve failed during one surveillance test. The valve was repaired and

satisfactorily retested.] The change to Technical Specification 4.8.3.b (from "each" actuation signal to "an" actuation signal) is an administrative change that, when considered in combination with other existing technical specification requirements, does not reduce the overall testing of the auxiliary feedwater pump actuation test signals, nor does it change any system setpoints. The ABFP full flow test verifies the start of the ABFPs by simulating a loss of the Main Boiler Feed Pumps. Other start signals are governed by tech. spec. Table 4.1-1 and specification 4.5.A.1.b. The proposed wording is similar to the approach taken by the Westinghouse Standard Technical Specifications.

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: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10601.

Attorney for licensee: Mr. Charles M. Pratt, 10 Columbus Circle, New York, New York 10019.

NRC Project Director: Robert A. Capra

Southern California Edison Company, et al., Docket No. 50-206, San Onofre Nuclear Generating Station, Unit No. 1, San Diego County, California

Date of amendment request: January 15, 1993 (Reference PCN-258)

Description of amendment request: This proposed change would modify the Technical Specifications incorporated in

Facility Operating License No. DPR-13 as Appendix A by revising Technical Specification section 6.1, "RESPONSIBILITY"; Technical Specification section 6.2, "ORGANIZATION"; Technical Specification section 6.3, "UNIT STAFF QUALIFICATIONS"; Technical Specification section 6.4, "TRAINING"; and Technical Specification section 6.8, "PROCEDURES AND PROGRAMS." The proposed change is needed to provide appropriate operator qualification and staffing requirements following permanent shutdown of the plant and defueling of the reactor and will allow use of operators qualified in accordance with site specific programs appropriate to the defueled condition, rather than operators licensed per 10 CFR Part 55.

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 according to this proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No

The proposed change will not become effective until the reactor has been defueled and a license change prohibiting subsequent plant operation has been made effective. In this condition the only credible accidents evaluated in Chapter 15 of the [Updated Final Safety Analyses Report] UFSAR are a fuel handling accident and a loss of electrical power. Since the defueled plant operator training and qualification programs will provide the expertise needed to mitigate the consequences of these accidents, the proposed change in operator qualification requirements will not increase the consequences of a previously evaluated accident.

The shift staffing levels specified by the proposed change will provide adequate manpower to respond to a loss of electrical power or fuel handling accident. Thus the minimum shift crew will be able to mitigate the consequences of the credible accidents evaluated in Chapter 15 of the UFSAR, and the proposed change in manning levels will not increase the consequences of a previously evaluated accident.

The proposed change affects only operator qualifications and staffing, and does not affect any hardware. Therefore, only the probability of an operator error causing a previously evaluated accident need be considered. The defueled plant operator qualification programs will provide operator expertise on the systems and procedures for fuel handling and electrical power distribution which is at least equivalent to that provided prior to implementing the proposed change. Also, the manning levels specified by the proposed minimum shift crew are adequate to operate these systems. Thus the potential for operator errors is not increased, and the probability of an accident previously evaluated in Chapter 15 of the UFSAR resulting from operator error is not increased.

Therefore the proposed change will not involve an increase in the consequences or probability of a previously evaluated accident.

2. Will operation of the facility according to this proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No

The proposed change affects only operator qualification and staffing. The proposed change does not affect any systems, components, or structures, or the manner in which they function. The types of accidents possible will not change. Therefore, the proposed change will not create the possibility of a new or different kind of accident.

3. Will operation of the facility according to this proposed change involve a significant reduction in a margin of safety?

Response: No

The margin of safety is the difference between the value of a critical design, operating, or post accident parameter, and the value of the parameter which would produce unacceptable results. The proposed change affects only operator qualification and staffing and does not affect any hardware. The ability of the operating staff to control the critical parameters affecting the margin of safety will not be changed.

The proposed changes in operator qualification will not reduce the level of expertise in the normal and post-accident operation of the systems which can affect these parameters. The staffing specified in the proposed change provides adequate manpower to operate these systems during normal and accident conditions. Thus the ability of the minimum shift crew to control these parameters will not be reduced. Therefore, the proposed change will not involve a reduction in any margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: 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 Nuclear Operating Company, Inc., Docket Nos. 50-348 and 50-364, Joseph M. Farley Nuclear Plant, Units 1 and 2, Houston County, Alabama

Date of amendments request: October 13, 1992

Description of amendments request: The amendments would revise Technical Specification 3.4.5 and Bases Section 3/4.4.5 to include new requirements with respect to operability and surveillance of power-operated relief valves (PORVs) and block valves. The changes are based on the guidance contained in Generic Letter 90-06 and are intended to enhance the reliability of the PORVs and block valves.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated. Automatic actuation of the PORVs at Farley Nuclear Plant is not assumed to mitigate the consequences of a design basis accident as described in Chapter 15 of the [Final Safety Analysis Report] FSAR. The

safety functions performed by the PORVs are: 1) inactive valves which form part of the [Reactor Coolant System] RCS boundary, and 2) manual operation as required by emergency operating procedures. The proposed changes will increase the reliability of the PORVs thus ensuring they are available to perform their function when required to do so. Therefore, it can be concluded that the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed changes do not involve any physical changes to the PORVs or their setpoints. The proposed changes do not delete any function previously provided by the PORVs nor has the probability of inadvertent opening been increased. Accordingly, no new failure modes have been defined for any plant system or component important to safety nor has any new limiting single failure been identified as a result of the proposed changes. Therefore, it can be concluded that the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed changes do not involve significant reduction in a margin of safety. The proposed changes increase the reliability of the PORVs thus ensuring their availability when called upon to perform their function and will not impact any safety analysis assumptions. Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Houston-Love Memorial Library, 212 W. Burdeshaw Street, P. O. Box 1369, Dothan, Alabama 36302

Attorney for licensee: James H. Miller, III, Esq., Balch and Bingham, P.O. Box 306, 1710 Sixth Avenue North, Birmingham, Alabama 35201

NRC Project Director: Elinor G. Adensam

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of amendment request: January 8, 1993 (TS 92-10)

Description of amendment request: The proposed amendment would incorporate new requirements associated with steam generator tube inspection and repair. The new requirements establish alternate steam generator tube plugging criteria that take into account the reinforcing effect that the steam generator tubesheet has on the external surface of expanded steam generator tubes referred to as Westinghouse Explosive Tube Expansion (WEXTEX) region. The new criteria would be used to change Technical Specification (TS) bases and Surveillance Requirements 4.4.5.2 through 4.4.5.5 to reduce the need for repairing or plugging steam generator tubes having indications that exceed the current technical specification depth-based plugging limit.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issues of no significant hazards consideration, which is presented below:

TVA has evaluated the proposed technical specification (TS) change and has determined that it does not represent a significant hazards consideration based on criteria established in 10 CFR 50.92(c). Operation of SQN in accordance with the proposed amendment will not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated.

TVA proposes to modify the SQN Unit 1 and Unit 2 TSs to incorporate alternate steam generator (S/G) tube plugging criteria (i.e., W* criteria). The W* criteria take into account the reinforcing effect the tubesheet has on the external surface of an expanded S/G tube. TVA is requesting this change to: (1) maximize reactor coolant system flow, (2) maximize tube plugging margin to prolong S/G life, and (3) reduce occupational radiation exposure, man-hours, and S/G critical path time.

Tube-bundle integrity will not be adversely affected by the implementation of the W* tube plugging criteria. S/G tube burst or collapse cannot occur within the confines of the tubesheet; therefore, the tube burst and collapse criteria of Regulatory Guide (RG) 1.121 are inherently met. The W* distance is shown by analyses and test results to retain the tube within the tubesheet during all plant conditions, thereby precluding an event with consequences similar to a postulated tube rupture event. For S/G tubes with indications that are returned to service as a result of the application of the W* criteria, postulated steam-line break (SLB) leak rates are required to remain within the Final Safety Analysis Report (FSAR) limits.

The W* distance has been shown to restrict primary to secondary leakage below current TS limits during all plant conditions. In the unlikely event that a through-wall crack develops and results in primary to secondary leakage, the leakage characteristics and trends would allow safe shutdown of the plant. Relative to the potential for SLB leakage, the distribution of cracking within the W* distance will be limited such that expected leakage and associated radiological consequences will not exceed the FSAR limits.

In conclusion, the incorporation of the W* criteria into SQN TSs maintains existing design limits and does not involve a significant increase in the probability or consequences of an accident previously evaluated.

(2) Create the possibility of a new or different kind of accident from any previously analyzed.

Tube-bundle integrity is expected to be maintained during all plant conditions upon implementation of the proposed alternate tubesheet plugging criteria. Use of the criteria does not inducea new mechanism that would result in a different kind of accident from those previously analyzed.

Even with the limiting circumstance of a complete circumferential separation of a tube occurring below the W* distance, S/ G tube pullout is precluded and leakage is predicted to be maintained within the FSAR limits during all plant conditions. Administrative leak rate limits and leakage trending are in place at SQN to address the potential for plant operation with circumferential cracking.

(3) Involve a significant reduction in a margin of safety.

Upon implementation of the W* criteria, operation with potential cracking in the WEXTEX expansion region of the S/G tubing is predicted to meet the criteria of RG 1.21 and RG 1.83 and thereby meet the requirements of General Design Criteria 14, 15, 31 and 32. Calculations have shown that tubes within the W* distance with circumferential cracks having arc lengths less than 92 degrees (beginning of the cycle) would not pull out during a postulated an SLB event. The most significant effect would be a possible increase in leakage following an event. Excessive leakage during an SLB event is precluded since calculations and testing have shown that the potential distribution of cracks both within and below the W* distance would not exceed leakage limits during all plant conditions. Consequently, the margin of safety would not be significantly reduced.

Neglected in the above evaluation is the leakage restriction and tube restraint offered by corrosion product buildup in the tube-to-tubesheet crevice. This buildup will restrict leakage to below the currently calculated amounts, in addition to adding to the tube pullout resistance, as shown by test results. The addition of a new TS requirement for inspecting tubes using a rotating pancake coil probe will also contribute to the identification of any degradation mechanism that is not readily detectable using bobbin probe.

The NRC has reviewed the licensee's analysis and, based on thisreview, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1101 Broad Street, Chattanooga, Tennessee

Attorney for licensee: General Counsel, Tennessee Valley Authority,

400 West Summit Hill Drive, ET 11H, Knoxville, Tennessee 37902

NRC Project Director: Frederick J. Hebdon

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of amendment request: January 8, 1993 (TS 92-16)

Description of amendment request: The proposed amendment would delete Surveillance Requirement 4.4.10.b, thereby eliminating the need to perform a supplemental 10-year inspection of the reactor vessel nozzles for underclad cold cracking.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issues of no significant hazards consideration, which is presented below:

TVA has evaluated the proposed technical specification (TS) change and has determined that it does not represent a significant hazards consideration based on criteria established in 10 CFR 50.92(c). Operation of Sequoyah Nuclear Plant (SQN) in accordance with the proposed amendment will not:

1. Involve a significant increase in the probability or consequencesof an accident previously evaluated.

TVA proposes to modify the SQN Units 1 and 2 TSs to delete an existing surveillance requirement (SR) (SR 4.4.10.b) that currently requires that the reactor vessel nozzles be inspected for underclad cold cracks at the end of each 10-year inspection interval using techniques at least as sensitive as those used to conduct the supplemental examination performed before fuel loading. Ultrasonic examinations were performed on SQN's reactor vessel nozzles in 1980.

The Unit 1 nozzles were potentially susceptible to the underclad cold cracking because of the two-layer cladding process. Examination of the Unit 1 nozzles revealed one outlet nozzle with a cracking pattern characteristic of underclad reheat cracking, two outlet nozzles with no indications, and five nozzles (one outlet, four inlets) with a cracking pattern characteristic of underclad cold cracking confined to the nozzle bore. The results of the Unit 2 examinations revealed no evidence of any underclad cold cracking since the single-layer cladding process used on Unit 2 precluded the formation of cold cracks. All indications from the Unit 1 and Unit 2 nozzles were within the acceptance criteria of the American Society of Mechanical Engineers (ASME) code.

Westinghouse Electric Corporation has performed fracture-mechanics analyses that conclude that the minimum critical flaw depth is 1.5 inches at the governing region of the nozzle (the nozzle corner region) and that fatigue crack growth would not exceed 0.06 inch over a 10-year service period. For a 40-year service life, these flaws would not exceed 0.21 inch. These analyses indicate that there would be no detrimental impact from underclad indications and that the original design margins would be maintained for the life of the plant. In addition, nuclear power plants in France that exhibited known underclad cold cracking similar to SQN Unit 1 have performed preservice and periodic ISIs and have reported no evidence of crack growth. Examinations performed in accordance with Section XI of the ASME code as supplemented by Regulatory Guide 1.150, plus expansion of the examination coverage to the safe-end regions on the Unit 1, Loop 1 outlet nozzle, provide a sufficient basis upon which to determine whether indications previously recorded during the 1980 SQN examinations satisfy the ASME Section XI code criteria. The expanded ASME Section XI examination of the Unit 1 nozzles will include over one-half the total number of underclad cold crack indications reported in 1980.

Framatone, a Westinghouse licensee; and Electricite de France (EdF), owner of nuclear power plants in France, have also performed fracture-mechanics analyses that conclude that the critical flaw size is greater than one inch and that fatigue crack growth of underclad cold cracks is insignificant. Based on the above information, TVA concludes that the elimination of the supplemental 10-year inspection requirement from TSs does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Create the possibility of new or different kind of accident from any previously analyzed.

The ASME Section XI examinations, plus the expanded examination of the safe-end region on the Unit 1, Loop 1 outlet nozzle, will provide sufficient information to determine if nozzle indications that were recorded during the SQN 1980 preservice examinations satisfy the ASME Section XI code criteria. Accordingly, the elimination of the current TS requirement would not create the possibility of a new or different kind of accident from any previously analyzed.

3. Involve a significant reduction in a margin of safety .

Fracture-mechanics analyses performed by Westinghouse, Framatone, and EdF indicate that reheat cracking and underclad cold cracking in reactor vessel nozzles do not reduce the original design margins over 40-year plant life. In addition, periodic ISIs of reactor vessel nozzles with known underclad cracks have demonstrated no growth. The ASME Section XI examinations, plus the expanded examination of the safe-end region on the Unit 1, Loop 1 outlet nozzle, will provide sufficient information to determine if nozzle indications that were recorded during the SQN 1980 preservice examinations satisfy the ASME sectional code criteria. Consequently, the removal of the supplemental examination requirement from SQN TSs does not involve a significant reduction in the margin of safety.

The NRC has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1101 Broad Street, Chattanooga, Tennessee 37402

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 11H, Knoxville, Tennessee 37902

NRC Project Director: Frederick J. Hebdon

Toledo Edison Company, Centerior Service Company, and The Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of amendment request: December 21, 1992

Description of amendment request: The proposed amendment would add an Action statement to Technical Specification (TS) 3/4.6.4.3, "Containment Hydrogen Dilution System," which would apply when both containment hydrogen dilution (CHD) systems are inoperable and allow 72 hours to return one of the two inoperable CHD systems to operable status or be in at least Hot Standby within the next six hours. Also, the associated TS Bases Section 3/4.6.4, "Combustible Gas Control," would be revised to clarify the discussion of the CHD and containment hydrogen purge systems, and to add mention of the capability to install an external hydrogen recombination 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:

Toledo Edison has reviewed the proposed change and determined that a significant hazards consideration does not exist because operation of the Davis-Besse Nuclear Power Station, Unit Number 1, in accordance with these changes would:

1a. Not involve a significant increase in the probability of an accident previously evaluated because no Updated Safety Analysis Report (USAR) accident initiators are affected by the proposed changes. The proposed change to TS 3/4.6.4.3 adding an additional Action statement allowing both containment hydrogen dilution systems to be inoperable for up to 72 hours has no bearing on the probability of an accident previously evaluated. The proposed changes to TS Bases 3/4.6.4 provide additional clarifying information regarding the containment Hydrogen Purge System Filter Unit and the Hydrogen Recombiner System, and have no adverse effect on the probability of experiencing an accident previously evaluated.

1b. Not involve a significant increase in the consequences of an accident previously evaluated because the proposed changes do not invalidate accident conditions or assumptions used in evaluating the radiological consequences of any accident. The proposed change to TS 3/4.6.4.3 adding an additional Action statement allowing both containment hydrogen dilution systems to be inoperable for up to 72 hours does not alter the source term, containment isolation, or alllowable releases, and therefore will not increase the radiological consequences of a previously evaluated accident. The proposed changes to TS Bases 3/4.6.4 provide additional clarifying information regarding the Containment Hydrogen Purge System Filter Unit and the Hydrogen Recombiner System, and have no adverse effect on the consequences of an accident previously evaluated.

2a. Not create the possibility of a new kind of accident from any accident previously evaluated because no new types of failures or accident initiators are introduced by the proposed changes.

2b. No create the possibility of a different kind of accident from any accident previously evaluated because no different accident initiators or failure mechanisms are introduced by the proposed changes.

3. Not involve a significant reduction in the margin of safety. The proposed change to TS 3/4.6.4.3 adding an additional Action statement allowing both containment hydrogen dilution systems to be inoperable for up to 72 hours will not have an adverse effect on the margin of safety because as shown in USAR Figure 6.2-50, Post-LOCA Hydrogen Percent by Volume, the lower flammability limit of four volume percent hydrogen would not be reached until approximately 37 days following a postulated Loss of Coolant Accident (LOCA). The hydrogen concentration control function can be established in the event of a LOCA via the hydrogen recombination system within this timeframe. All accident analyses will remain valid. The proposed changes to TS Bases 3/4.6.4 provides additional clarifying information and have no adverse impact on the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Attorney for licensee: Jay E. Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, N.W., Washington, DC 20037.

NRC Project Director: John N. Hannon

Virginia Electric and Power Company, Docket No. 50-339, North Anna Power Station, Unit No. 2, Louisa County, Virginia

Date of amendment request: December 4, 1992

Description of amendment request: The proposed change would allow a reduced minimum reactor coolant system (RCS) flow rate associated with increased steam generator tube plugging (SGTP) levels. The proposed change would revise the NA-2 Technical Specifications (TS), Table 2.2-1, Reactor Trip System Instrumentation Trip Setpoints, of TS 2.2.1 and Table 3.2-1, DNB parameters, of TS 3.2.5 to allow a reduction in the minimum RCS flow rate. The change is necessary to accommodate the systems effects associated with increased SGTP. NA-2 is scheduled to conclude Cycle 9 operations and begin a refueling/SG inspection outage in September 1993. It is anticipated that this SG inspection will result in plugging additional SG tubes. As required by TS 3.2.5 and 4.2.5.2, NA-2 performs RCS flow rate measurements once per fuel cycle. NA-2 safety analyses are based in part on verifying, via the TS surveillance, that the RCS total flow rate is greater than or equal to 284,000 gallons per minute (gpm). Additional SGTP increases the likelihood of violating this TS requirement. Therefore, safety analyses and evaluations have been performed which support an approximate 3 percent reduction in the RCS total flow rate limit from 284,000 to 275,300 gpm. The proposed TS changes implement a reduced total flow rate requirement which is intended to bound future measured flow values and any required SGTP until SG replacement. The changes will allow NA-2 to continue to operate with the expected increase in RCS loop resistance caused by increased SGTP levels and ensure that the required safety margins for core cooling and accident analyses are maintained.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

a. Does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The impact of the reduced minimum measued RCS flow rate on operating characteristics, and accident analyses which support Unit 2 operation, have been fully assessed and documented in the safety evaluation. The proposed reduction to the Technical Specifications minimum measured RCS flow rate does not impact either equipment or operating conditions that are considered in determining the probability of occurrence for any of the UFSAR Chapter 15 accident analyses. The proposed reduction of minimum measured RCS flow rate has the potential to increase accident analysis consequences. However, the results of the reanalyses show that the design limits are met. Therefore, the consequences of an accident previously evaluated remain unchanged.

b. Does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change to the Technical Specifications does not involve modifications to any of the existing equipment. The impact of the proposed reduced minimum measured RCS flow rate on North Anna Unit 2 operating characteristics, and accident analyses which support Unit 2 operation, have been fully assessed and documented in the safety evaluation. The proposed reduction to the Technical Specifications minimum measured RCS flow rate does not create any new or different accident initiators, so no unique accident possibility is created. Therefore, the proposed Technical Specifications changes would not create the possibility of a new or different kind of accident from any accident previously evaluated.

c. Does not involve a significant reduction in a margin of safety.

The proposed amendment has been analyzed and the Technical Specifications continue to ensure that adequate reactor coolant system total flow is maintained. The impact of the proposed reduced minimum measured RCS flow rate on North Anna Unit 2 operating characteristics, and accident analyses which support Unit 2 operation, have been fully assessed and documented in the attached safety evaluation. The analyses and equipment evaluations show that the applicable design limits are met. Therefore, there is no significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: The Alderman Library, Special Collections Department, University of Virginia, Charlottesville, Virginia 22903-2498.

Attorney for licensee: Michael W. Maupin, Esq., Hunton and Williams, Riverfront Plaza, East Tower, 951 E. Byrd Street, Richmond, Virginia 23219.

NRC Project Director: Herbert N. Berkow

Wolf Creek Nuclear Operating Corporation, Docket No. 50-482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: December 22, 1992

Description of amendment request: The proposed amendment consists of a revision to Technical Specification Table 4.8-1, Diesel Generator Test Schedule, which eliminates the requirement to increase the testing frequency upon experiencing five or more failures in the last 100 valid tests. The provision for increased testing based upon the last 20 valid tests is maintained.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change affects only the criteria for entering and leaving the accelerated diesel generator testing schedule. The operability requirements and limiting conditions for operation remain unchanged. The return to a normal testing frequency following a series of diesel failures that exceeded 2 out of the last 20 tests would be made only after 7 successful tests without a failure and at least 20 tests without more than 1 failure. Continued testing on a weekly rather than a monthly schedule will not significantly improve the ability to determine whether the most recent failure indicated a sudden change in diesel reliability. Thus, the ability of the diesel generators to provide emergency electrical power would not be diminished. Therefore, the proposed change will not increase the probability or consequences of any accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any previously evaluated

The proposed change does not involve any change in plant design or in the manner of any other plant operation. The criteria for initiating and suspending accelerated diesel testing are being slightly changed. This change does not result in a significant difference in the monitoring of diesel generator reliability. Therefore, the proposed change does not create the possibility of any new or different kind of accident from those previously evaluated.

3. The proposed change does not involve a significant reduction in the margin of safety

The diesel generators will continue to provide a redundant source of acceptably reliable onsite power. The revised criteria for initiating and suspending accelerated diesel testing have an insignificant effect on diesel generator reliability and are acceptable according to Generic Letter 84-15. In addition, the changes eliminate excessive testing, which can have an adverse effect on diesel reliability, beyond that necessary to demonstrate continued reliability. Therefore, the revision to the test frequency requirements 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 Locations: Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law Library, Topeka, Kansas 66621

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, N. W. Washington, D. C. 20037

NRC Project Director: Suzanne C. Black

Wolf Creek Nuclear Operating Corporation, Docket No. 50-482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: December 22, 1992

Description of amendment request: The proposed amendment deletes the surveillance requirement of Technical Specification 4.8.1.1.2(i)(2), which involves performing a pressure test of portions of the emergency diesel fuel oil system. Alternative testing for the tanks and piping would include leak testing at hydrostatic head pressure with the tanks filled to design capacity and would be governed by Technical Specification 4.0.5.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change would remove a duplication in the technical specifications and allow appropriate surveillance testing to be performed on the diesel fuel oil system. The revised testing requirement would not affect the probability or consequences of an accident previously analyzed as it maintains equivalent testing requirements.

2. 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 alter the parameters of plant operation or equipment design. The change will allow an appropriate surveillance test to be performed on the diesel fuel oil system. Therefore, the change would not create the possibility of a new or different kind of accident from any previously evaluated.

3. The proposed change does not involve a significant reduction in the margin of safety.

The proposed change to allow an appropriate surveillance test on the diesel fuel oil system will not have an adverse impact on the margin of safety as defined in the technical specifications. The alternate test is equivalent to the previously specified test. Therefore, the proposed change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration Local Public Document Room Locations: Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law Library, Topeka, Kansas 66621

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, N. W., Washington, D. C. 20037

NRC Project Director: Suzanne C. Black, Director

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.

Commonwealth Edison Company, Docket Nos. 50-373 and 50-374, LaSalle County Station, Units 1 and 2, LaSalle County, Illinois

Date of application for amendments: April 24, 1991, as supplemented June 2, 1992, and December 1, 1992

Brief description of amendments: The amendments propose the addition of Allowed Outage Times (AOT) for the Scram Discharge Volume (SDV) vent and drain valves, the removal from the Control Rod Operability Technical Specifications of the Unit 1 and Unit 2 SDV Surveillance Requirements (TS 4.1.3.1.4.b) for SDV Level Instrumentation, and the deletion of TS requirement 4.1.3.1.4 for the SDV vent and drain valve surveillance to be performed from a normal control rod configuration of less than or equal to 50% rod density. These changes are consistent with Revision 0 of the BWR Improved Standard Technical Specifications.

Date of issuance: January 15, 1993

Effective date: Immediately to be implemented within 45 days.

Amendment Nos.: 89 and 74

Facility Operating License Nos. DPR-11 and DPR-18. The amendments revised the Technical Specifications.Dates of notices in **Federal Register:** June 12, 1991 (56 FR 27039); July 8, 1992 (57 FR 30242). The December 1, 1992, submittal supplemented the earlier requests and did not change the proposed no significant hazards consideration determinations. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 15, 1993. No significant hazards consideration comments received: No

Local Public Document Room location: Public Library of Illinois Valley Community College, Rural Route No. 1, Oglesby, Illinois 61348.

Duke Power Company, et al., Docket Nos. 50-413 and 50-414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of application for amendments: November 5, 1992, as supplemented December 9 and 18, 1992

Brief description of amendments: The amendments revise the limitations on concentrations of radioactive material released in liquid effluents and the limitations on the dose rate resulting from radioactive material released in gaseous effluents, and relocates the prior 10 CFR 20.106 requirements to the new 10 CFR 20.1302. These changes are in response to the new 10 CFR Part 20.

Date of issuance: January 6, 1993

Effective date: January 6, 1993

Amendment Nos.: 104, 98

Facility Operating License Nos. NPF-35 and NPF-52: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 23, 1992 (57 FR 55008)The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 6, 1993.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730

Duke Power Company, et al., Docket Nos. 50-413 and 50-414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of application for amendments: July 27, 1992

Brief description of amendments: The amendments revise the minimum channels operable requirement of Technical Specification Table 3.3-10, Item 17, Steam Relief Valve Exhaust Radiation Monitor from "1" to "1/Steam Line."

Date of issuance: January 12, 1993

Effective date: January 12, 1993

Amendment Nos.: 105, 99

Facility Operating License Nos. NPF-35 and NPF-52: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 9, 1992 (57 FR 58245)The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 12, 1993.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730

Duke Power Company, Docket Nos. 50-369 and 50-370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of application for amendments: November 5, 1992, as supplemented December 9 and 18, 1992

Brief description of amendments: The amendments revise the limitations on concentrations of radioactive material released in liquid effluents and the limitations on the dose rate resulting from radioactive material released in gaseous effluents, and relocate the prior 10 CFR 20.106 requirements to the new 10 CFR 20.1302. The changes are in response to the new 10 CFR Part 20.

Date of issuance: January 6, 1993

Effective date: January 6, 1993

Amendment Nos.: 134, 116

Facility Operating License Nos. NPF-9 and NPF-17: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 23, 1992 (57 FR 55005)The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 6, 1993.No significant hazards consideration comments received: No.

Local Public Document Room location: Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223

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 application of amendments: November 5, 1992, as supplemented December 9 and 18, 1992

Brief description of amendments: The amendments revise the limitations on concentrations of radioactive material released in liquid effluents and the limitations on the dose rate resulting from radioactive material released in gaseous effluents, and relocates the prior 10 CFR 20.106 requirements to the new 10 CFR 20.1302. These changes are in response to the new 10 CFR Part 20.

Date of issuance: January 6, 1993

Date of issuance: January 6, 1993

Effective date: January 6, 1993

Amendment Nos.: 198, 198, and 195

Facility Operating License Nos. DPR-38, DPR-47, and DPR-55: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 23, 1992 (57 FR 55006)The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 6, 1993.No significant hazards consideration comments received: No.

Local Public Document Room location: Oconee County Library, 501

West South Broad Street, Walhalla, South Carolina 29691

Duquesne Light Company, et al., Docket No. 50-334, Beaver Valley Power Station, Unit No. 1, Shippingport, Pennsylvania

Date of application for amendment: July 15, 1991, as supplemented by letters dated September 30, 1991, December 31, 1991, and November 2, 1992.

Brief description of amendment: This amendment revises the Appendix A Technical Specifications (TSs) relating to reactor overpressure protection. Changes are made to TSs involving Reactor Coolant Pump Startup, Reactor Coolant System Pressure - Temperature Limits, and Reactor Coolant System Overpressure Protection System. Specifically, the amendment 1) revises TS 3.4.1.6 to ensure that the limiting conditions specified for pressurizer level and secondary water temperature of each steam generator are met to mitigate the consequences of starting a reactor coolant pump, 2) revises Figures 3.4-2 and 3.4-3 (TS 3.4.9.1) to extend the applicability of the heatup and cooldown curves to 16 effective full power years (EFPY), and 3) revises the enable temperature for the overpressure protection system specified in TS 3.4.9.3 to be consistent with the new 16 EFPY curves. Bases Section 3/4 4.1 also is revised to reflect the changes to the TSs mentioned above.

Date of issuance: January 15, 1993

Effective date: January 15, 1993

Amendment No. 169

Facility Operating License No. DPR-66. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 13, 1991 (56 FR 57894).The licensee's letters dated September 30, 1991, December 13, 1991, and November 2, 1992, provided minor revisions to the application but they do not change the initial proposed no significant hazards consideration determination.The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 15, 1993.No significant hazards consideration comments received: No

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Entergy Operations, Inc., System Energy Resources, Inc., South Mississippi Electric Power Association, and Mississippi Power & Light Company, Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of application for amendment: July 29, 1992

Brief description of amendment: The amendment revised the Technical Specifications to incorporate reliability-based improvements to instrumentation Action Statements and surveillance test intervals. The improvements are based on NRC-approved Licensing Topical Reports previously submitted by the Boiling Water Reactor Owners Group, of which Entergy Operations, Inc., is a member.

Date of issuance: January 6, 1993

Effective date: January 6, 1993Amendment No: 105

Facility Operating License No. NPF-29. Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** March 4, 1992 (57 FR 7810)The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 6, 1993.No significant hazards consideration comments received: No

Local Public Document Room location: Judge George W. Armstrong Library, Post Office Box 1406, S. Commerce at Washington, Natchez, Mississippi 39120.

Entergy Operations, Inc., System Energy Resources, Inc., South Mississippi Electric Power Association, and Mississippi Power & Light Company, Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of application for amendment: October 29, 1992

Brief description of amendment: The amendment changed the Technical Specifications to remove cycle-specific reactor physics parameters and incorporate them into a new document called the Core Operating Limits Report. The amendment was requested in response to Generic Letter 88-16.

Date of issuance: January 21, 1993

Effective date: 90 days from the date of issuanceAmendment No: 106

Facility Operating License No. NPF-29. Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** November 25, 1992 (57 FR 55578)The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 21, 1993.No significant hazards consideration comments received: No

Local Public Document Room location: Judge George W. Armstrong Library, Post Office Box 1406, S. Commerce at Washington, Natchez, Mississippi 39120.

Florida Power and Light Company, Docket Nos. 50-250 and 50-251, Turkey Point Plant Units 3 and 4, Dade County, Florida

Date of application for amendments: May 19, 1992 as supplemented July 29, 1992

Brief description of amendments: These amendments provide specific revisions to Technical Specifications (TS) Section 6.0, "Administrative Controls," concerning organizational and typographical errors.

Date of issuance: January 8, 1993

Effective date: January 8, 1993Amendment Nos. 153, 148Facility Operating Licenses Nos. DPR-31 and DPR-41: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** September 2, 1992 (57 FR 40213)The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 8, 1993.No significant hazards consideration comments received: No

Local Public Document Room location: Florida International University, University Park, Miami, Florida 33199.

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50-424 and 50-425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia

Date of application for amendments: March 4, 1992

Brief description of amendments: The amendments modify the Technical Specifications in accordance with Generic Letter 89-01, "Implementation of Programmatic Controls for Radiological Effluent Technical Specifications (RETS) in the Administrative Controls Section of the Technical Specifications and the Relocation of Procedural Details of RETS to the Offsite Dose Calculation Manual (ODCM) or to the Process Control Program (PCP)."

Date of issuance: January 5, 1993

Effective date: To be implemented within 30 days from the date of issuance

Amendment Nos.: 55, 34

Facility Operating License Nos. NPF-68 and NPF-81: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 19, 1992 (57 FR 37565)The Commission's related evaluation of the amendments is

contained in a Safety Evaluation dated January 5, 1993. No significant hazards consideration comments received: No.

Local Public Document Room location: Burke County Library, 412 Fourth Street, Waynesboro, Georgia 30830

Indiana Michigan Power Company, Docket Nos. 50-315 and 50-316 Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, Michigan

Date of application for amendment: July 26, 1991 as supplemented June 7, 1991, February 4, April 1, and October 26, 1992

Brief description of amendment: The proposed amendments would change the Technical Specification (TS) to permit expansion of the spent fuel pool (SFP) storage capacity from 2050 assemblies to 3613 assemblies. The expansion will be accomplished by replacing the existing spent fuel pool storage racks with higher density storage racks and by placing racks in areas of the pool where no racks currently exist.

Date of issuance: January 14, 1992

Effective date: January 14, 1992

Amendment Nos.: 169 and 152

Facility Operating License Nos. DPR-58 and DPR-74. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 19, 1992 (57 FR 37570)The additional information contained in the supplemental letter dated October 26, 1992, served to clarify the amendments, was within the scope of the initial notice, and did not affect the Commission's proposed no significant hazards consideration determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 14, 1993.No significant hazards consideration comments received: No.

Local Public Document Room location: Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Maine Yankee Atomic Power Company, Docket No. 50-309, Maine Yankee Atomic Power Station, Lincoln County, Maine

Date of application for amendment: October 19, 1992

Brief description of amendment: This amendment modifies the remedial action requirements of Technical Specifications 3.6.B and 3.6.C, by deleting alternate train testing requirements.

Date of issuance: January 11, 1993

Effective date: January 11, 1993

Amendment No.: 136

Facility Operating License No. DPR-36: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 25, 1992 (57 FR 55582) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 11, 1993. No significant hazards consideration comments received: No

Local Public Document Room location: Wiscasset Public Library, High Street, P.O. Box 367, Wiscasset, Maine 04578.

Nebraska Public Power District, Docket No. 50-298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: May 4, 1992

Brief description of amendment: The proposed changes removed component lists of Testable Containment Isolation Valves and Penetrations from the Technical Specifications (TS) in accordance with guidance provided in NRC Generic Letter 91-08, "Removal of Component Lists from Technical Specifications." The lists removed from the TS will be incorporated into plant procedures and the Updated Safety Analysis Report (USAR), which are subject to the administrative control of TS 6.2.1.A.4.

Date of issuance: January 7, 1993

Effective date: January 7, 1993

Amendment No.: 157

Facility Operating License No. DPR-46. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 8, 1992 (57 FR 30252) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 7, 1993.No significant hazards consideration comments received: No.

Local Public Document Room location: Auburn Public Library, 118 15th Street, Auburn, Nebraska 68305.

Niagara Mohawk Power Corporation, Docket No. 50-220, Nine Mile Point Nuclear Station Unit No. 1, Oswego County, New York

Date of application for amendment: September 25, 1992

Brief description of amendment: The amendment revises Technical Specification Table 3.6.2a to permit bypassing of the High Reactor Pressure and Main Steam Line Isolation Valve Position scram signals during reactor coolant system pressure testing and/or control rod scram testing when the Reactor Mode Switch is in the Refuel Position.

Date of issuance: January 8, 1993

Effective date: January 8, 1993

Amendment No.: 138

Facility Operating License No. DPR-63: Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** October 28, 1992 (57 FR 48821) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 8, 1993.No significant hazards consideration comments received: No

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Northeast Nuclear Energy Company, Docket No. 50-245, Millstone Nuclear Power Station, Unit 1, New London County, Connecticut

Date of application for amendment: September 29, 1992, as supplemented by November 6, 1992.

Brief description of amendment: The amendment to Technical Specification (TS) Surveillance Requirement 4.7.A.3.a.2 provides an alternative to the currently required increase in 10 CFR Part 50, Appendix J, Type A test frequency incurred after the failure of two successive Integrated Leak Rate Tests. This change would only apply to the current condition of two consecutive Type A test failures (cycle 11 and cycle 13 refueling outages) vice a permanent change to the TS Surveillance Requirements.

Date of issuance: January 11, 1993

Effective date: January 11, 1993

Amendment No.: 60

Facility Operating License No. DPR-21. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 23, 1992 (57 FR 55009) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 11, 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.

Pacific Gas and Electric Company, Docket Nos. 50-275 and 50-323, Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Date of application for amendments: November 15, 1990, as supplemented by letters dated May 19, 1992, and October 8, 1992 (reference License Amendment Request LAR 90-11).

Brief description of amendments: The amendments revise the combined technical specifications (TS) for the Diablo Canyon Nuclear Power Plant Unit Nos. 1 and 2 to (1) revise and relocate the Fire Protection license

conditions, (2) relocate the Fire Protection TS and associated bases to plant procedures and the Updated Final Safety Analysis Report, (3) augment the administrative TS to define the fire protection program controls, and (4) revise the condensate storage tank TS and associated bases to clarify the requirement for water sources used by the auxiliary feedwater system.

Date of issuance: January 13, 1993

Effective date: January 13, 1993

Amendment Nos.: 75 and 74

Facility Operating License Nos. DPR-80 and DPR-82: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 20, 1991 (56 FR 11784)The additional information provided by letters dated May 19, 1992 and October 8, 1992, is within the scope of the initial notice and did not affect the Commission's initial determination.The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 13, 1993.No significant hazards consideration comments received: No.

Local Public Document Room location: California Polytechnic State University, Robert E. Kennedy Library, Government Documents and Maps Department, San Luis Obispo, California 93407

Philadelphia Electric Company, Docket No. 50-352, Limerick Generating Station, Unit 1, Montgomery County, Pennsylvania.

Date of application for amendment: November 6, 1992

Brief description of amendment: The amendment provided a one-time change to the Technical Specifications to extend the allowed outage time for the Residual Heat Removal (RHR) Service Water System and the Suppression Pool Cooling Mode of the RHR System to allow continued Unit 1 operation while upgrades are made to the 'B' RHR heat exchanger outlet valve of both units.

Date of issuance: January 11, 1993

Effective date: January 11, 1993

Amendment No. 58

Facility Operating License No. NPF-39. This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 25, 1992 (57 FR 55585)The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 11, 1993.No significant hazards consideration comments received: No

Local Public Document Room location: Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Southern Nuclear Operating Company, Inc., Docket Nos. 50-348 and 50-364, Joseph M. Farley Nuclear Plant, Units 1 and 2, Houston County, Alabama.Date of amendments request: February 26, 1991, as supplemented on May 6, 1991

Brief description of amendments: The amendments revise the fire protection license conditions and delete fire protection Technical Specifications consistent with the guidance of Generic Letters 86-10 and 88-12.

Date of issuance: January 12, 1993

Effective date: January 12, 1993

Amendment Nos.: 96 and 88

Facility Operating License Nos. NPF-2 and NPF-8. Amendments revise the Technical Specifications.

Date of initial notice in **Federal Register:** May 1, 1991 (56 FR 20026)The May 6, 1991, letter incorporated the change in licensed operator and did not change the initial proposed no significant hazards consideration determination.The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 12, 1993.No significant hazards consideration comments received: No.

Local Public Document Room location: Houston-Love Memorial Library, 212 W. Burdeshaw Street, P. O. Box 1369, Dothan, Alabama 36302

Tennessee Valley Authority, Docket Nos. 50-259, 50-260 and 50-296, Browns Ferry Nuclear Plant, Units 1, 2 and 3, Limestone County, Alabama

Date of application for amendments: July 19, 1991, as supplemented by letter dated October 24, 1991

Brief description of amendments: The amendments incorporate revised pressure and temperature limits into the technical specifications for plant operation during heatup, cooldown, criticality and hydrotest based on guidelines provided by Generic Letter 88-11.

Date of issuance: January 8, 1993

Effective date: January 8, 1993

Amendment Nos.: 190 - Unit 1; 205 - Unit 2; 162 - Unit 3

Facility Operating License Nos. DPR-33, DPR-52 and DPR-68: Amendments revise the technical specifications.Date of initial notice in Federal Register: December 11, 1991 (56 FR 64662).The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 8, 1993.No significant hazards consideration comments received: None

Local Public Document Room location: Athens Public Library, South Street, Athens, Alabama 35611

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: November 2, 1992 (TS 92-11)

Brief description of amendments: The amendments incorporate an exception to the refueling water level requirement of maintaining at least 23 feet of water over the top of the reactor pressure vessel flange, such that the requirement would not be applicable when the control rods are being latched and unlatched during the refueling operations.

Date of issuance: January 12, 1993

Effective date: January 12, 1993

Amendment Nos.: 166 - Unit 1; 156 - Unit 2

Facility Operating License Nos. DPR-77 and DPR-79: Amendments revise the technical specifications.

Date of initial notice in **Federal Register:** December 9, 1992 (57 FR 58252) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 12, 1993.No significant hazards consideration comments received: None

Local Public Document Room location: Chattanooga-Hamilton County Library,1101 Broad Street, Chattanooga, Tennessee 37402

TU Electric Company, Docket No. 50 445, Comanche Peak Steam Electric Station, Unit 1, Somervell County, Texas

Date of amendment request: April 26, 1991, as supplemented by letters dated May 4, 1992 and October 15, 1992.

Brief description of amendment: The proposed amendment revises Unit 1 Technical Specifications Sections 3.3.1/4.3.1 and 3.3.2/4.3.2 and associated Bases to relax the allowed outage times (AOT) and surveillance test intervals (STI) for analog channels shared by the reactor protection system (RPS) and the engineered safety features actuation system (ESFAS).

Date of issuance: January 12, 1993

Effective date: January 12, 1993, to be implemented within 30 days of issuance.

Amendment No.: Amendment No. 13

Facility Operating License No. NPF-87. The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 22, 1992 (57 FR 32577) and November 25, 1992 (57 FR 55594). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 12, 1993.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

Attorney for licensee: George L. Edgar, Esq., Newman and Holtzinger, 1615 L Street, N.W., Suite 1000, Washington, D.C. 20036

NRC Project Director: Suzanne C. Black

Dated at Rockville, Maryland, this Wednesday, January 27, 1993.

For the Nuclear Regulatory Commission

Jack W. Roe,

Director Director of Reactor Projects - III/IV/V Office of Nuclear Reactor Regulation

[Doc. 93–2375 Filed 2–2–93; 8:45 am]

BILLING CODE 7590–01–F

Application for a License To Export a Utilization Facility

Pursuant to 10 CFR 110.70(b) "Public notice of receipt of an application", please take notice that the Nuclear Regulatory Commission has received the following request to amend Export License XR135. A copy of the amendment request is on file in the Nuclear Regulatory Commission's Public Document Room located at 2120 L Street, NW., Washington, DC.

A request for a hearing or petition for leave to intervene may be filed within 30 days after publication of this notice in the **Federal Register**. Any request for hearing or petition for leave to intervene shall be served by the requestor or petition upon the applicant, the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555; the Secretary, U.S. Nuclear Regulatory Commission; and the Executive Secretary, U.S. Department of State, Washington, DC 20520.

In its review of a request to amend a license to export a utilization facility as defined in 10 CFR part 110 and noticed herein, the Commission does not evaluate the health, safety or environmental effects in the recipient nation of the facility to be exported. The information concerning this request to amend follows:

NRC EXPORT LICENSE AMENDMENT

Name of applicant, date of appl., date received, application No.	Description	Value	End use	Country of destination
General Electric, 11/16/92, 12/09/92, XR135/03.	4005 MWt (1356 MWe), Taiwan Power, Nuclear Units, Lungmen 1 and 2.	$4,000,000,000	Amended to increase power from 2894 MWt to 4005 MWt; increase $ value from $900,000,000 to $4,000,000,000; and, change names from Taiwan Power Nuclear Units 7 and 8 to Taiwan Power Nuclear Units Lungmen 1 and 2.	Taiwan.

Dated this 26th day of January 1993 at Rockville, Maryland.

For the Nuclear Regulatory Commission.

Ronald D. Hauber,

Assistant Director for Exports, Security, and Safety Cooperation, Office of International Programs.

[FR Doc. 93–2494 Filed 2–2–93; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–338 and 50–339]

Virginia Electric and Power Co.; Withdrawal of Application for Amendments to Facility Operating Licenses

The United States Nuclear Regulatory Commission (the Commission) has granted the request of Virginia Electric and Power Company (the licensee) to withdraw its January 16, 1990 application, as supplemented March 29, 1990, and December 13, 1990, for proposed amendments to Facility Operating License Nos. NPF–4 and NPF–7 for the North Anna Power Station, Unit Nos. 1 and 2, located in Louisa County, Virginia.

The proposed amendments would have changed the Technical Specifications to allow the use of solid stainless steel or solid Zircaloy-4 filler rods in place of fuel rods that are known to be failed, to remove the rod uranium weight limit of 1780 grams, and to limit the use of filler rods.

The Commission has previously issued a Notice of Consideration of Issuance of Amendments published in the **Federal Register** on February 7, 1990 (55 FR 4286) which was reissued in the **Federal Register** on May 29, 1991 (56 FR 24222). However, by letter dated December 30, 1992, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendments dated January 16, 1990, as supplemented March 29, 1990, and December 13, 1990, and the licensee's letter dated December 30, 1992, which withdrew the application for license amendments. The above documents are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, and the Alderman Library, Special Collections Department, University of Virginia, Charlottesville, Virginia 22903–2498.

Dated at Rockville, Maryland this 28th day of January 1993.

For the Nuclear Regulatory Commission.

Leon B. Engle,

Project Manager, Project Directorate II–2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 93–2492 Filed 2–2–93; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Boston Stock Exchange, Inc.

January 28, 1993.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder for unlisted trading privileges in the following securities:

Centura Banks, Inc.
Common Stock, No Par Value (File No. 7–10081)

Chesapeake Utilities Corp.
Common Stock, $.4847 Par Value (File No. 7–10082)

Hook Superex, Inc.

Common Stock, $.01 Par Value (File No. 7–10083)
First Israel Fund, Inc.
Common Stock, $.01 Par Value (File No. 7–10084)
Integra Financial Corp.
Common Stock, $1.00 Par Value (File No. 7–10085)
North Carolina Natural Gas Corp.
Common Stock, $2.50 Par Value (File No. 7–10086)
Thermo Cardiosystems, Inc.
Common Stock, $.10 Par Value (File No. 7–10087)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before February 19, 1993, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

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

Jonathan G. Katz,

Secretary.

[FR Doc. 93–2463 Filed 2–2–93; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Cincinnati Stock Exchange, Inc.

January 28, 1993.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder for unlisted trading privileges in the following securities:

Sterling Optical Corp.
Common Stock, $1.00 Par Value (File No. 7–10117)
Suave Shoe Corp.
Common Stock, $.01 Par Value (File No. 7–10118)
Sun Distributors LP
Class B Ltd. Int., No Par Value (File No. 7–10119)
Sunshine Mining Co. (Holding Co.)
$11.94 Cum. Red. Pfd., $1.00 Par Value (File No. 7–10120)
Swiss Helvetia Fund, Inc.
Common Stock, $.01 Par Value (File No. 7–10121)
Systems Center, Inc.
Common Stock, $.01 Par Value (File No. 7–10122)
TeleCom Corp.
Common Stock, $1.00 Par Value (File No. 7–10123)
Teppco Partners LP
Units, Common Stock, No Par Value (File No. 7–10124)
Tesoro Petroleum Corp.
$2.16 Cum. Conv. Pfd., $1.00 Par Value (File No. 7–10125)
Texaco, Inc.
Var. Rte. Cum. Pfd. Ser. C, $1.00 Par Value (File No. 7–10126)
Texfi Industries, Inc.
Cum. Pfd. 1987 Ser., $1.00 Par Value (File No. 7–10127)
Texfi Industries, Inc.
Cum. Pfd. 1988 B Ser. $1.00 Par Value (File No. 7–10128)
Textron, Inc.
$2.08 Cum. Conv. Pfd. Ser. A, No Par Value (File No. 7–10129)
Textron, Inc.
$1.40 Conv. Pfd. Div. Ser. B, No Par Value (File No. 7–10130)
Thackeray Corp.
Common Stock, No Par Value (File No. 7–10131)
Thermo Electron Corp.
Common Stock, $1.00 Par Value (File No. 7–10132)
TNP Enterprises, Inc.
Common Stock, No Par Value (File No. 7–10133)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before February 19, 1993, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protections of investors.

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

Jonathan G. Katz,

Secretary.

[FR Doc. 93–2464 Filed 2–2–93; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Midwest Stock Exchange, Inc.

January 28, 1993.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder for unlisted trading privileges in the following securities:

Borg Warner Security Corp.
Common Stock, $.01 Par Value (File No. 7–10103)
Duff & Phelps Utility and Corp. Bond Trust, Inc.
Common Stock, $.01 Par Value (File No. 7–10104)
Genesis Health Ventures, Inc.
Common Stock, $.02 Par Value (File No. 7–10105)
Glamis Gold Ltd.
Common Stock, No Par Value (File No. 7–10106)
Municipal Partners Fund, Inc.
Common Stock, $.001 Par Value (File No. 7–10107)
United American Healthcare Corp.
Common Stock, No Par Value (File No. 7–10108)
Van Kampen Merritt Strategic Sector Municipal Trust
Common, Shares Beneficial Interest, $.01 Par Value (File No. 7–10109)
Williams Coal Seam Gas Royalty Trust
Trust Units, No Par Value (File No. 7–10110)
Integra Financial Corp.
Common Stock, $1.00 Par Value (File No. 7–10111)
American Annuity Group, Inc.
Common Stock, $.01 Par Value (File No. 7–10112)
Hospitality Franchise Systems, Inc.
Common Stock, $.02 Par Value (File No. 7–10113)
Nuveen Insured Florida Premium Income Municipal Fund
Shares Beneficial Interest, $.01 Par Value (File No. 7–10114)
Nuveen Ohio Premium Income Municipal Fund, Inc.
Common Stock, $.01 Par Value (File No. 7–10115)
Nuveen Texas Premium Income Municipal Fund, Inc.
Common Stock, $.01 Par Value (File No. 7–10116)

These securities are listed and registered on one or more other national securities exchange and is reported in

the consolidated transaction reporting system.

Interested persons are invited to submit on or before February 19, 1993, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

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

Jonathan G. Katz,

Secretary.

[FR Doc. 93–2458 Filed 2–2–93; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–31783; File No. SR–NASD–92–58]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Guidelines Regarding Communications with the Public About Collateralized Mortgage Obligations (CMOs)

January 27, 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 December 21, 1992, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The NASD has designated this proposal as one constituting a stated policy, practice or interpretation with respect to the meaning, administration, or enforcement of an existing rule under Section 19(b)(3)(A)(i) of the Act, which renders the rule effective upon the Commission's receipt of this filing. 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 NASD is proposing to adopt Guidelines Regarding Communications with the Public About Collateralized Mortgage Obligations ("Guidelines"). The NASD intends to publish the Guidelines in the NASD Manual following Article III, Section 35 of the Rules of Fair Practice. Below is the text of the proposed rule change. Proposed new language is italicized.

Guidelines Regarding Communications with the Public About Collateralized Mortgage Obligations (CMOs)

1. General Considerations

In order to prevent a communication about CMOs from being false or misleading, there are certain factors to be considered, including, but not limited to, the following.

Product Identification

In order to assure that investors understand exactly what security is being discussed, all communications concerning CMOs should clearly describe the product as a "collateralized mortgage obligation." Member firms should not use proprietary names for CMOs as they do not adequately identify the product.

To prevent confusion and the possibility of misleading the reader, communications should not contain comparisons between CMOs and any other investment vehicle, including Certificates of Deposit.

Safety Claims

A communication should not overstate the relative safety offered by the CMO. Although CMOs generally offer low investment risk, they are subject to market risk like all investment securities and there should be no implication otherwise. Accordingly, references to liquidity should be balanced with disclosure that, upon resale, an investor may receive more or less than his original investment.

Claims About Government Guarantees

Communications should accurately depict the guarantees associated with CMO securities. For example, in most cases it would be misleading to state that CMOs are "government guaranteed" securities. A government agency issue could instead be characterized as government agency backed. Of course, private-issue CMO advertisements should not contain references to guarantees or backing, but may disclose the rating.

If the CMO is offered at a premium, the communication should clearly indicate that the government agency backing applies only to the face value of the CMO, and not to any premium paid. Furthermore, communications should not imply that either the market value or the anticipated yield of the CMO is guaranteed.

Simplicity Claims

CMOs are complex securities and require full, fair and clear disclosure in order to be understood by the investor. A communication should not imply that these are simple securities that may be suitable for any investor seeking high yields. All CMOs do not have the same characteristics and it is misleading to indicate otherwise. Even though two CMOs may have the same underlying collateral, they may differ greatly in their prepayment speed and volatility.

Claims About Predictability

A communication would be misleading if it indicated that the anticipated yield and average life of a CMO were assured. It should disclose that the yield and average life will fluctuate depending on the actual prepayment experience and changes in current interest rates.

2. Print Advertising

Educational advertising, discussing generally the features of CMOs, can be a very useful and informative tool in explaining these securities to the investing public. However, such "generic" advertising should not contain anticipated yield or coupon rates.

Advertising relating to CMOs must be filed with the NASD's Advertising Department for review at least ten days prior to use, pursuant to requirements in Article III, Section 35 of the NASD Rules of Fair Practice and Section 8 of the NASD Government Securities Rules (NASD Rules).

The NASD has developed a standardized CMO yield advertisement that provides information deemed necessary to prevent the communication from being misleading. Members must file the standardized advertisement, ten days prior to its first use, with the NASD Advertising Department.

Members are not required to use the standardized advertisement. If firms do not elect to use the standardized advertisement, they should ensure that their advertising contains the same information and meets the same conditions as the standardized advertisement. Members using a non-standardized format must file the advertisement ten days prior to first use

After an advertisement has been filed prior to initial use, subsequent use of the identical advertisement, changed only to reflect the updated information for the security being advertised, does not require re-filing with the NASD. Such advertisements must be approved by a principal (or designee) and maintained in the member firm's files as required by NASD Rules.

Standardized CMO Advertisement

The standardized advertisement contains four sections, each of which must be given an equal portion of space in the ad. The information in Sections 1 and 2 is required to be included in advertising for CMOs. The information suggested for Section 3 is optional; therefore, the member may elect to include any, all or none of this information in the advertisement. The information in Section 4 may be tailored to the member's preferred signature.

An example of the standardized format may be found at the end of these Guidelines.

Section 1 Title—Collateralized Mortgage Obligations

Coupon Rate
Anticipated Yield/Average Life
Specific Tranche—Number & Class
Final Maturity Date
Underlying Collateral

Section 2 Disclosure Statement:

"The yield and average life shown above consider prepayment assumptions that may or may not be met. Changes in payments may significantly affect yield and average life. Please contact your representative for information on CMOs and how they react to different market conditions."

Section 3 Product Features (Optional):

Minimum Denominations
Rating Disclosure
Agency/Government Backing
Income Payment Structure
Generic Description of Tranche (e.g., PAC, Companion)

Section 4 Company Information:

Name, Address, Telephone Number, Representative's Name, Membership.

If this standardized advertisement is used, the following conditions must also be met:

1. All figures in Section 1 must be in equal type size.

2. The disclosure language in Section 2 may not be altered and must be given equal prominence with Section 1.

3. The prepayment assumption used to determine the advertised yield and average life must either be obtained from a nationally recognized service (e.g., Bloomberg, Telerate) or the member firm must be able to justify the assumption used. A copy of either the service's listing for the CMO or the firm's justification must be attached to the copy of the ad that is maintained in the firm's advertising files in order to verify that the prepayment scenario advertised is reasonable and to satisfy the condictions for waiving the pre-use filing requirement.

4. If a member intends to impose a sales charge, a reasonable sales charge should be reflected in the anticipated yield.

5. The advertisement must include language stating that the security is "offered subject to prior sale and price change." This language may be included in any one of the four sections.

6. If the bond advertised is an accrual bond, the following language should be included in Section 1: "This is an accrual bond and may not currently pay principal and interest."

7. If the bond is being offered at par, the advertisement may include the yield to maturity in Section 1.

No additional information may be included in the standardized advertisement.

3. Radio/Television Advertising

Radio and television advertising alternatives are too varied to attempt to provide standardized formats for either medium. Such advertisements must be filed with the NASD at least ten days prior to first use. The storyboard or other description should accompany the filing of a television ad.

If an advertisement is filed with the NASD prior to its initial use, it is not necessary to subsequently refile the advertisement if the only changes are to update the information relating to the security being advertised. A copy of each advertisement should be approved by a principal (or designee) and should be maintained, along with a copy of the listing for the CMO or the firm's justification, in the member firm's files in accordance with NASD Rules.

The following guidelines should be followed when developing radio and television advertisements:

1. The advertisements must be preceded by the following oral disclaimer: "The following is an advertisement for Collateralized Mortgage Obligations. Contact your representative for information on CMOs and how they react to different market conditions."

2. The advertisements must disclose the information contained in the first section of the prototype print ads: Coupon Rate, Anticipated Yield, Average Life, Final Maturity Date, Initial Issue Tranche (Number and Class) and Underlying Collateral.

3. The advertisements must contain the following oral disclosure statement: "The yield and average life consider prepayment assumptions that may or may not be met. Changes in payments may significantly affect yield and average life."

4. The advertisements must state that the CMO is "offered subject to prior sale and price change."

5. If a member intends to impose a sales charge, a reasonable sales charge should be reflected in the anticipated yield.

6. If the bond advertised is an accrual bond, the following language should be included: "This is an accrual bond and may not currently pay principal and interest."

7. If the bond is being offered at par, the advertisement may include the yield to maturity.

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 NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD 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

As interest rates have come down in recent years, the NASD has observed an increasing emphasis by member firms on sales of investment products that are alternatives to certificates of deposit ("CDs") and government securities for investors seeking to maximize returns while maintaining a high degree of safety. Asset-backed securities, specifically collateralized mortgage obligations ("CMOs"), appear to be one of the leading alternatives being actively promoted. Substantiating this observed trend is the NASD Advertising Department's receipt of an increasing number of advertisements for review relating to CMOs. These advertisements generally emphasize high yields, safety, government guarantees and liquidity allegedly associated with these securities, and frequently compare them with CDs.

Concurrently with the increase in the number of filings related to CMOs, the NASD is receiving increasing numbers of complaints about CMO advertisements. In light of this trend, the NASD is concerned that the sales practice employed by members in retailing CMOs as alternatives to CDs or government securities, imply that CMOs are the equivalent of such instruments in safety and guarantees of interest and principal. The NASD is also concerned about the suitability of CMOs for certain investors, the disclosure of risks and other sales practice abuses.

The NASD is taking a number of steps to address the issues relating to CMOs in addition to the proposed rule change contained herein. In the September 1991 edition of the NASD Regulatory and Compliance Alert the NASD cautioned members about misleading CMO advertising and stated the Association's position on various aspects of such advertising. In Notice to Members 92–27 published in May 1992 the NASD restated its previous pronouncement relating to CMO advertisements, and recommend that members adhere to several enumerated standards and file CMO advertisements with the NASD prior to use. Finally, on October 28, 1992, the SEC approved SR–NASD–92–32 amending the NASD's advertising and government securities rules to require members to file CMO advertisements with the NASD's Advertising Department prior to use.[1]

CMO Advertising Guidelines

The proposed rule change contained herein is complementary to, and completes, the previous actions taken by the NASD with respect to CMOs. The Guidelines set forth extensive and detailed standards for CMO advertisements. They will serve not only to govern advertising communications with potential customers, but will augment the business conduct framework for all communications and sales practices relating to CMOs.

The Guidelines contain General Considerations relating to Product Identification, Safety Claims, Claims About Government Guarantees, Simplicity Claims and Claims About Predictability. The Guidelines also contain standards relating specifically to print advertising, including a standardized CMO advertisement, and standards for radio and television advertising.

For example, under Product Identification the Guidelines warn against CMOs to other products. Under Claims About Government Guarantees the Guidelines emphasize that referring to CMOs as "government guaranteed" is probably misleading, even if the collateral is guaranteed, unless the CMO itself is guaranteed by a government agency. Finally, under Claims About Predictability the Guidelines caution that it is misleading to state that the yield and average life of a CMO are assured.

Among the guiding principals of the Guidelines, and the standards contained in them, are that CMOs are complex investment vehicles and communications must fully and fairly disclose all material aspects of CMOs in order to avoid misleading investors. Further, in the NASD's view all CMOs are not equal, and it is difficult to distinguish between them based on the content of an advertisement. Therefore, communications about CMOs should disclose all information necessary to show the features of the particular CMO being promoted. For example, two CMOs might have the same underlying collateral, yet differ greatly in their likely prepayment rates—the so-called "prepayment assumptions." Further, the advertisement of a CMO yield alone could be misleading without extensive disclosure, such as illustrations showing that yield predictions vary greatly if differing prepayment assumptions, average life and maturities are used. Finally, terms such as "interest only" or "principal only" CMOs are usually not adequately explained in advertisements and should be avoided unless adequate discussion and disclosure is included.

Standardized CMO Advertisement

The Guidelines also provide a standardized CMO advertisement for print advertising that permits members to advertise CMO yields and sets forth the information the NASD deems necessary to prevent the communication from being misleading. Members are not required to use the standardized advertisement, however, members using a non-standardized format should provide the same information and comply with the same conditions as the standardized advertisement.

Among the features of the standardized advertisement are: (1) Standard (essential) information (coupon rate, anticipated yield/average life, specific tranche, final maturity date and underlying collateral); (2) a disclosure statement indicating that the yield and average life are based on certain prepayment assumptions that may not be realized; (3) optional product features; and (4) broker/dealer information. The Guidelines require that the information in items 1 and 2 appear in all CMO advertising, while item 3 is optional and item 4 may be tailored to the member's preference.

Among the most important of the Guidelines for print advertisements, whether a member uses the standardized advertisement or its own, are the standards relating to statements of the yield and average life. They require that they be based on consensus prepayment assumptions from a nationally recognized service such as Bloomberg or the member must be able to justify the assumption used. This standard is designed to prevent advertisements which mislead investors by relying on unrealistic or excessively optimistic yield and average life projections. Finally the Guidelines also require the disclosure of the specific tranche in order to permit investors to evaluate the quality and characteristics of the security and underlying collateral, which are unique to each CMO.

Radio/Television Advertising

Finally, the Guidelines set forth standards for radio and television advertising. Because radio and television advertising is subject to much more variability than print advertising, the NASD has not attempted to develop a standardized format. Instead, the Guidelines require that all radio and television advertising contain certain statements or information, including: (1) An oral notice recommending that interested individuals contact their representative for information on CMOs and how they react to certain market conditions; (2) an oral notice regarding prepayment assumptions identical to that required for print advertisements; and, (3) standard information on the CMO being advertised (coupon rate, anticipated yield, average life, final maturity date, specific tranche, underlying collateral and, it applicable, accrual bond disclosure).

The NASD believes that the proposed rule change is consistent with the provisions of section 15A(b)(6) of the Act[2] in that the Guidelines will work to protect investors and the public interest by preventing the use of misleading advertising to promote CMOs and by

[1] Securities Exchange Act Release No. 31369 (October 28, 1992), 57 FR 49732 (November 3, 1992). The requirement was approved on a one year, temporary basis. Prior to the end of the first year, the Association has represented that it will evaluate the efficacy of the rule and determine whether to extend the rule, propose alternative requirements, or eliminate the rule. Regardless of whether or not the Association maintains the pre-filing requirement for CMO advertising, the Guidelines for CMO advertising are intended to be permanent.

[2] 15 U.S.C. 78o–3.

establishing a baseline of standards to guide sales practices relating to CMOs.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

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

The foregoing rule change has become effective as of December 21, 1992 pursuant to section 19(b)(3)(A)(i) of the Act and subparagraph (e) of Rule 19b–4 thereunder in that it constitutes a stated policy, practice or interpretation with respect to the meaning, administration, or enforcement of an existing rule.

At any time within 60 days of the filing of a rule change pursuant to section 19(b)(3)(A) of the Act, the Commission may summarily abrogate the rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by February 24, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–2524 Filed 2–2–93; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–31778; File No. SR–NASD–92–36]

Self-Regulatory Organizations; Filing of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Record-Keeping and Other Requirements for Members with respect to Cash and Non-Cash Compensation for the Sale of Investment Company Shares and Variable Contracts

January 27, 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 August 20, 1992,[1] the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items, I, II, and III below, which Items have been prepared by the NASD. 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 NASD is filing a proposed rule change to Article III, Sections 26 and 29 of the Rules of Fair Practice. Below is the text of the proposed rule change. Proposed new language is italicized; proposed deletions are in brackets.

ARTICLE III

Investment Companies

Section 26

(a) Unchanged.

Definitions

(b)(1)–(6) Unchanged.

[(7) "Associated person of an underwriter," as used in subsection (1) of this section, shall include an issuer for which an underwriter is the sponsor or a principal underwriter, any investment adviser to such issuer, or any affiliated person (as defined in section 2(a)(3) of the Investment Company Act of 1940) of such underwriter, issuer, or investment adviser.]

(7) The terms "offeror", "cash compensation" and "non-cash compensation" as used in subsection (1) of this section shall have the following meanings:

"Offeror" shall mean an investment company, an adviser to an investment company, an underwriter and any affiliated person (as defined in Section 2(a)(3) of the Investment Company Act of 1940) of such entities.

"Cash compensation" shall mean compensation received in connection with the sale and distribution of investment company securities in cash, by check and by electronic means, and shall include loans and overrides.

"Non-cash compensation" shall mean any form of compensation received in connection with the sale and distribution of investment company securities that is not cash compensation, including but not limited to merchandise, gifts and prizes, and payment of travel expenses, meals and lodging.

(c)–(k) Unchanged.

[Dealer concessions]

[(l)(1) No underwriter or associated person of an underwriter shall offer, pay or arrange for the offer or payment to any other member in connection with retail sales or distribution of investment company securities, any discount, concession, fee or commission (hereinafter referred to as "concession") which:]

[(A) is in the form of securities of any kind, including stock, warrants or options;]

[(B) is in a form other than cash (e.g., merchandise or trips), unless the member earning the concession may elect to receive cash at the equivalent of no less than the underwriter's cost of providing the non-cash concession; or]

[(C) is not disclosed in the prospectus of the investment company. If the concessions are not uniformly paid to all dealers purchasing the same dollar amounts of securities from the underwriter, the disclosure shall include a description of the circumstances of any general variations from the standard schedule of concessions. If special compensation arrangements have been made with individual dealers, which arrangements are not generally available to all dealers, the details of the arrangements, and the identities of the dealers, shall also be disclosed.]

[(2) No underwriter or associated person of an underwriter shall offer or pay any concession to an associated person of another member, but shall

[1] The NASD filed Amendment No. 1 to the filing on January 13, 1993, which amended the proposed definitions for cash and non-cash compensation. The terms, as amended, are provided herein.

make such payment only to the member.]

[(3)(A) In connection with retail sales or distribution of investment company shares, no underwriter or associated person of an underwriter shall offer or pay to any member or associated person, anything of material value, and no member or associated person shall solicit or accept anything of material value, in addition to the concessions disclosed in the prospectus.]

[(B) For purposes of this paragraph (1)(3), items of material value shall include but not be limited to:]

[(i) gifts amounting in value to more than $50 per person per year.]

[(ii) gifts or payments of any kind which are conditioned on the sale of investment company securities.]

[(iii) loans made or guaranteed to a non-controlled member or person associated with a member.]

[(iv) wholesale overrides (commissions) granted to a member on its own retail sales unless the arrangement, as well as the identity of the member, is set forth in the prospectus of the investment company.]

[(v) payment or reimbursement of travel expenses, including overnight lodging, in excess of $50 per person per year unless such payment or reimbursement is in connection with a business meeting, conference or seminar held by an underwriter for informational purposes relative to the fund or funds of its sponsorship and is not conditioned on sales of shares of an investment company. A meeting, conference or seminar shall not be deemed to be of a business nature unless: the person to whom payment or reimbursement is made is personally present at, or is en route to or from, such meeting in each of the days for which payment or reimbursement is made; the person on whose behalf payment or reimbursement is made is engaged in the securities business; and the location and facilities provided are appropriate to the purpose, which would ordinarily mean the sponsor's office.]

[(C) For purposes of this paragraph (1)(3), items of material value shall not include:]

[(i) an occasional dinner, a ticket to a sporting event or the theater, or comparable entertainment of one or more registered representatives which is not conditioned on sales of shares of an investment company and is neither so frequent nor so extensive as to raise any question of propriety.]

[(ii) a breakfast, luncheon, dinner, reception or cocktail party given for a group of registered representatives in conjunction with a bona fide business or sales meeting, whether at the headquarters of a fund or its underwriter or in some other city.]

[(iii) an unconditional gift of a typical item of reminder advertising such as a ballpoint pen with the name of the advertiser inscribed, a calendar pad, or other gifts amounting in value to not more than $50 per person per year.]

[(4) The provisions of this subsection (1) shall not apply to:]

[(A) Contracts between principal underwriters of the same security.]

[(B) Contracts between the principal underwriter of a security and the sponsor of a unit investment trust which utilizes such security as its underlying investment.]

[(C) Compensation arrangements of an underwriter or sponsor with its own sales personnel.]

Member Compensation

(1) In connection with the sale and distribution of investment company securities:

(1) Except for gifts as described in paragraph (1)(5)(a), a member shall maintain records of all compensation, cash and non-cash, received from offerors and the distribution by the member of any such compensation to its associated persons. The records shall include the names of the offerors, the names of the associated persons and the amount and nature of the compensation received and distributed.

(2) Except as described in paragraph (5), no associated person of a member shall accept any compensation, cash or non-cash, from anyone other than the member with which the person is associated.

(3) No member or person associated with a member shall accept any compensation from an offeror which is in the form of securities of any kind.

(4) Except as described in paragraph (5), no member shall accept any compensation, cash or non-cash, from an offeror unless such is described in the current prospectus of the investment company. When special compensation arrangements are offered by an offeror to a member, which arrangements are not made available on the same terms to all members who distribute the investment company securities of the offeror, a member shall not enter into such arrangements unless the name of the member and the details of the arrangements are disclosed in the prospectus.

(5) Notwithstanding the provisions of subsections (2) and (4) of this section, the following items of compensation may be accepted and are not required to be disclosed in a prospectus provided that they are not conditioned on sales or the promise of sales:

(a) Gifts by an offeror to associated persons of members, with the approval of the member, that do not exceed an annual amount per person fixed periodically by the Board of Governors.[1]

(b) Payment or reimbursement by offerors to members in connection with training or educational meetings where the location is appropriate to the purpose of the meeting. A location appropriate to the purpose of a meeting shall mean an office of the offeror or the member or a facility located in the vicinity of such an office.

(6) The provisions of this Section (1) shall not apply to:

(a) Compensation arrangements between principal underwriters of the same security.

(b) Compensation arrangements between the principal underwriter of a security and the sponsor of a unit investment trust which utilizes such security as its underlying investment.

(c) Compensation arrangements between a member and its own associated persons.

(d) Compensation arrangements between a non-member company and its sales personnel who are registered representatives of an NASD member which, directly or indirectly controls, is controlled by, or is under common control with that non-member company.

* * * * *

Variable Contracts of an Insurance Company

Section 29

(a) Unchanged.

Definitions

(b)(1)–(2) Unchanged.

(3) The terms "offeror," "cash compensation" and "non-cash compensation" as used in subsection (h) of this Section shall have the following meanings:

"Offeror" shall mean a separate account of an insurance company, an adviser to a separate account of an insurance company, an underwriter and any affiliated person (as defined in Section 2(a)(3) of the Investment Company Act of 1940) of such entities.

"Cash compensation" shall mean compensation received in connection with the sale and distribution of variable contracts in cash, by check and by electronic means and shall include loans and overrides.

"Non-cash compensation" shall mean any form of compensation received in connection with the sale and distribution of variable contracts that is not cash compensation, including but

[1] The current annual amount fixed by the Board of Governors is $100.

not limited to merchandise, gifts and prizes, and payment of travel expenses, meals and lodging.

(c)–(g) Unchanged.

Member Compensation

(h) In connection with the sale and distribution of variable contracts:

(1) Except for gifts as described in paragraph (h)(5)(a), a member shall maintain records of all compensation, cash and non-cash, received from offerors and the distribution by the member of any such compensation to its associated persons. The records shall include the names of the offerors, the names of the associated persons and the amount and nature of the compensation received and distributed.

(2) Except as described in paragraph (5), no associated person of a member shall accept any compensation, cash or non-cash, from anyone other than the member with which the person is associated. This requirement will not prohibit arrangements, agreed to by a member, where an insurance company maintains a commission account as a ministerial service for a member and, on behalf of the member, pays commission checks from such an account directly to associated persons of the member.

(3) No member or person associated with a member shall accept any compensation from an offeror which is in the form of securities of any kind.

(4) Except as described in paragraph (5), no member shall accept any compensation, cash or non-cash, from an offeror unless such is described in the current prospectus of the variable contract. When special compensation arrangements are offered by an offeror to a member, which arrangements are not made available on the same terms to all members who distribute the variable contracts of the offeror, a member shall not enter into such arrangements unless the name of the member and the details of the arrangements are disclosed in the prospectus.

(5) Notwithstanding the provisions of subsections (2) and (4) of this section, the following items of compensation may be accepted and are not required to be disclosed in a prospectus provided that they are not conditioned on sales or the promise of sales:

(a) Gifts by an offeror to associated persons of members, with the approval of the member, that do not exceed an annual amount per person fixed periodically by the Board of Governors.[1]

(b) Payment or reimbursement by offerors to members in connection with training or educational meetings where the location is appropriate to the purpose of the meeting. A location appropriate to the purpose of a meeting shall mean an office of the offeror or the member or a facility located in the vicinity of such office.

(6) The provisions of this Section (h) shall not apply to:

(a) Compensation arrangements between principal underwriters of the same security.

(b) Compensation arrangements between the principal underwriter of a security and the sponsor of a unit investment trust which utilizes such security as its underlying investment.

(c) Compensation arrangements between a member and its own associated persons.

(d) Compensation arrangements between a non-member company and its sales personnel who are registered representatives of an NASD member which, directly or indirectly controls, is controlled by, or is under common control with that non-member company.

[1] The current annual amount fixed by the Board of Governors is $100.

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 NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD 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 NASD is proposing to amend Sections 26 and 29 to Article III of the Rules of Fair Practice in order to revise and simplify the existing rules to reflect current practices within the industry, and to adopt a record-keeping requirement for members with respect to cash and non-cash compensation paid to members by offerors for the sale of investment company shares and variable contracts.

Description of Proposed Rule Change

Article III. Section 26—Investment Companies

Subsection (b)(7)—The definition of the term "associated person of an underwriter" is proposed to be deleted from Subsection (b)(7). This term was in language proposed to be deleted from Section 26 and is not used in the proposed rule change to Subsection (1). Instead, the term "person associated with a member" or "associated person of a member" is used to reference persons registered with an NASD member firm. These terms are defined in Article I, Section (m) to the NASD By-Laws. The NASD is proposing to adopt as new Subsection (b)(7) to Section 26 definitions of the terms "offeror," "cash compensation," and "non-cash compensation." All the persons and entities who are likely to pay sales compensation to members in connection with the sale of mutual fund shares are defined collectively as an "offeror." Payments of sales compensation to a member or an associated person of a member by an offeror in connection with the sale of mutual fund shares would be subject to the restrictions on cash and non-cash compensation set forth in the proposed rule change. The term "offeror" is proposed to include an investment company, an adviser to an investment company, an underwriter and any affiliated person of such entities. The term "affiliated person" is proposed to be defined in accordance with section 2(a)(3) of the Investment Company Act of 1940 ("1940 Act").[1] The categories of entities included in the proposed definition of "offeror" are currently contained in the definition of "associated person of an underwriter", which is proposed to be deleted.

The terms "cash compensation" and "non-cash compensation" are proposed to be defined in Subsection (b)(7) to distinguish between the two forms of compensation as they are proposed to be subject to different restrictions under the proposed rule change. "Cash compensation" is proposed to be defined to include payments received by a member in cash, by check and by electronic means and shall include loans and wholesale overrides.

"Non-cash compensation" is proposed to be defined to include any payment received by a member which is

[1] Under section 2(a)(3) of the 1940 Act, an "affiliated person" means:

(A) any person directly or indirectly owning, controlling, or holding with power to vote, 5 per centum or more of the outstanding voting securities of such other person; (B) any person 5 per centum or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by such other person; (C) any person directly or indirectly controlling, controlled by, or under common control with such other person; (D) any officer, director, partner, co-partner, or employee of such other person; (E) if such other person is an investment company, any investment adviser thereof or any member of an advisory board thereof; and (F) if such other person is an unincorporated investment company not having a board of directors, the depositor thereof.

not cash compensation. Examples of non-cash compensation items that are often used in the industry are included in the definition, i.e., merchandise, gifts and prizes, and payment of travel expenses, meals and lodging. Thus, the definition of "non-cash compensation" encompasses payments of cash to reimburse costs incurred by a member or person associated with a member in connection with travel, meals and lodging.

Subsection (1)—Current Subsection (1) governs concessions paid by underwriters to dealers for the retail sale of mutual fund securities. The rule was adopted prior to the advent of asset-based and deferred sales charges and only regulates the reallowance to a dealer by an underwriter of part of the front-end sales charge or "concession." Payments to dealers, however, may emanate from front-end, deferred and/or asset-based sales charges and may be paid by underwriters and/or investment companies.

Therefore, the NASD is proposing to replace current subsection (1) in its entirety with new provisions that provide a regulatory structure for the member's receipt of any kind of compensation from an offeror in connection with the sale of mutual fund shares.

Title—The current title to the Subsection of "dealer concession" is no longer appropriate and is proposed to be replaced by the term "Member Compensation." The term "compensation" is intended to encompass every kind of payment received by a member for retailing investment company securities, regardless of the source of the payment or the payor.

Subsection (l)(1)—The NASD is proposing a new requirement that members maintain records of the receipt and distribution of all compensation, cash and non-cash, from offerors and the distribution by the member of such compensation to its associated persons. The NASD expects that this requirement will enhance a member's ability to control the flow of non-cash sales incentives from offerors to registered representatives.

The current language of Subsection (l)(1)(A), which prohibits compensation in the form of securities, has been incorporated into proposed new Subsection (l)(3).

The current language of Section (l)(1)(B), which provides that a member may elect to receive cash in lieu of non-cash compensation, is proposed to be deleted. The NASD believes that the currently available option to receive cash is rarely used.

The current language of Subsection (l)(1)(C) requires that concessions be disclosed in the prospectus, but does not require that members maintain records of such concessions. This current requirement has been incorporated into proposed new Subsection (l)(4).

Subsection (l)(2)—In order to ensure that members retain control over the payment of compensation in connection with the sale of mutual fund shares, the NASD is proposing a new requirement that would prohibit a person associated with a member from accepting any compensation from any person other than the member with which the person is associated. This limitation is particularly necessary since it is not unusual for non-cash compensation payments to be made by entities that are not NASD members, e.g., mutual funds. In situations where compensation is in the form of merchandise, meals and lodging, travel vouchers, or tickets, compliance with the proposed rule change requires that the offer be directed to the member, that the member decide whether to accept or reject the offer, and that the member record any such non-cash compensation received by its registered representatives.

The current language of Subsection (l)(2) prohibits an underwriter or its associated persons from paying a concession directly to an associated person of another member and requires that any payment be made to a member for distribution to its representatives. The NASD believes that the proposed new provision more appropriately controls the flow of compensation in connection with the sale of mutual fund shares by ensuring that associated persons only receive compensation from their member-employer.

Subsection (l)(3)—The NASD is proposing to adopt in Subsection (l)(3) the prohibition currently in Subsection (l)(1)(A) on members and persons associated with members from receiving compensation in the form of securities of any kind.

Subsection (l)(4)—The NASD is proposing to adopt in Subsection (l)(4) a requirement prohibiting compensation unless disclosed in the prospectus that is contained in the existing rule at Subsection (l)(1)(C).

Subsection (l)(5)—Current Subsection (l)(3)(C) sets forth the items of "material value" that are not subject to the limitation on payment or the requirement to be disclosed in the prospectus. The NASD is proposing to replace this provision with new requirements in proposed Subsection (l)(5). Proposed Subsection (l)(5) provides that, so long as such compensation is approved by the member and not conditioned on sales or the promise thereof, the following items are excepted: (1) Gifts that do not exceed an annual amount per person fixed periodically by the Board of Governors pursuant to a footnote to the provision, proposed to be $100 per person; and (2) payments to members to defray the cost of educational and training meetings held at an appropriate business location. Moreover, pursuant to proposed Subsection (l)(1), the gift provision also provides an exception to the record-keeping requirements. The cost of educational and training meetings, however, would continue to be compensation and would be subject to the record-keeping requirement proposed in Subsection (l)(1).

Subsection (l)(6)—This subsection of the proposed rule change sets out arrangements that are not subject to the prohibitions of Section (l). Subsections (l)(6) (a), (b) and (c) reiterate the paragraphs (A), (B), and (C) of current subsection (l)(4) with minor language changes for clarification.

The NASD is also proposing to adopt a new exception provision in proposed paragraph (d) which would except from the prohibitions of Section (l) compensation arrangements between a non-member company and its sales personnel who are registered representatives of an NASD member which directly or indirectly controls, is controlled by, or is under common control with the non-member company. The purpose of this provision is to permit a mutual fund to provide underwriting compensation in the form of cash or non-cash items to the employees of an NASD member firm that is in a control relationship with the mutual fund. The NASD believes that the rationale that underlies the exception retained in Subsection 1(6)(c) for compensation arrangements between a member and its own associated persons is equally applicable in the context of compensation arrangements between a non-member company and the employees of the company's affiliated member firm. In both cases, the compensation arrangement is internal to the employer-employee relationship and, therefore, would not raise the supervisory concerns that are present in the compensation arrangements between a non-member and the unaffiliated broker/dealers selling its product. Moreover, it has not been the NASD's practice to regulate the internal compensation arrangements between a member and its associated persons.

Provision To Be Deleted—The proposed amendments omit current Subsection (i)(B) that permits a member to accept cash in lieu of a non-cash compensation item because the proposed rule change provides greater controls than the current rule over the manner in which cash and non-cash compensation are received by a member and person associated with the member.

Article III, Section 29—Variable Contracts

Currently, Section 29 which is applicable to the sale of variable contract insurance products does not contain a section dealing with cash and non-cash compensation. In proposing similar rule amendments be added to Section 29, the language has been changed from that proposed in Section 26 where necessary to accommodate procedures and language used in the variable contracts industry.

Subsection (b)(3)—Subsection (b)(3) is proposed to be adopted to define "offeror," "cash compensation," and "non-cash compensation" in the same manner as proposed to be defined in paragraph (b)(7) of Section 26.

Subsection (h)—New Subsection (h) is proposed to be created to provide guidelines for the payment of cash and non-cash compensation in connection with the sale of variable contracts. Provisions are substantially similar to those contained in the proposed subsections of Section 26(l). With respect to proposed Subsection 29(h)(2), the second sentence does not appear in the comparable provision in Section 26. The second sentence clarifies that the prohibition on receipt of compensation by an associated person from any person other than the member with which the person is associated does not prohibit arrangements, agreed to by a member, where an insurance company maintains a commission account as a ministerial service for a member and pays commission checks from the account directly to associated persons of the member. This exception is intended to recognize current practice in the insurance industry.

The NASD believes that the proposed rule change is consistent with the provisions of section 15A(b)(6) of the Act, which require that the Association adopt and amend its rules to promote just and equitable principles of trade, foster cooperation and coordination with regulators, and generally provide for the protection of the investors and the public interest inasmuch as the proposed rule change is designed to uniformly regulate the cash and non-cash compensation paid to members and persons associated with members in connection with the sales of investment company securities and variable contracts.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD received 22 comments in response to Notice to Members 91–25 (May 1991) requesting comment on the proposed rule change. A copy of the Notice is attached as Exhibit 2 to the rule filing. Copies of the comment letters received in response thereto are attached as Exhibit 3 to the rule filing and are more fully discussed under Section C of this Notice. Set forth below are the comments that raised competitive issues.

Inter-Industry Competition

Four commentors of the 22 comments received in response to Notice to Members 91–25 (May 1991) asserted that the proposed rules do not treat the various securities product market segments even-handedly. (See Comments 2, 3, 19, and 22 to the rule filing.) Two of the commentors argued that allowing non-cash compensation to be paid to representatives selling investment company shares and variable contracts gave an unfair advantage to those products over direct participation programs ("DPPs"), real estate investment trusts ("REITs"), and corporate offerings. (See Comments 2 and 19 to the rule filing.)

The proposed rule change is the latest in a series of NASD proposals and rule changes designed to control the use of non-cash compensation in connection with a public offering of securities. Previous rule filings amending the NASD's rules include SR–NASD–84–2[2] SR–NASD–86–22,[3] which established restrictions on non-cash compensation in connection with transaction in DPP units, and SR–NASD–88–13,[4] which established restrictions on non-cash compensation in connection with REITs, and corporate debt and equity offerings. The rule changes resulted from the NASD's belief that the practices that were present in connection with the sale of DPPs resulted in members experiencing problems in supervising their associated persons when sponsors of the DPPs provided non-cash sales incentives, such as merchandise and trips to exotic locations, directly to the associated persons. The earlier rule adopted by the NASD in SR–NASD–84–2, which required that all compensation be controlled by the member, was found to be inadequate in controlling the relationship of sponsors and associated persons. It was necessary, therefore, to adopt in SR–NASD–86–22 a prohibition on members and associated persons from accepting any non-cash sales incentive, except in connection with a member's in-house sales incentive program.

In the SEC release publishing SR–NASD–86–22 for comment,[5] the NASD addressed comments received with respect to the proposed rule change to amend Appendix F, to Article III, Section 34 of the Rules of Fair Practice ("Appendix F") that urged that if non-cash incentives were inappropriate in connection with the sale of DPPs, they are also inappropriate in connection with the sale of mutual fund and insurance products. In response to these comments, the Board of Governors referred the issue on whether the

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[2] SR–NASD–84–2 amended Subsections 5(e) and 5(f) of Appendix F to require that all sales incentives and bonuses be paid directly by a sponsor, affiliate of a sponsor or program to a member and that such incentives be paid only in the form of cash, that such incentives be disclosed in the offering document, and that the distribution, if any, of such incentives or bonuses to associated persons be controlled solely by the member. This rule change was approved by the SEC in Securities Exchange Act Release No. 20844 (April 11, 1984), 49 FR 15041 (April 16, 1984).

[3] This rule change amended Subsections 5(e) and 5(f) of Appendix F to prohibit a member and persons associated with a member (other than a member dealing with persons associated with that member) from directly or indirectly accepting non-cash sales incentive items with a value in excess of $50, including but not limited to travel bonuses, prizes and awards. The rule change permitted a member to provide non-cash sales incentive items to its associated persons in connection with an in-house sales incentive program, provided that no sponsor "directly or indirectly participates in or contributes to providing such non-cash sales incentive items." Approved in Securities Exchange Act Release No. 26185 (October 14, 1988), 53 FR 41262 (October 20, 1988). This rule change was approved concurrently with SR–NASD–88–13 which amended the Interpretation of the Board of Governors—Review of Corporate Financing, Article III, Section 1 of the Rules of Fair Practice. See *infra* note 4.

[4] This rule change amended the Interpretation of the Board of Governors—Review of Corporate Financing, Article III, Section 1 of the Rules of Fair Practice ("Interpretation") to prohibit members and associated persons from accepting non-cash sales incentives in excess of $50 per person per issuer annually in connection with distributions of public offerings. With respect to members' in-house sales incentive programs, a member is permitted to provide non-cash sales incentive items to associated persons provided that no issuer, affiliate of an issuer (including an affiliate of the member) directly or indirectly participates in or contributes to providing such non-cash sales incentives. The SEC approved this rule change in Securities Exchange Act Release No. 26186 (October 14, 1988), 53 FR 41265 (October 20, 1988). Comparable language was recently adopted in Subsection (c)(6)(xi) to the Corporate Financing Rule, Article III, Section 44 of the Rules of Fair Practice ("Rule") which replaced the Interpretation in its entirely. See SR–NASD–91–19 approved by the SEC in Securities Exchange Act Release No. 30587 (April 15, 1992), 57 FR 14597 (April 21, 1992).

[5] Securities Exchange Act Release No. 23527 (August 13, 1986), 51 FR 29729 (August 20, 1986).

prohibition on non-cash sales incentives should be extended to other areas to the appropriate NASD Committees. The Corporate Financing Committee determined to amend the Interpretation of the Board of Governors—Review of Corporate Financing, Article III, Section 1 of the Rules of Fair Practice[6] with respect to the sale of REITs and debt and equity corporate securities. The Corporate Financing Committee found that non-cash sales incentives offered in connection with REITS were substantially similar to those offered in connection with DPPs.

The NASD subsequently distributed for member comment a proposed amendment to Article III, Sections 26 and 29 of the Rules of Fair Practice in Notice to Members 88–17 (March 1, 1988) to prohibit members and their associated persons from accepting non-cash sales incentives offered by underwriters, investment companies, advisers to investment companies, or their affiliates in connection with sales of investment company and variable contract products.[7] The Investment Companies Committee and the Variable Contracts Committee concluded, as a result of their review of the comments, that a complete prohibition of non-cash sales incentives was unnecessary because the problems experienced by members in supervising their associated persons in connection with the sale of direct participation programs are not present in the sale of mutual fund securities and insurance products. As a result of the comments received in response to Notice to Members 88–17, the Investment Companies and Variable Contracts Committees issued another proposal in Notice to Members 89–51 (July 1989) to amend Article III, Section 26 of the Rules of Fair Practice to impose a record-keeping requirement with respect to the receipt of non-cash sales incentives for the retail sale of investment company securities and require that underwriters pay any cash or non-cash concession to members and not directly to associated persons of members. As set forth in Notice to Members 91–25 (May 1991), attached as Exhibit 2 to the rule filing, the NASD received six comment letters in response to Notice to Members 89–51 (July 1989). As a result of further consideration, the NASD Board of Governors determined not to prohibit non-cash sales incentives in connection with the sale of mutual fund and variable contract products on the recommendation of the Investment Companies and Variable Contracts Committees that the problems present with respect to the payment of non-cash sales incentives in connection with DPPs are not applicable to sales of mutual fund and variable contract securities.[8] Notice to Members 91–25 (May 1991) published for comment provisions similar to those published in Notice to Members 89–51 (July 1989), but added similar requirements to Article III, Section 29 of the Rules of Fair Practice (Variable Contracts Rule) that had been proposed in connection with Article III, Section 26 of the Rules of Fair Practice (Investment Company Rule).

Based on the foregoing, the Board of Governors has considered the applicability to mutual fund and variable contract securities of the type of across-the-board prohibition on the receipt of non-cash sales incentives that was adopted with respect to DPPs, REITs and debt and equity corporate securities since 1986. The Board has found that the type of supervisory problems associated with sponsors of DPPs providing non-cash incentives to associated persons of member firms is not present in connection with the sale of mutual fund and variable contracts products. In this connection, the requests for comment on the proposals related to mutual fund/variable contracts products have not resulted in comments from members that they are experiencing supervisory problems due to the payment of non-cash incentives similar to the comments that were received in connection with the rule change filed in SR–NASD–86–22. To the contrary, the mutual fund/variable contracts industries have long maintained that non-cash sales incentives have been paid in connection with sales without causing any supervisory problem for the member firm.[9] The Board has determined that functional regulation of the receipt of non-cash sales incentives is appropriate, i.e., that non-cash sales incentives should be regulated in a manner that is appropriate to the characteristics of each product. In the case of mutual funds and insurance products, the NASD believes that prospectus disclosure and recordkeeping requirements will permit the NASD to identify potential abuses in the examination process and will ensure that investors are aware of all distribution compensation, thereby providing regulation appropriate to the manner in which such products are sold, in addition to ensuring that members maintain supervisory control over the receipt of compensation by their associated persons.[10]

Therefore, the NASD believes that the proposed rule change does not result in an impact on the competition between sales of mutual fund/variable contract products and the sale of DPPs, REITs, and debt and equity corporate securities that is not necessary or appropriate in furtherance of the purposes of the Act.

Competition Between Entities With In-House Broker/Dealers and Entities With Affiliated Broker/Dealer Entities

Two commentors on the proposed exception for payments to in-house members stated that the proposed rule change would give an unfair advantage to insurance companies and mutual funds that are registered as broker/dealers and market their own products rather than market their products

[6] See *supra* note 3.

[7] See Securities Exchange Act Release No. 26185 (October 14, 1988), 53 FR 41262 (October 20, 1988), footnote at 41265.

[8] See comment letter of the American Council of Life Insurance Companies (Comment Letter No. 2) which sets forth at page 13 *et seq* an argument distinguishing the sales practices of the insurance industry in comparison to those of the DPP industry.

[9] The different experience of members related to supervisory control may be because associated persons of members that sell DPP products will generally only sell DPP products (i.e., securities products), while associated persons that sell mutual fund or insurance company products will generally sell both non-securities and securities products. Thus, one of the differences associated with regulating securities-related compensation of associated persons that sell mutual funds or insurance products is that their compensation will also cover sales of non-securities products which are not subject to NASD jurisdiction. See supra note 8.

[10] The NASD also filed a letter submitted with the Commission providing further explanation of the NASD's rationale for regulating the receipt of non-cash compensation by broker/dealers in connection with the sale of mutual fund/variable contract products in a different manner from that of DPP products and REITs. See letter to Selwyn Notelovitz, Branch Chief, Over-the-Counter Regulation, Division of Market Regulation from Suzanne Rothwell, Associate General Counsel, NASD, dated November 25, 1992.

The letter apprised the Commission that in connection with DPPs, the NASD received complaints from members regarding the receipt of non-cash sales incentives, some of which asked for regulation of the receipt of non-cash sales incentives, some of which asked for regulation of the receipt of non-cash sales incentives in the form of a total prohibition. By contrast, the NASD did not receive similar complaints with respect to mutual fund/variable contract sales. This letter also reiterated the NASD's position that there has not been any indication of a supervisory problem regarding the receipt of non-cash incentives by associated persons selling mutual funds/variable contracts.

Finally, the letter of November 25, 1992, informed the Commission that there were industry differences that led to the NASD's conclusion that a total prohibition of non-cash sales incentives was not necessary in connection with the sale of mutual fund/variable contract products. For example, mutual fund/variable contract industries tend to be integrated, and because most of the sales are generated by non-securities products, the NASD believes it would be difficult to separately regulate the security product sales.

through wholly-owned subsidiaries. (See Comments 16 and 22 to the rule filing.) Seven commentors argued that compensation received from an affiliated or commonly controlled source should be treated the same as compensation from the employing member. (See Comments 1, 3, 13, 15, 16, 18, and 20 to the rule filing.) The NASD agrees and has added Subsections 26(1)(6)(d) and 29(h)(6)(d) to this proposal to provide for compensation arrangements between a non-member company and its sales personnel who are registered representatives of an NASD member, where the member controls, is controlled by, or is under common control with the non-member.

Competition Between Entities With In-House/Affiliated Broker/Dealers and Entities Without an In-House/Affiliated Broker/Dealer

One commentor argued that the proposed rule change provides an unfair advantage to mutual funds that are sold through an in-house sales force as compared to independently distributed funds. (See Comment 22 to the rule filing.) It was stated that it is the practice for broker/dealer firms to pay their sales representatives a higher commission for the sale of a proprietary mutual fund than they pay with respect to sales of an independently distributed fund. This practice, it was argued, creates an incentive for the sales representative to sell a proprietary fund regardless of the relative merit of the fund vis-a-vis an independent fund. The commentor requested that any special compensation to be paid to the sales force for the sale of a proprietary product be disclosed to investors.

The NASD believes that the proposed rule change will not place mutual funds without an in-house or affiliated broker/dealer ("independent mutual funds") at a competitive disadvantage that is greater than they already experience vis-a-vis mutual funds with an in-house or affiliated broker/dealer ("integrated mutual funds"). All mutual funds (and insurance companies) are equally in a position to determine whether to integrate their sales effort by establishing a broker/dealer for the sales of their product. The NASD believes that where an integrated mutual fund sells a proprietary product, such mutual fund is naturally in a position, through its cash compensation structure and employer/employee relationship, to encourage the sales of its proprietary product by its in-house or affiliated broker/dealer sales force. To expect otherwise is unrealistic. Moreover, where a broker/dealer is in a position to sell the mutual fund products of a mutual fund other than that with which it is affiliated, it is likely that non-cash compensation will be compensation that will be based on total sales of securities products of all issuers and on sales of non-securities products, not just sales of the affiliate's securities. (See Comment 13 to the rule filing.) Finally, the exception for compensation arrangements of integrated mutual funds is consistent with the NASD's long-term policy to not regulate the internal compensation arrangements between associated persons and their employer.

The NASD believes, therefore, that there is no additional burden on competition as a result of the exception for compensation arrangements related to a mutual fund's or insurance company's in-house sales force that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

Based on the foregoing, the NASD believes that any burden on competition resulting from the proposed rule change is necessary and appropriate in furtherance of the purposes of the Act, as amended, and is outweighed by the need for members to control the payment to their associated persons of any compensation received in connection with the sale of mutual fund and insurance products, the enhanced ability of the NASD to identify potential abuses through the examination process as a result of the expanded record-keeping requirements, and the enhanced investor protection which will result from the expanded prospectus disclosure.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Member's, Participants, or Others

The proposed rule change was published for comment in Notice to Members 91–25 (May 1991) ("Notice"). Twenty-two comments were received in response thereto. A copy of Notice to Members 91–25 is attached as Exhibit 2 to the rule filing. A Copy of each comment letter received in response thereto is attached as Exhibit 3 to the rule filing. Of the 22 comment letters received, 10 were in favor of the proposed rule change, 6 were opposed, and 6 offered comments but expressed no opinion.

$100 Gift Limitation—The most frequent comment made concerned the proposal published in the Notice which would have excepted gifts under $100 in value from the obligation to be disclosed in the prospectus. (Proposed Section (1)(5)(a) to Section 26 and Section (h)(5)(a) to Section 29.) The original proposal published for comment in the Notice would have required that the receipt of such items be subject to the record-keeping requirement proposed in Subsection (l)(1) to Section 26 and to Subsection (h)(1) to Section 29. Ten commentors recommended that such gifts be excluded from the recordkeeping requirements. (See Comments 6, 7, 8, 11, 12, 14, 15, 16, 17, and 18 to the rule filing.) Moreover, one commentor suggested that the $100 limitation be adjusted according to an inflation index in order to make the standard more flexible. (See Comment 7 to the rule filing.) Similarly, three commentors requested that the provisions of current Subsection (l)(3)(C) which set forth items that are not considered to be of material value, proposed to be deleted, be retained for the purpose of excluding those items from both the recordkeeping and prospectus disclosure requirements. (See Comments 7, 8, and 18 to the rule filing.) Another commentor suggested that members be permitted to rely in good faith on letters from offerors documenting the number and value of non-cash gifts of nominal value. (See Comment 17 to the rule filing.)

In response to these comments, the NASD changed its proposal to exclude gifts under $100 from the recordkeeping requirement set forth in proposed Subsection (l)(1). The NASD is also providing the requested flexibility by further amending the proposed rule change in proposed Subsection (l)(5)(a) to allow the Board of Governors to determine the annual limit on annual gifts. Subsections 26(l)(1), 26(l)(5)(a), 29(h)(1), and 29(h)(5)(a) have thus been amended. The NASD has, however, determined that retention of the original structure of Subsection 26(l)(2)(C) setting out items that do not have a material value is not necessary to the revised structure of the proposal.

Training and Educational Meetings—Commentors also recommended that the NASD exclude reimbursements for educational and training seminars from the recordkeeping requirements. As originally proposed in the Notice, such expense reimbursements would only be excluded from the requirement of disclosure in the offering document. (See Comments 14 and 18 to the rule filing.) In addition, one commentor requested clarifications as to whether the social activity expenses associated with educational and training programs may be reimbursed and what recordkeeping and disclosure requirements would apply. (See Comment 11 to the rule filing.) Four commentors suggested that educational training not be restricted exclusively to locations where the member maintains

offices. (See Comments 1, 3, 11, and 15 to the rule filing.)

The NASD has considered these comments and determined to amend the proposal to permit educational and training meetings to be held at or in the vicinity of an office of the offeror. Subsections 26(l)(5)(b) and 29(h)(5)(b) have thus been amended. The NASD has determined to retain the recordkeeping requirements for reimbursements of training expenses, however, reimbursements are believed to be considerable and should be set forth as such on the books and records of a member firm.

Exception for Commission Accounts—One commentor recommended that the language of proposed Subsection 29(h)(2) be amended to avoid conflicting with state insurance laws by deleting any reference to a "commission" or "ministerial service." (See Comment 13 to the rule filing.) The NASD determined that the changes recommended by this commentor would confuse the rule language and not make clear the narrow scope of the exception intended to be available under Subsection 29(h)(2).

Elimination of Requirement to Receive Cash Instead of Non-Cash Compensation—One commentor was in favor of the elimination of current Section 26(l)(1)(B) which requires that a member elect to receive cash in lieu of non-cash compensation. (See Comment 18 to rule filing.) The current provisions of Subsection 26(l) apply to compensation arrangements between members. The proposed rule change modifies this subsection to be applicable to compensation arrangements between offerors and members. In this context, the requirement would be imposed on offerors and appears inappropriate. Moreover, the NASD believes that the currently available option to receive cash is rarely used.

Internal NASD Consideration of the Proposed Rule Change—One commentor stated that a compromise proposal had been developed between representatives of the various industry segments which was not reflected in the proposed rule change. It is argued that the compromise was intended to provide a "level playing field." (See Comment 3 to the rule filing.) A determination of the Board of Governors is final action by the NASD with respect to a proposed rule change. Any earlier discussions in committee do not represent final action of the NASD.

Record-Keeping/Prospectus Disclosure Requirements—Two commentors suggested requiring record-keeping and prospectus disclosure of compensation agreements between a registered representative and the employing member as a means of assuring suitability and a level playing field. (See Comments 9 and 22 to the rule filing.) The NASD believes the current record-keeping proposals to be sufficient and does not perceive a regulatory rationale to adopt a rule regulating a member's internal compensation structure with its own salespersons.

Three commentors asserted that the requirement that broker/dealers keep records for incentives received and paid to their sales force is excessive and supported additional disclosure as a better alternative. (See Comments 4, 10, and 15 to the rule filing.) It was stated that it is difficult to determine and break out the cost of such non-cash incentives. (See Comment 15 to the rule filing.) The purpose of the proposed record-keeping requirements is to enhance member control over the flow of compensation from mutual funds and insurance companies, which the recommended prospectus disclosure would not accomplish. The NASD believes, further, that members will not find it inappropriately difficult to break-out the cost of non-cash incentives from the value of cash payments.

Authority to Require Prospectus Disclosure—Three commentors questioned the need for the added prospectus disclosure requirements and two of these comments included statements that the NASD lacks the authority to promulgate additional prospectus requirements. (See Comments 3, 13, and 20 to the rule filing.) The SEC, through its rules and through its review and approval of the rules of the NASD pursuant to section 19(b)(1) of the Act, has recognized the special obligation of the NASD to specify disclosure in the prospectus related to underwriting compensation and related arrangements. Item 508 of Regulation S–K requires that the Plan of Distribution section of the offering document include a statement of the underwriting compensation as determined by the NASD. Schedule E to the NASD's By-Laws includes in Section 6 thereof a provision requiring disclosure in the offering document of the identity of any qualified independent underwriting and the relationship between the member and the issuer. The Corporate Financing Rule, Article III, Section 44 of the Rules of Fair Practice requires disclosure in the offering document of all items deemed to be compensation by the NASD. The NASD believes that review and approval of the prospectus disclosure proposed herein by the SEC pursuant to section 19(b)(1) of the Act, after publication for public comment, provides the requisite authority to the NASD to impose such requirements.

General Comments: One insurance industry commentor argued that the proposed rule change imposed unfair burdens on the insurance industry and will require dramatic changes in insurance industry compensation practices without apparent justification. (See Comment 3 to the rule filing.) Furthermore, it was the opinion of two commentors that without additional changes, the proposed amendment would disrupt the traditional sales incentive programs which exist in the insurance industry. (See Comments 3 and 20 to the rule filing.) One commentor stated that permitting non-cash compensation would not promote high standards of commercial honor or self-discipline among members. (See Comment 21 to the rule filing.) The NASD believes that the proposed rule change will benefit investors and the mutual fund/variable contracts industries by uniformly regulating the cash and non-cash compensation paid to members and persons associated with members in connection with the sales of investment company securities and variable contracts. The NASD does not believe that the changes to the compensation structure required by the proposed rule change are materially burdensome to the insurance industry. The NASD believes the changes are necessary in the interest of the investing public.

One commentor recommended the proposed rule change "* * * be expanded to prohibit the request, offer, receipt or payment to a member * * * of any compensation other than prospectus disclosed sales charges, 12b–1 plan fees and services fees, which compensation is based upon a percentage or other formula derivation of sales of the offeror's fund(s) by a member." (See Comment 8 to the rule filing.) The NASD does not agree with this commentor's proposal to eliminate all non-cash compensation, preferring to regulate the receipt of such form of compensation.

Request for Clarification: Clarification was requested by commentors on several issues. Two commentors asked whether compensation by an issuer of a registered representative for the sales of non-securities is required to go through the employing member. (See Comments 1 and 3 to the rule filing.) A third commentor wanted the NASD to clarify how fees paid to a registered representative for administrative services should be treated. (See

Comment 11 to the rule filing.) Clarification was also requested regarding the manner in which a broker/dealer records and maintains books reflecting non-cash compensation. (See Comment 18 to the rule filing.)

The NASD Rules of Fair Practice do not apply to transactions involving exempt securities and non-securities products. The Rules of Fair Practice do, however, apply to the payment of administrative fees. Members are encouraged to review these Rules. Furthermore, the NASD declines to mandate an exact form in which such records should be kept in order to meet the requirements of the rule in order to provide members with leeway to establish individual procedures in accordance with the type of business that the member transacts.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the 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 Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by February 24, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–2523 Filed 2–2–93; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–31784; File No. SR–OCC–92–38]

Self-Regulatory Organizations; The Options Clearing Corporation; Order Approving Proposed By-Law Changes Relating to OCC's Authority to Impose Exercise Restrictions

January 27, 1993.

On November 12, 1992, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR–OCC–92–38) pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act").[1] The proposed rule change will amend article VI, section 17(a) of the OCC's By-laws and add an interpretation to article VI, section 17(b) of OCC's By-laws regarding OCC's authority to impose an exercise restriction. The Commission published notice of the proposed rule change in the **Federal Register** on December 4, 1992.[2] No comments were received. For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description

The proposed rule change will amend article VI, section 17(a) of OCC's By-laws. The proposal will allow OCC to impose an exercise restriction consistent with that of a national securities exchange ("exchange") on all its clearing members who hold the particular series of options being restricted by the exchange.

Under the current language of article VI, section 17(a) of OCC's By-laws, whenever an exchange, acting pursuant to its rules, imposes exercise restrictions on a particular series of options, OCC is authorized to impose similar exercise restrictions in respect of all its clearing members who are members of that particular exchange. However, article VI, section 17(a) of OCC's By-laws does not grant OCC the authority to impose similar exercise restrictions on clearing members who hold the same series of options on another exchange. As a result, those clearing members who are members of the exchange imposing the restriction are prohibited from exercising the restricted series of options, while those who are not members of such exchange are, in effect, exempt from the restriction. If OCC wants to impose a consistent restriction on all of its members, it is required to call an emergency meeting of the Board of Directors. The proposed revisions to article VI, section 17(a) of OCC's By-laws will give the OCC the authority to impose an exercise restriction consistent with that of an exchange on all its clearing members, whether or not the clearing members are members of such exchange, without the necessity of convening a Board of Directors meeting.

OCC also is proposing to delete language from article VI, section 17(a) of OCC's By-laws which provides for the automatic imposition of exercise restrictions on a particular series of options consistent with an exercise restriction imposed by an international market. OCC, however, will still have the authority to impose an exercise restriction consistent with that of an international market under section 17(b) of article VI of the OCC's By-laws should circumstances require it.[3]

OCC is proposing to delete language from section 17(a) of article VI of the OCC's By-laws respecting an exchange's reason for imposing an exercise restriction. Currently, an exercise restriction goes into effect only if the exchange imposes a restriction because it is advisable in the interests of maintaining a fair and orderly market, or is otherwise in the public interest or for the protection of investors. This revision will permit the OCC to impose an exercise restriction without reviewing the reasoning behind the exchange's decision.

Finally, an interpretation is being added to article VI, section 17(b) of OCC's By-laws. The interpretation will delegate to OCC's Chairman, the President or the delegatee of either of them the initial decision to impose an exercise restriction pursuant to article VI, section 17(b) of OCC's By-laws, subject to review and ratification by the Board of Directors at its next regularly scheduled meeting.

II. Discussion

The Commission believes that OCC's proposed rule change is consistent with section 17A of the Act and, specifically,

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[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 31534 (November 30, 1992), 57 FR 57522.

[3] Article VI, section 17(b) empowers OCC's Board of Directors to impose restrictions on exercises of one or more series of options as the Board deems advisable in the interest of maintaining a fair and orderly market in options contracts, or in underlying securities, or otherwise deems advisable in the public interest or for the protection of investors.

with sections 17A(b)(3) (A) and (F) thereunder.[4] Sections 17A(b)(3) (A) and (F) of the Act require that a clearing agency be organized and its rules be designed to enable it to assure the safeguarding of securities and funds which are in its custody or control or for which it is responsible. Section 17A(b)(3)(F) of the Act also requires that the rules of a clearing agency be designed to enable it to protect investors and the public interest.

The purpose of the proposed By-law change is to enhance OCC's ability to protect investors by allowing it to impose exercise restrictions in a timely, equitable and prudential manner. The imposition of an exercise restriction on members of one exchange, but not another, creates a disparity in contractual rights among holders of the same series of options since identical options (that is, options covering the same underlying interest and having the same exercise price and expiration date) are simultaneously traded on more than one United States options market. In order to prevent such a disparity, OCC must convene an emergency meeting of the Board of Directors, pursuant to article VI, section 17(b) of OCC's By-laws, to obtain the authority to impose a similar exercise restriction on all its clearing members who hold the particular series of options. An emergency Board meeting for these purposes, however, is operationally burdensome as it is difficult to convene the Board within the time constraints demanded by the events compelling a restriction. The imposition of similar restrictions on all clearing members would generally be necessary in order to protect investors and maintain a fair and orderly market. The Commission believes that this proposal is consistent with the provisions of section 17A(b)(3)(F) of the Act because OCC's rules are designed to protect investors and the public interest.

The OCC has made a review of the international markets and concluded that many of the exercise restrictions placed on options by international markets were based on reasons generally unique to those markets. Section 17(a) of article VI of OCC's By-laws gave international markets the ability to halt trading on markets in the United States, regardless of the relevance to the United States markets of the event compelling the international market's decision. The deletion in section 17(a) of article VI of OCC's By-laws will grant OCC the flexibility to evaluate the decision of the international market prior to imposing a similar restriction in the United States. If the OCC deems it advisable, it may impose the restriction under section 17(b) of article VI of OCC's By-laws. The Commission believes that this proposal is consistent with the provisions of section 17A(b)(3)(F) of the Act which requrie the rules of a clearing agency to promote the prompt and accurate clearance and settlement of securities transactions.

The Commission believes that an OCC review of an exchange's rationale for imposing an exercise restriction may delay the implementation of a necessary restriction. Moreover, exchanges, like OCC, are self-regulatory organizations and are required to have rules that, among other things, are designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing and settling securities, and to protect investors and the public interest.[5] Therefore, it is reasonable for OCC to assume that an exchange will impose exercise restrictions when it finds good cause for doing so and only when the exercise restriction is designed to protect investors and the public interest.

The interpretation added to section 17(b) of article VI of OCC's By-laws, which delegates the authority of the Board to impose an exercise restriction, expedites the imposition of an exercise restriction. When the need arises to impose an exercise restriction, typically, there is insufficient time to call an emergency meeting of the Board of Directors. This interpretation will permit OCC to respond more rapidly to market developments, and thereby enhance its ability to safeguard the securities and funds under its control in accordance with the requirements of section 17A(b)(3)(F) of the Act.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the Act, and in particular with section 17A of the Act, and with the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[6] that the proposed rule change (File No. SR–OCC–92–38) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

[4] 15 U.S.C. 78q–1(b)(3) (A) and (F).

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78s(b)(2).

[7] 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,

Deputy Security.

[FR Doc. 93–2457 Filed 2–2–93; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Inc.

January 28, 1993.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder for unlisted trading privileges in the following securities:

United American Healthcare Corporation
Common Stock, No Par Value (File No. 7–10088)

BankAmerica Corporation
Depositary Shares (File No. 7–10089)

Asia Pacific Fund, Inc.
Rights (File No. 7–10090)

United States Banknote Corporation
Common Stock, $.01 Par Value (File No. 7–10091)

PEC Israel Economic Corporation
Common Stock, $1.00 Par Value (File No. 7–10092)

Borg Warner Security Corporation
Common Stock, $0.01 Par Value (File No. 7–10093)

Glamis Gold Ltd.
Common Stock, No Par Value (File No. 7–10094)

Integra Financial Corporation
Common Stock, $1.00 Par Value (File No. 7–10095)

Integra Financial Corporation
$2.31 Cum. Cv. Pfd. Stock, No Par Value (File No. 7–10096)

Ford Holdings Inc.
Depositary Shares Series B Cum. Pfd. Stock, $1.00 Par Value (File No. 7–10097)

Duff and Phelps Utility and Corporate Bond Trust
Common Stock, $0.01 Par Value (File No. 7–10098)

Genesis Health Ventures, Inc.
Common Stock, $0.02 Par Value (File No. 7–10099)

Van Kampen Merritt Strategic Sector Municipal Trust
Common Shares of Beneficial Interest, $.01 Par Value (File No. 7–10100)

TRW/DW Term Trust 2002
Common Shares of Beneficial Interest, $.01 Par Value (File No. 7–10101)

Hospitality Franchise Systems, Inc.
Common Stock, $.01 Par Value (File No. 7–10102)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before February 19, 1993, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

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

Jonathan G. Katz,

Secretary.

[FR Doc. 93–2462 Filed 2–2–93; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. 48626; Notice 93–6]

Request for Public Comments on Potential Nontechnical Constraints to the Implementation and Use of Intelligent Vehicle-Highway Systems (IVHS)

AGENCY: Office of the Secretary, DOT.

ACTION: Notification of open docket for public comments.

SUMMARY: Intelligent vehicle-highway systems (IVHS) are intended to improve safety, reduce congestion, and help promote other important national transportation goals. The Department's IVHS program was formally established by the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) (23 U.S.C. 307 note). This program is described in a report prepared for Congress by the Department of Transportation, *IVHS Strategic Plan: Report to Congress*, December 18, 1992.

A number of nontechnical constraints have been identified as potential deterrents to the successful adoption of IVHS technologies. Section 6054(d) of the ISTEA requires the Department of Transportation, in consultation with the Departments of Commerce and Justice, to prepare a report to Congress that identifies and evaluates nontechnical constraints and barriers to the adoption of IVHS technologies (section 6054(d)(1)). The purpose of this notice is to solicit comments from state and local officials, academics, industry, and private individuals on the various nontechnical constraints to IVHS deployment we have identified, as well as others we may not have identified.

According to the relevant statute, the report should consider the following issues: Antitrust, privacy, educational and staffing needs, patent, liability, and architectural/technical standards. The report should also recommend legislative and administrative actions to further the Department's IVHS program, as well as to suggest ways to encourage industry and state and local governments to become more actively involved in the national IVHS program.

In addition, the Senate Appropriations Committee Report to the Fiscal Year 1993 DOT Appropriations Act requested the Department to consider whether the deployment of IVHS projects will affect the ability of a state or region to meet the requirements of the Clean Air Act. Finally, the *Strategic Plan for Intelligent Vehicle Highway Systems in the United States*, 1992, prepared by IVHS America, discusses additional nontechnical issues that may have a major impact on the success of the national IVHS program.

Acting on these recommendations, our report will, in addition to the issues listed above, discuss contracting and acquisition issues, local government coordination issues, and barriers that may prevent private firms from providing IVHS services.

INFORMATION REQUESTED: In each of the following subject areas, we are interested in having information submitted that will help us understand how the nontechnical constraints we have identified may inhibit the adoption of IVHS technologies. We are also interested in identifying potential actions the Department of Transportation or the Federal government could take to reduce these constraints, as well as obtaining suggestions as to how we can promote industry and state and local government involvement in the IVHS program.

I. Antitrust: The development of IVHS technologies may require businesses to pool their technical skills, capital, and facilities. Concern about antitrust prosecution and liability, however, may inhibit the formation of joint ventures. By providing that certain joint ventures are to be evaluated under a rule of reason standard for antitrust purposes (rather than under the more restrictive per se test) and limiting liability to actual damages, the National Cooperative Research Act of 1984 (NCRA), (15 U.S.C. 4301–4305) provides limited protection for private firms from antitrust prosecution. We seek information as to whether the antitrust laws unduly inhibit the ability of U.S. companies to work together to develop IVHS products and services, as well as to participate in public/private partnerships.

II. Patents: Developers and manufacturers of IVHS products must work cooperatively to ensure that components properly interface with established IVHS technologies; they must also work cooperatively with state and local governments to install and operate these technologies. Some IVHS development and deployment, moreover, will be funded by Federal and state governments. The cooperative nature of IVHS development, as well as government involvement in funding and operating IVHS technologies, may affect the patent, copyright, and other intellectual property rights of the developers of these technologies. At this time, it is not clear how the cooperative development nature of many IVHS technologies will be influenced by existing patent and copyright provisions. The full implications of government rights to IVHS-related intellectual property developed at government expense, or partially at government expense, may also need to be further addressed.

III. Liability: Large court damage awards in product liability suits may inhibit private firms from developing and marketing certain products and services. In the IVHS area, this potential liability concern may escalate more rapidly as emerging IVHS technologies assume more of the functions now performed by individuals. In these circumstances, liability claims could be raised against the public agency owning or operating the highway, as well as against the manufacturer or distributor of the allegedly defective technology. Moreover, because the financial risks involved in introducing new technologies could be substantial and are uncertain it may be difficult, or very costly, for private firms to insure against these risks. We would like to solicit views on various approaches to managing the IVHS product liability issue, including insurance, indemnification, and immunity.

IV. Standards: Because of the limited market for many IVHS technologies, private firms may need assurances that their product development plans will not only meet the needs of their customers but will also technically conform with other IVHS products and services. Thus it has been suggested that one critical action that will be needed to promote the adoption and diffusion

of IVHS technologies is for all parties to reach an agreement on appropriate industry standards and protocols. We need to determine what industry standards and protocols are necessary and/or desirable. We also need to evaluate the additional social benefits and costs of greater industry standardization.

It is expected that such standards and protocols will be developed and promulgated by existing standard-setting organizations, like the American Society for Testing and Materials (ASTM) the Institute of Electrical and Electronics Engineers (IEEE), and the Society of Automotive Engineers (SAE). We would like comments on the adequacy of this approach.

V. Acquisition: Industry spokesmen concerned with promoting IVHS technologies often allege that Federal, state, and local acquisition requirements unduly delay or inhibit progress in developing and adopting IVHS technologies. Federal procurements are governed by the Federal Acquisition Regulations (FAR). Government contracting and acquisition rules, it is alleged, are not sufficiently flexible with regard to long-term developmental requirements; in particular, organizational conflict of interest requirements may have the effect of deterring companies from participating in the early phases of developing IVHS technologies.

There is also a concern that existing acquisition rules inhibit the ability of government agencies to work with private sector companies to develop, test, and adopt various IVHS technologies. Some argue that government agencies should be granted greater latitude to establish contractual relationships with private firms, particularly in areas where the work is being undertaken in a collaborative manner. Views on this issue are requested.

VI. Privacy: Some motorists may consider their privacy jeopardized if certain IVHS technologies, such as automatic vehicle identification devices or other traffic surveillance systems, were widely adopted. It has also been suggested that these privacy concerns could precipitate consumer backlash against various IVHS technologies. We are interested in views on whether the possible loss of privacy could reduce the willingness of consumers to accept and purchase IVHS products and services.

VII. Education and Staffing: The successful introduction of new IVHS technologies may require employee and managerial skills that are different from those that were previously in demand. We need to understand if colleges, universities, and technical institutes are preparing students with the training and skills they need to pursue potential high technology jobs in the IVHS sector. We also need to determine if government employees have the skills necessary to meet the demands that will be placed upon them if new IVHS technologies are widely adopted. Finally, we need to assess what types of IVHS-related training and retraining programs for transportation employees may be appropriate in the future.

VIII. Local Government Coordination: Responsibility for traffic management operations has evolved in response to various institutional, political, and funding arrangements.

In many metropolitan areas such responsibilities are often dispersed among distinct political jurisdictions; moreover, within jurisdictions there are likely to be a number of separate agencies involved in traffic management operations.

Various IVHS technologies will improve the efficiency of metropolitan traffic management services. Some experts have suggested that these technologies must be adopted on an areawide basis to achieve maximum efficiency. Some parties also have suggested that the deployment and operations of these technologies are a natural extension of current services provided by the public sector; others have suggested that new traffic management services will be provided by the private sector. We are particularly concerned as to what measures may be needed to facilitate adequate cooperation by local governments for the provision of certain IVHS services in an efficient manner.

IX. Private Sector Access: In many cases, new IVHS services will be offered by the private sector. For example, while governments are responsible for road signs and traffic signals, in-vehicle information on traffic conditions and other traffic information could be offered by public agencies or private firms on a subscription basis. There are, however, a variety of statutory or regulatory constraints that could prevent private companies from offering such services. This is particularly the case if there needs to be access to the highway system by private companies, or if the radio spectrum allocated to the public sector is to be used for these services. We are particularly interested in views on institutional and regulatory changes that need to be made to enhance the private sectors' ability to offer IVHS services.

X. Environment: Some parties are concerned that reduced traffic congestion could have negative implications for the environment. Under one scenario, any short-term successes achieved in alleviating traffic congestion will merely encourage higher levels of automotive traffic, thus leading to more air pollution. On the other hand, some IVHS supporters argue that these traffic management technologies will lead to smoother traffic flows, decreasing much of the air pollution now caused by stop-and-go traffic patterns. Also, some IVHS supporters believe these technologies could result in a higher level of transit use and carpool and vanpool use, as well as facilitate road pricing. Views on how IVHS technologies can contribute to a positive environmental impact are requested.

DATE: Comments should be received by April 15, 1993. Comments that are received after that date will be considered to the extent possible.

ADDRESSES: Comments should be sent (four copies) to: Docket Clerk, Docket No. ____, room 4107, United States Department of Transportation, 400 7th Street, SW., Washington DC 20590.

FOR FURTHER INFORMATION CONTACT: Laurence T. Phillips or Thomas E. Marchessault, Office of Economics, P–37, Office of the Secretary, U.S. Department of Transportation, Washington, DC, 20590. Phone (202) 366–5412, Fax (202) 366–3393.

Joseph F. Canny,

Deputy Assistant Secretary for Policy and Regulatory Affairs.

[FR Doc. 93–2497 Filed 2–2–93; 8:45 am]

BILLING CODE 4910–62–M

Federal Aviation Administration

[Summary Notice No. PE–93–7]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's

regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before February 24, 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 January 28, 1993.

Michael E. Chase,

Acting Assistant Chief Counsel.

Dispositions of Petitions

Docket No.: 25337
Petitioner: ERA Aviation, Inc.
Sections of the FAR Affected: 14 CFR 43.3(g)
Description of Relief Sought/ Disposition: To allow the pilots employed by ERA Aviation, Inc., to remove and replace aircraft cabin seats when away from the maintenance base.

GRANT, January 6, 1993, Exemption No. 5582

Docket No.: 25988
Petitioner: Soloy Dual Pac, Inc.
Sections of the FAR Affected: 14 CFR 21.19(b)(1)
Description of Relief Sought/ Disposition: To extend the termination date of Exemption No. 5172, which allows the conversion of the Cessna Caravan from a single-engine to a multi-engine aircraft, using the supplemental type certification process. The new exemption would also change the Pratt & Whitney engine models to be installed from the PT 6B–35F to the PT6A–114A.

GRANT, January 12, 1993, Exemption No. 5172B

Docket No.: 26732
Petitioner: Air Transport Association of America
Sections of the FAR Affected: 14 CFR 121.652 (a) and (c)
Description of Relief Sought/ Disposition: To extend the termination date of Exemption No. 5549, which permits a pilot in command under part 121 to conduct an alternative instrument approach procedure to the weather minima prescribed in the exemption during the first 100 hours of service as a pilot in command, in the type of airplane he or she is operating. This exemption would also be amended to combine crosswind and braking restrictions, and to make other technical corrections.

GRANT, January 15, 1993, Exemption No. 5549A

Docket No.: 26986
Petitioner: Thomas J. Skipp, III
Sections of the FAR Affected: 14 CFR 65.57
Description of Relief Sought/ Disposition: To allow Mr. Skipp to apply for an aircraft dispatcher's certificate without meeting the minimum requirements that are prescribed to be eligible for that certificate.

DENIAL, January 21, 1993, Exemption No. 5590

Docket No.: 26999
Petitioner: Northwest Airlines, Inc.
Sections of the FAR Affected: 14 CFR 121.663 and 121.697 (a) and (b)
Description of Relief Sought/ Disposition: To permit Northwest Airlines, Inc.'s flight dispatchers to use a computer-generated electronic authorization in lieu of an actual signature on flight releases under their control.

GRANT, January 15, 1993, Exemption No. 5589

Docket No.: 27083
Petitioner: Mandarin Airlines Co., Limited
Sections of the FAR Affected: 14 CFR 61.77 (a) and (b), and 63.23 (a) and (b)
Description of Relief Sought/ Disposition: To permit the issuance of U.S. special purpose pilot and flight engineer certificates to Mandarin Airlines Co., Limited's airmen, without meeting the requirement that they hold a current foreign certificate or license issued by a foreign contracting State to the Convention on International Civil Aviation.

GRANT, January 21, 1993, Exemption No. 5592

[FR Doc. 93–2506 Filed 2–2–93; 8:45 am]

BILLING CODE 4910–13–M

[Summary Notice No. PE–93–3]

Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions; correction.

SUMMARY: This action makes a correction to the summary described for Docket No. 26734 in a notice of petitions for exemption published on January 14, 1993, (58 FR 4450). This action corrects that error.

DATES: Comments on petitions received must identify the petition docket number involved, and must be received on or before February 2, 1993.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of Chief Counsel, attn: Rules Docket (AGC–10), Petition Docket No. 26734, 800 Independence Avenue, SW., Washington, DC 20591.

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.

SUPPLEMENTARY INFORMATION: The document was published on January 14, 1993. The description of relief sought for Docket No. 26734 was incorrect. The description should be amended to read, "To amend condition no. 3b of Exemption No. 5517, which expires September 30, 1994, to allow a reduction of the 500 hours required as pilot in command or copilot of turbojet airplanes in exchange for turbo-powered flight time."

Issued in Washington, DC, on January 28, 1993.

Michael E. Chase,

Acting Assistant Chief Counsel.

[FR Doc. 93–2507 Filed 2–2–93; 8:45 am]

BILLING CODE 4910–13–M

Air Carrier/General Aviation Maintenance Subcommittee of the Aviation Rulemaking Advisory Committee; Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the Federal Aviation Administration Aviation Rulemaking Advisory Committee Air Carrier/General Aviation Maintenance Subcommittee.

DATES: The meeting will be held on February 18, 1993, at 9 a.m. Arrange for oral presentations by February 4, 1993.

ADDRESSES: The meeting will be held at Air Transport Association of America, 1301 Pennsylvania Avenue, NW., Washington, DC at 9 a.m.

FOR FURTHER INFORMATION CONTACT:

Ms. Jacqueline Renaud, Meeting Coordinator, Aircraft Maintenance Division, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–7461.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. app. II), notice is hereby given of a meeting of the Air Carrier/General Aviation Maintenance Subcommittee to be held on February 18, 1993. The agenda for the meeting will include reports from the working groups dealing with establishment of current standard weights for passengers and baggage, development of a notice of proposed rulemaking (NPRM) for part 65 of the Federal Aviation Regulations (FAR), development of an NPRM for reporting requirements of §§ 121.703 and 121.705 of the FAR, development of an advisory circular for Special Federal Aviation Regulation (SFAR) 36, and development of an NPRM and advisory circular for maintenance recordkeeping and retention of records. In addition, a representative from Northwest Airlines will brief the subcommittee on structural difficulty reporting requirements for the new § 121.704 rule.

Attendance is open to the interested public but may be limited to the space available. The public must make arrangements on or before February 4, 1993, to present oral statements at the meeting. Written statements (75 copies) may be presented to the committee at any time through the meeting coordinator. Arrangements may be made by contacting the meeting coordinator listed under the heading "**FOR FURTHER INFORMATION CONTACT.**"

Frederick J. Leonelli,

Executive Director, Air Carrier/General Aviation Maintenance Subcommittee, Aviation Rulemaking Advisory Committee.

[FR Doc. 93–2505 Filed 2–2–93; 8:45 am]

BILLING CODE 4910–13–M

Pilot and Aviation Maintenance Technician Shortage Blue Ribbon Panel

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given of a meeting of the Pilot and Aviation Maintenance Technician Storage Blue Ribbon Panel.

DATES: The meeting will be held March 11, 1993, from 8 a.m. to 11:30 a.m.

ADDRESSES: The meeting will be held at the Holiday Inn, Maple Room, 800 Rainier Avenue South, Renton, Washington 98055.

FOR FURTHER INFORMATION CONTACT:

Daniel C. Beaudette, Executive Director, 800 Independence Ave., SW., Washington, DC, 20591; telephone (202) 267–7804.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. app. II), notice is hereby given of a meeting of the Pilot and Aviation Maintenance Technician Shortage Blue Ribbon Panel to be held March 11, 1993. The meeting agenda will include:

- Opening comments
- Public comments
- Future operations.

Attendance is open to the interested public but may be limited to the space available. The public must make arrangements on or before March 1, 1993, to present oral statements at the meeting. The public may present written statements to the committee at any time by providing 25 copies to the Executive Director. Arrangements may be made by contacting the person listed under the heading "**FOR FURTHER INFORMATION CONTACT.**"

Issued in Washington, DC, on January 27, 1993.

Daniel C. Beaudette,

Executive Director of the Pilot and Aviation Maintenance Technician Shortage Blue Ribbon Panel.

[FR Doc. 93–2508 Filed 2–2–93; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent To Rule on Application To Impose and Use a Passenger Facility Charge (PFC) at Bellingham International Airport at Bellingham, WA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use PFC at Bellingham 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 March 5, 1993.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: J. Wade Bryant, Manager, Seattle Airports District Office, SEA–ADO, Federal Aviation Administration, 1601 Lind Avenue SW., suite 250, Renton, WA 98055–4056.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Theodore D. Soliday, Aviation Manager of the Bellingham International Airport, at the following address: 4255 Mitchell Way, #2, Bellingham, Washington, 98226.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Port of Bellingham under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Paul Johnson, (206) 227–2655; Seattle Airports District Office, SEA–ADO; Federal Aviation Administration; 1601 Lind Avenue SW., suite 250; Renton, Washington 98055–4056. 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 a PFC at Bellingham International Airport, under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On January 20, 1993, the FAA determined that the application to impose and use the revenue from a PFC submitted by Port of Bellingham 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 April 30, 1993.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: May 1, 1993.

Proposed charge expiration date: May 1, 1994.

Total estimated PFC revenue: $366,000.00.

Brief description of proposed project: Terminal area expansion planning and land acquisition reimbursement.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Scheduled air carrier's operating aircraft with less than 10 seats and Non-scheduled air carrier and charter flights using aircraft with less than 10 seats. The total activity of these excluded classes is less than 1% of total passengers.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA regional Airports office located at: Federal Aviation Administration, Northwest Mountain Region, Airports Division, ANM–600, 1601 Lind Avenue SW., suite 540, Renton, WA 98055–4056.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Port of Bellingham at Bellingham International Airport.

Issued in Renton, Washington, on January 20, 1993.

Edward G. Tatum,

Manager, Airports Division, Northwest Mountain Region.

[FR Doc. 93–2501 Filed 2–2–93; 8:45 am]

BILLING CODE 4910–13–M

Phoenix Sky Harbor International Airport, Phoenix, AZ; Intent To Rule on Application To Impose a Passenger Facility Charge

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of intent to rule on application to impose a passenger facility charge (PFC) at Phoenix Sky Harbor International Airport, Phoenix, Arizona.

SUMMARY: The Federal Aviation Administration (FAA) proposes to rule and invites public comment on the application to impose a PFC at Phoenix Sky Harbor International Airport, Phoenix, Arizona 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 March 5, 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.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Neilson A. Bertholf, Jr., Aviation Director of the City of Phoenix at the following address: City of Phoenix, Aviation Department, 3400 Sky Harbor Boulevard, Phoenix, Arizona 85034.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the City of Phoenix Aviation Department under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. John P. Milligan, Supervisor, Standards Section, AWP–621, Federal Aviation Administration, Airports Division, 15000 Aviation Blvd., Hawthorne, CA 90261, Tel (310) 297–1029. 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 Phoenix Sky Harbor 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 January 14, 1993, the FAA determined that the application to impose the revenue from a PFC submitted by the City of Phoenix Aviation Department 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 April 15, 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: September 30, 1997.

Total estimated PFC revenue: $149,589,000.

Brief description of proposed projects: Extend north runway (8L–26R) and adjacent Taxiways "A" and "B" approx. 100 feet to the west; Relocate entrance to Old Tower Road; Build-out Terminal 4 Concourse N–4; Noise mitigation efforts; Third runway—Purchase land (approx. 6 acres) and demolish structures; Construct third runway (approx. 7800' × 150') and parallel taxiway (approx. 7800' × 75') including connector taxiways; Realign taxiway "D" to eliminate jog; Relocate the Air National Guard.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs:

Business Air Service South
Corporate Flight Inc.
Critical Care Service Inc.
I J A Inc.
KMR Aviation Inc.
Lousiana Pacific Corp.
Ponderosa Aviation and Poncero
Raleigh Jet Charter
Sioux Valley Hospital Intensive Air
Windstar Aviation Corp.

Any person may inspect the application in person at the FAA office listed above under "**FOR FURTHER INFORMATION CONTACT**" and at the FAA regional Airports office located at: Federal Building, 3rd Floor, room 3E23, 15000 Aviation Blvd., Hawthorne, CA 90261.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the City of Phoenix Aviation Department.

Issued in Los Angeles, California on January 29, 1993.

Herman C. Bliss,

Manager, Airports Division, Western Pacific Region.

[FR Doc. 93–2503 Filed 2–2–93; 8:45 am]

BILLING CODE 4910–13–M

National Highway Traffic Safety Administration

[Docket No. 93–04; Notice 1]

Subaru of America, Inc.; Receipt of Petition for Determination of Inconsequential Noncompliance

Subaru of America, Inc. (Subaru) of Cherry Hill, New Jersey, had determined that some of its replacement seat belts fail to comply with 49 CFR 571.209, Federal Motor Vehicle Safety Standard No. 209, "Seat Belt Assemblies," and has filed an appropriate report pursuant to 49 CFR part 473. Subaru has also petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) on the basis that the noncompliance is inconsequential as it relates to motor vehicle safety.

This notice of receipt of a petition is published under section 157 of the

National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417) and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Between October 1984 and November 1992, Subaru produced and sold approximately 25,000 sets of replacement seat belts which did not include installation instructions. Subaru sold approximately 1,000,000 vehicles to which these replacement seat belt assemblies are applicable and is unable to determine which of these vehicles contain the replacement belt assemblies.

Standard No. 209, Section S4.1(k) requires that "[a] seat belt assembly or retractor shall be accompanied by an instruction sheet providing sufficient information for installing the assembly in a motor vehicle except for a seat belt assembly installed in a motor vehicle by an automobile manufacturer. The installation instructions shall state whether the assembly is for universal installation or for installation only in specifically stated motor vehicles * * *." In addition, section S4.1(1) requires that "[a] seat belt assembly or retractor shall be accompanied by written instructions for the proper use of the assembly, stressing particularly the importance of wearing the assembly snugly and properly located on the body, and on the maintenance of the assembly and periodic inspection of all components. The instructions shall show the proper manner of threading webbing in the hardware of seat belt assemblies in which the webbing is not permanently fastened." The instructions pertaining to threading and nonlocking retractors do not apply to Subaru's belt designs.

Subaru supports its petition for inconsequential noncompliance with the following:

I. Mismatch of Belt Assembly in Vehicle or Seating Positing

Subaru replacement seat belts are offered as exclusive parts, unique to each model, vehicle configuration, and seating position. Those parts have specific part numbers identified in Subaru parts catalogs with illustrations. The item numbers attached to each illustration enable the ordering dealer to specify the replacement seat belt assembly he (or she) is ordering by referring to the corresponding page which shows the applicable part number, specific vehicle model type, location, applicable model year, etc. When ordering Subaru replacement parts, the dealer must refer to the Subaru parts catalog to identify the ordering part number with the information on the specific vehicle model type, location, and model year. Each replacement seat belt assembly is packaged individually with a specific part number label clearly attached on the package to ensure shipping the correct parts. Also, the dealer routinely checks to see that the part he received matches the one he ordered.

There are a variety of significant physical differences among Subaru seat belt assemblies, which include various mounting configuration and location differences, differences in buckle latch plate configuration and retractor locking device, webbing length and housing configuration differences, and differences in motorized seat belt guide track shapes. Given these variances in physical properties, (Subaru feels) it is not possible that a mechanic would install a replacement seat belt assembly in the wrong vehicle or wrong seating position.

Thus, (Subaru believes) that the ordering and shipping procedures for Subaru replacement seat belts make it highly unlikely that a wrong seat belt assembly will be delivered to a dealer and, should the wrong seat belt be delivered, the above mentioned physical differences make it virtually impossible to install the seat belt in the wrong model vehicle or at an incorrect seating position.

II. Improper Installation of Belt Assembly

Subaru dealers install replacement seat belt assemblies in accordance with the instructions in Subaru service manuals for Subaru vehicles. Subaru service manuals are provided to every Subaru dealer and are widely available to the public and independent repair facilities. Therefore, (Subaru feels) improper installation of replacement seat belt assemblies is highly unlikely.

In most cases of installation of a replacement seat belt, the installer will first remove the seat belt that needs to be replaced from the vehicle. After removal of the old seat belt, the installer will then reverse the steps of removal to properly locate and install the replacement belt. (Subaru feels that there) is no need to specify instructions for threading the webbing or finding locations for and drilling anchorage holes because replacement seat belt assemblies are furnished ready for installation in the vehicle's preexisting anchorage holes with a few simple steps.

Interested persons are invited to submit written data, views, and arguments on the petition of Subaru, described above. Comments should refer to the Docket Number and be submitted to: Docket Section, National Highway Traffic Safety Administration, room 5109, 400 Seventh Street, SW., Washington, DC, 20590. It is requested but not required that six copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, the Notice will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: March 5, 1993.

(15 U.S.C. 1417; delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on: January 28, 1993.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 93–2465 Filed 2–2–93; 8:45 am]

BILLING CODE 4910–59–M

Research and Special Programs Administration

Pipeline Safety Advisory Bulletin; Snow Accumulation on Gas Pipeline Facilities

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

ACTION: Advisory to gas pipeline facilities of possible hazards due to snow accumulation.

SUMMARY: This advisory is to inform propane system owners and operators of the need to inform the public of possible hazards relating to snow accumulation on pipeline facilities, and to monitor the potential impact of snow accumulation on those facilities. The text of the advisory bulletin appears below.

Advisory

During the week of January 18, 1993, a series of liquefied petroleum gas (propane) incidents occurred in the California Sierra Nevadas in which escaping propane ignited causing 6 deaths, 20 injuries, and an unknown amount of property damage. A contributing factor in most of these propane gas incidents was the record-breaking snowfall. Damage can result to propane tanks, piping, and regulators from snow or ice falling from roofs as well as actions taken to protect dwellings from abnormal snow accumulation by shoveling snow from roofs. Accordingly, the Research and Special Programs Administration (RSPA) is advising operators of propane gas pipeline facilities, regardless of whether those facilities are regulated by

RSPA, to notify customers and other entities involved with snow removal of the hazardous consequences of improper removal and excessive snow accumulation.

Background

The RSPA regulation, 49 CFR 192.11, incorporates by reference the National Fire Protection Association (NFPA) Standard 58 for the storage and handling of liquefied petroleum gases. Specifically, NFPA Standard 58 3–2.5.2(b) requires all regulators for outdoor installations, except regulators used for portable industrial applications, to be designed, installed, and protected so their operation will not be affected by the elements (freezing rain, sleet, snow, ice, mud, or debris). RSPA advises operators of propane systems that precautions should be taken in the case of regulator vents such as directing them downward to prevent accumulation of moisture which, if frozen, could prevent the regulator from functioning properly. Relief device stacks should be protected to prevent ice and snow accumulation in the stacks, which could prevent the devices from functioning properly. Consumers should be advised to contact their propane operators immediately, if snow or ice accumulation is blocking regulator vents or relief stacks. Persons involved in snow removal activities should be advised a broom instead of a shovel is more appropriate when clearing snow off propane tanks, associated piping regulators, tubing, gauges, or other propane system appurtenances. Operators should advise consumers that heavy snow and ice falling from roofs can damage propane systems and special care must be taken when clearing roofs of snow and ice to prevent impact on propane tanks, associated piping, and regulators. Exhaust and combustion air vents for gas appliances should be checked to assure they are clear of snow and ice. Additionally, if propane odors are detected, consumers should be advised to leave the residence immediately and contact the propane operator.

Issued in Washington, DC, on January 28, 1993.

George W. Tenley, Jr.,

Associate Administrator for Pipeline Safety.

[FR Doc. 93–2353 Filed 2–2–93; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Dated: January 28, 1993.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 3171, Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Bureau of Alcohol, Tobacco and Firearms

OMB Number: 1512–0082.

Form Number: ATF F 5120.24 (1582–A).

Type of Review: Extension.

Title: Drawback on Wine Exported.

Description: When proprietors export wines that have been produced, packaged, manufactured, or bottled in the U.S., they file a claim for a drawback or refund for the taxes that have already been paid on the wine. This form notifies ATF that the wine was in fact exported and helps to protect the revenue and prevent fraudulent claims.

Respondents: Individuals or households, Businesses or other for-profit.

Estimated Number of Respondents: 900.

Estimated Burden Hours Per Respondent: 1 hour, 7 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 2,025 hours.

Clearance Officer: Robert N. Hogarth, (202) 927–8930, Bureau of Alcohol, Tobacco and Firearms, Room 3200, 650 Massachusetts Avenue, NW., Washington, DC 20226.

OMB Reviewer: Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 93–2459 Filed 2–2–93; 8:45 am]

BILLING CODE 4810–31–M

Public Information Collection Requirements Submitted to OMB for Review

Dated: January 28, 1993.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Customs Service

OMB Number: 1515–0045.

Form Number: CF 7533C.

Type of Review: Extension.

Title: U.S. Customs In-Transit Manifest.

Description: CF 7533C is used by railroads to transport merchandise (products and manufactures of the U.S.) from one port to another in the United States through Canada.

Respondents: Businesses or other for-profit.

Estimated Number of Respondents: 20.

Estimated Burden Hours Per Respondent: 3 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 15 hours.

OMB Number: 1515–0121.

Form Number: None.

Type of Review: Extension.

Title: Establishment of a Bonded Warehouse.

Description: Owners or lessees desiring to establish a bonded warehouse must make written application to the district director for the warehouse, along with a fee and any other documents required.

Respondents: Businesses or other for-profit.

Estimated Number of Respondents: 45.

Estimated Burden Hours Per Respondent: 3 hours.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 135 hours.

Clearance Officer: Ralph Meyer, (202) 927–1552, Customs Service, Paperwork Management Branch, Room 6316, 1301 Constitution Avenue, NW., Washington, DC 20229.

OMB Reviewer: Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, Room 3001, New Executive

Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 93–2461 Filed 2–2–93; 8:45 am]

BILLING CODE 4820–02–M

Public Information Collection Requirements Submitted to OMB for Review

Dated: January 28, 1993.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Correction

This document is to correct a **Federal Register** notice for the Bureau of Alcohol, Tobacco and Firearms [FR Doc. 93–1734], dated January 15, 1993 and published on January 25, 1993. The "Description" portion of this document was not complete. The correction is as follows:

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

OMB Number: 1512–0141.
Form Number: ATF F 2635 (5620.8).
Type of Review: Extension.
Title: Claim—Alcohol, Tobacco and Firearms Taxes.
Description: ATF F 2635 (5620.8) is used by taxpayers to show the basis for a credit remission and allowance of tax on a loss of taxable articles. To request a refund or abatement on taxes excessively or erroneously collected. To request a drawback of tax paid on distilled spirits used in the production of non-beverage products. ATF F 2635 (5620.8) is submitted along with supporting documents to indicate the reason a credit of Federal tax should be made to the claimant.
Respondents: Individuals or households, Businesses or other for-profit, Non-profit institutions, Small businesses or organizations.
Estimated Number of Respondents: 10,000.
Estimated Burden Hours Per Respondent: 1 hour.
Frequency of Response: On occasion, Monthly, Quarterly.
Estimated Total Reporting Burden: 10,000 hours.
Clearance Officer: Robert N. Hogarth, (202) 927–8930, Bureau of Alcohol, Tobacco and Firearms, Room 3200, 650 Massachusetts Avenue, NW., Washington, DC 20226.
OMB Reviewer: Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 93–2460 Filed 2–2–93; 8:45 am]

BILLING CODE 4810–31–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 objects to be included in the exhibit, "Daumier Drawings" (see list [1]), imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to a loan agreement with the foreign lenders. I also determine that the temporary exhibition or display of the listed exhibit objects at the Metropolitan Museum of Art, New York, New York, from on or about February 26, 1993, to on or about May 2, 1993, is in the national interest.

Public notice of this determination is ordered to be published in the **Federal Register.**

Dated: January 29, 1993.

R. Wallace Stuart,

Acting General Counsel.

[FR Doc. 93–2626 Filed 2–2–93; 8:45 am]

BILLING CODE 8230–01–M

[1] A copy of this list may be obtained by contacting Mr. Paul W. Manning of the Office of the General Counsel of USIA. The telephone number is 202/619–6827, and the address is room 700, U.S. Information Agency, 301 Fourth Street, SW., Washington, DC 20547.

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.

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 within 30 days of this notice.

Dated: January 26, 1993.

By direction of the Secretary.

Frank E. Lalley,

Associate Deputy, Assistant Secretary for Information Resources Policies and Oversight.

Revision

1. Application for Fee Personnel Designation, VA Form 26–6681
2. The form is used to obtain information on the applicant's professional experience in the real estate valuation field. The information is used to evaluate the professional expertise of fee applicants.
3. Individuals or households
4. 2,067 hours
5. 20 minutes
6. On occasion
7. 6,200 respondents

Extension

1. Fiduciary Account Book, VA Form 27–4718, and Annual-Final Report and Accounting, VA Form 27–4706
2. Both forms are used by VA's Fiduciary and Field Examination Program to provide fiduciaries of VA beneficiaries acceptable formats to collect data to be reported in accountings and an acceptable form to submit the collected data to the appointing State court. These accounting are usually required by State law.
3. Individuals or households—State or local governments—Federal agencies or employees—Non-profit institutions—Small businesses or organizations
4. 32,330 hours (1,830 hours for VA Form 27–4706 and 30,500 hours for VA Form 27–4718)
5. 30 minutes for VA Form 27–4706 and 2 hours and 30 minutes for VA Form 27–4718
6. On occasion
7. 15,860 respondents (3,660 for VA Form 27–4706 and 12,200 for VA Form 27–4718

Reinstatement

1. Certification of Lessons Completed, VA Form 22–6553b and VA Form 22–6653b–1
2. The forms are issued to veterans and other eligible persons authorized to receive educational benefits for the pursuit of approved correspondence courses. The rate of payment is based upon the information furnished on the completed form.
3. Individuals or households—Businesses or other for-profit—Small businesses or organizations
4. 2,003 hours
5. 10 minutes
6. Quarterly
7. 3,981 respondents

Reinstatement

1. Escrow Agreement for Postponed Exterior Onsite Improvements, VA Form 26–1849
2. The form is a legal agreement between builder/seller, lender, and escrow agent covering escrow of funds for unfinished exterior onsite improvements of newly constructed housing proposed for VA guaranteed financing.
3. Individuals or households—Businesses or other for-profit
4. Because escrow agreements are a common practice in the mortgage lending industry, only one burden hour is being reported for the entire collection.
5. 30 minutes
6. On occasion
7. 32,000 respondents

Reinstatement

1. Report of Treatment in Hospital, VA Form Letter 29–551
2. The form letter is used to collect information from the insured's hospital to determine his/her eligibility for a claim for disability insurance benefits.
3. Individuals or households
4. 4,055 hours
5. 12 minutes
6. On occasion
7. 20,277 respondents

[FR Doc. 93–2485 Filed 2–2–93; 8:45 am]

BILLING CODE 8320–01–M

Fiscal Year 1993 State Home Per Diem Rates for Domiciliary, Nursing Home, and Hospital Care

AGENCY: Department of Veterans Affairs.

ACTION: Notice of state home program per diem rates for FY 1993.

SUMMARY: Public Law 100–322, section 134(a)(2) provides for an increase in per diem rates for domiciliary, nursing home, and hospital care in State Veterans Homes. The VA is giving notice of increases for State home per diem for FY 1993 as follows: Domiciliary care—$11.79, nursing home care—$27.61, and hospital care—$27.61.

DATES: The per diem rates are effective October 1, 1992.

FOR FURTHER INFORMATION CONTACT:

L. Nan Stout, Chief of State Home Per Diem Program (114B), Office of Geriatrics and Extended Care, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 535–7538.

SUPPLEMENTARY INFORMATION: The "Veterans' Benefits and Service Act of 1988" (Pub. L. 100–322) was enacted on May 20, 1988. Section 134(a)(2) gives the Secretary of the Department of Veterans Affairs (VA) authority to evaluate the per diem rates annually and increase as appropriate. The law requires that increases in per diem rates not exceed the actual increase in the costs of care in VA general hospitals. Actual figures that are used to determine per diem increases are actual increases that occurred three years prior to the target fiscal year. The increase in the cost of care in VA general hospitals for Fiscal Year 1990 was used to calculate the maximum allowable increase (8.9%) for the Fiscal Year 1993 budget.

Dated: January 26, 1993.

Jesse Brown,

Secretary of Veterans Affairs.

[FR Doc. 93–2484 Filed 2–2–93; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 58, No. 21
Wednesday, February 3, 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 ENERGY REGULATORY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: January 25, 1993, 58 FR 6053.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: January 27, 1993, 10:00 a.m.

CHANGE IN THE MEETING: Item CAG–14 has been added and the following Docket Numbers have been added to Items CAG–12 and CAG–25 to the Agenda scheduled for January 27, 1993:

Item No., Docket No., and Company

CAG–12—RS92–90–000, Wyoming Interstate Company, Ltd.
CAG–14—RP93–6–002, Paiute Pipeline Company
CAG–25—CP93–180–000, El Paso Natural Gas Company

Lois D. Cashell,

Secretary.

[FR Doc. 93–2609 Filed 2–1–93; 8:50 am]

BILLING CODE 6717–02–M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 11:00 a.m., Monday, February 8, 1992.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: January 29, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93–2612 Filed 2–1–93; 8:52 am]

BILLING CODE 6210–01–M

UNITED STATES INTERNATIONAL TRADE COMMISSION

[USITC SE–93–01]

TIME AND DATE: February 9, 1993 at 2:30 p.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meeting
2. Minutes
3. Ratification List
4. Invs. Nos. 731–TA–636–638 (Preliminary) (Stainless Steel Wire Rod from Brazil, France, and India)—briefing and vote
5. Invs. Nos. 731–TA–639–640 (Preliminary) (Stainless Steel Flanges from India and Taiwan)—briefing and vote
6. Inv. No. 731–TA–563 (Final) (Stainless Steel Butt-Weld Pipe Fittings from Korea)—briefing and vote
7. Continuation of discussion of APO matters
8. Outstanding action jacket requests—
   1. ID–92–040, Institution of an investigation under section 332 of the Tariff Act of 1930 on communications technology and equipment
   2. GC–92–102, Proposed Parts 201 and 207 rules amendments
   3. GC–93–003, *Federal Register* notice in Inv. No. 337–TA–276, *EPROMs*
9. Any items left from previous agenda

CONTACT PERSON FOR MORE INFORMATION: Paul R. Bardos, Acting Secretary, (202) 205–2000.

Issued: January 29, 1993.

Paul R. Bardos,

Acting Secretary.

[FR Doc. 93–2610 Filed 2–1–93; 8:51 am]

BILLING CODE 7020–02–M

UNITED STATES INTERNATIONAL TRADE COMMISSION

[USITC SE–93–02]

TIME AND DATE: February 11, 1993 at 2:30 p.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meeting
2. Minutes
3. Ratification List
4. Invs. Nos. 731–TA–548, 550–551 (Final) (Sulfur Dyes from China, India, and the United Kingdom)—briefing and vote
5. Invs. Nos. 701–TA–318, 731–TA–560–561 (Final) (Sulfanilic Acid from Hungary and India)—briefing and vote
6. Outstanding action jacket requests—
   None
7. Any items left from previous agenda

CONTACT PERSON FOR MORE INFORMATION: Paul R. Bardos, Acting Secretary, (202) 205–2000.

Issued: January 29, 1993.

Paul R. Bardos,

Acting Secretary.

[FR Doc. 93–2611 Filed 2–1–93; 8:51 am]

BILLING CODE 7020–02–M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of February 1, 8, 15, and 22, 1993.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of February 1

Wednesday, February 3

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of February 8—Tentative

Monday, February 8

10:00 a.m.
Briefing by IIT on Loss of Iridium-192 Source and Therapy Misadministration at Indiana Regional Cancer Center, Indiana, PA., November 16, 1992 (Public Meeting)
(Contact: Carl Paperiello, 708–790–5517)
2:00 p.m.
Periodic Briefing on EEO Program (Public Meeting)
(Contact: Jim McDermott, 301–492–4661)

Tuesday, February 9

2:30 p.m.
Periodic Briefing on Operating Reactors and Fuel Facilities (Public Meeting)
(Contact: William Bateman, 301–504–1711)
4:30 p.m.
Affirmation/Discussion and Vote (Public Meeting)
a. Final Amendments to 10 CFR Part 61, "Licensing Requirements for land Disposal of Radioactive Waste" (Tentative)
(Contact: Janet Lambert, 301–492–3857)

Week of February 15—Tentative

Friday, February 19

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)
2:00 p.m.
Briefing on Status of Issues and Approach to GEIS Rulemaking for Part 51 (Public Meeting)

(Contact: Donald Cleary, 301–492–3936)

Week of February 22—Tentative

Monday, February 22

9:00 a.m.
Briefing by Advisory Committee on Medical Uses of Isotopes (Public Meeting)
(Contact: John Glenn, 301–504–3415)

Thursday, February 25

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)
2:00 p.m.
Periodic Meeting with Advisory Committee on Nuclear Waste (ACNW) (Public Meeting)
(Contact: Richard Major, 301–492–8109)

ADDITIONAL INFORMATION: By a vote of 5–0 on January 29, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that "Affirmation of Letter Requesting Publication of Federal Register Notice Regarding Proposed Issuance of Operating License for Comanche Peak Unit 2" (Public Meeting) be held on January 29 and on less than one week's notice to the public.

Note: Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

To Verify the Status of Meeting Call (Recording)—(301) 504–1292.

CONTACT PERSON FOR MORE INFORMATION: William Hill, (301) 504–1661.

Dated: January 29, 1993.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 93–2630 Filed 2–1–93; 10:41 am]

BILLING CODE 7590–01–M

Corrections

Federal Register
Vol. 58, No. 21
Wednesday, February 3, 1993

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 675

[Docket No. 920944–2302]
RIN 0648–AE80

Groundfish Fishery of the Bering Sea and Aleutian Islands Area

Correction

In rule document 92–28377 beginning on page 54936 in the issue of Monday, November 23, 1992, make the following corrections:

1. On page 54937, in the second column, in the third full paragraph, in the third line, "§ 675.27(b)(3)(1)" should read "§ 675.27(b)(3)(i)".

2. On the same page, in the third column, in the ninth line, "The" should read "To".

3. On the same page, in the same column, in the fourth full paragraph, in the fourth line, "ground fish" should read "groundfish".

§ 675.27 [Corrected]

4. On page 54943, in § 675.27(b)(1)(iii), in the first line, "The length of the time" should read "The length of time".

BILLING CODE 1505–01–D

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 650

[Docket No. 51222–6240]

Atlantic Sea Scallop Fishery

Correction

In rule document 93–1132 beginning on page 4944 in the issue of Tuesday, January 19, 1993, make the following correction:

On page 4945, in the third column, in the second full paragraph, in the second line, "February 1, 1992" should read "February 1, 1993".

BILLING CODE 1505–01–D

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 145

Commission Eastern Regional Office; Change of Address

Correction

In rule document 92–15309 appearing on page 29203 in the issue of July 1, 1992, make the following correction:

PART 145 [Corrected]

In the second column, in part 145, in the third paragraph, in the first line, "Section 1456.6(d)" should read "Section 145.6(a)".

BILLING CODE 1505–01–D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Part 303

RIN 0970–AA91

Child Support Enforcement Program: Review and Adjustment of Child Support Orders

Correction

In rule document 92–31106 beginning on page 61559 in the issue of Monday, December 28, 1992, make the following corrections:

§ 303.8 [Corrected]

1. On page 61581, in the third column, in § 303.8(c)(5), in the sixth line, "42 CFR 433.17(c)" should read "42 CFR 433.147(c)".

2. On the same page, in the same column, in the same section, in the seventh line, "of" should read "or".

BILLING CODE 1505–01–D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–930–4210–06; N–52465]

Notice of Proposed Withdrawal and Opportunity for Public Meeting; Nevada

Correction

In notice document 92–29375 beginning on page 57509 in the issue of Friday, December 4, 1992, make the following corrections:

1. On page 57509, in the third column, under T. 39 N., R. 23 E., in Sec. 20, in the first line, "SE¼SE¼;" should read "SW¼SE¼;".

2. On the same page, in the same column, under T. 40 N., R. 23 E., in Sec. 6, in the first line, "E¼SW¼," should read "E½SW¼,".

3. On the same page, in the same column, under the same township and range, in Sec. 16, in the third line, delete "NW¼NW¼);".

BILLING CODE 1505–01–D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–010–03–4210–04; IDI–28361]

Exchange of Public and Private Lands; Elmore County, ID

Correction

In notice document 93–682 beginning on page 4177 in the issue of Wednesday, January 13, 1993, make the following correction:

On page 4178, in the first column, under **DATES:**, in the seventh line, "83750." should read "83705."

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Part 300

[Docket 48582, Notice No. 92–36]
RIN 2105–AB89

Rules of Conduct in DOT Proceedings

Correction

In proposed rule document 93–225 beginning on page 516 in the issue of

Wednesday, January 6, 1993, in the third column, the docket number should read as set forth above.

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 8462]

Definition of Affiliated Group

Correction

In rule document 92-31058 beginning on page 61797 in the issue of Tuesday, December 29, 1992, make the following corrections:

§ 1.1504-4 [Corrected]

1. On page 61801, in the first column, the section heading should read as set forth above.

2. On the same page, in the third column, in § 1.1504-4(b)(3), in Example (i), in the sixth line, "and" should read "an".

BILLING CODE 1505-01-D

federal register

Wednesday
February 3, 1993

Part II

The President

Executive Order 12836—Revocation of Certain Executive Orders Concerning Federal Contracting

Federal Register
Vol. 58, No. 21
Wednesday, February 3, 1993

Presidential Documents

Title 3—

The President

Executive Order 12836 of February 1, 1993

Revocation of Certain Executive Orders Concerning Federal Contracting

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to eliminate Executive orders that do not serve the public interest, it is hereby ordered as follows:

Section 1. Executive Order No. 12818 of October 23, 1992 (prohibiting the use of project agreements on Federal construction contracts), and Executive Order No. 12800 of April 13, 1992 (requiring Federal contractors to post a notice that workers are not required to join unions), are revoked.

Sec. 2. The heads of executive agencies shall promptly revoke any orders, rules, or regulations implementing Executive Order No. 12818 of October 23, 1992, or Executive Order No. 12800 of April 13, 1992, to the extent consistent with law.

William J. Clinton

THE WHITE HOUSE,
February 1, 1993.

[FR Doc. 93–2744
Filed 2–2–93; 11:29 am]
Billing code 3195–01–M

Editorial note: For a White House statement on these revocations of Federal contracting regulations, see issue 5 of the *Weekly Compilation of Presidential Documents.*

Reader Aids

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Vol. 58, No. 21

Wednesday, February 3, 1993

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At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

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LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last List January 25, 1993

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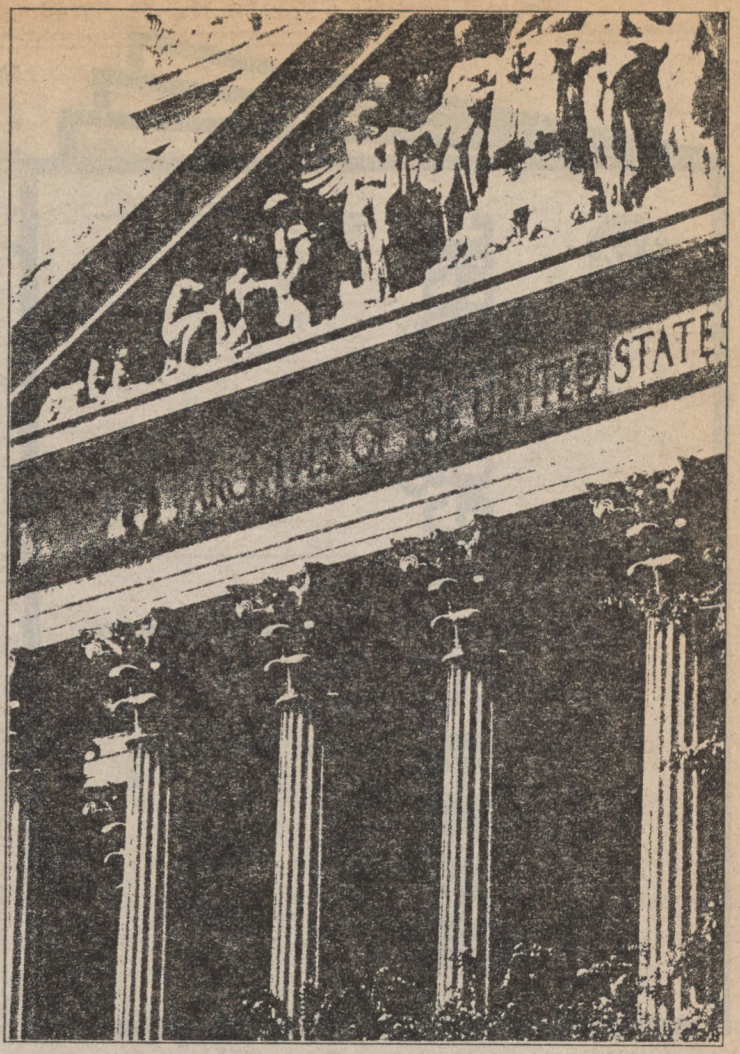
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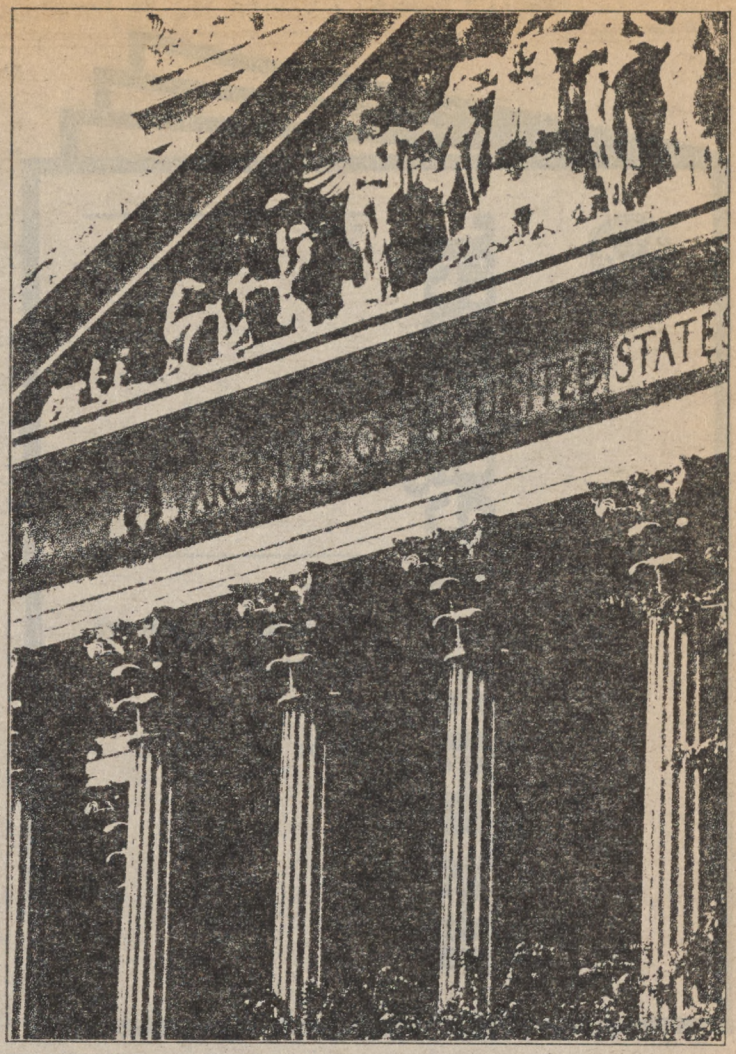
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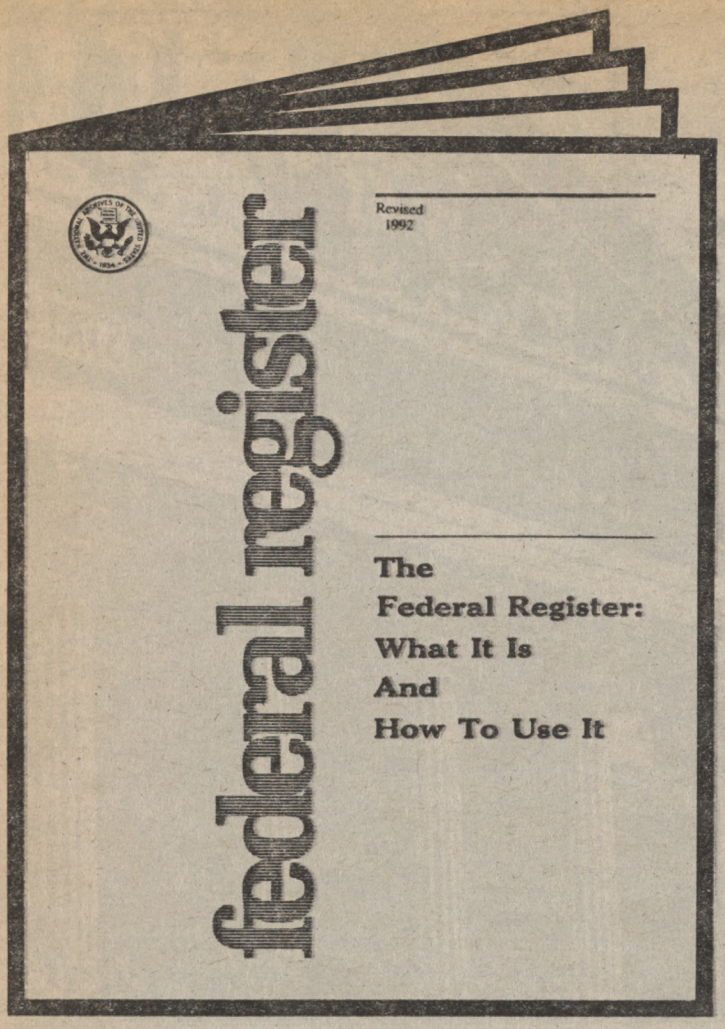
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