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WASHINGTON, DC

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CFR PARTS AFFECTED IN THIS ISSUE

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

Rules and Regulations

Federal Register
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Wednesday, April 23, 1997

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 959

[Docket No. FV97–959–1 IFR]

Onions Grown in South Texas; Amendment of Sunday Packing and Loading Prohibitions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule amends, for the remainder of the 1997 period, the regulation under the South Texas onion marketing order which specifies that no handler may package or load onions on Sunday during the period March 1 through May 20 to remove the prohibition. The order regulates the handling of onions grown in South Texas and is administered locally by the South Texas Onion Committee (Committee). The Committee unanimously recommended the change to increase supplies of South Texas onions in the marketplace. Recent heavy rainfall in the production area has prevented handlers from packing and loading enough onions to meet buyer needs.

DATES: Effective April 19, 1997; comments received by May 23, 1997 will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090–6456, Fax # (202) 720–5698. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Belinda G. Garza, McAllen Marketing Field Office, Marketing Order Administration Branch, F&V, AMS, USDA, 1313 E. Hackberry, McAllen, Texas 78501; telephone: (210) 682–2833, Fax # (210) 682–5942; or James B. Wendland, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456: telephone: (202) 720–2170, Fax # (202) 720–5698. Small businesses may request information on compliance with this regulation by contacting: Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; telephone (202) 720–2491; Fax # (202) 720–5698.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 143 and Marketing Order No. 959 (7 CFR part 959), as amended, regulating the handling of onions grown in South Texas, hereinafter referred to as the ''order.'' This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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

Due to record amounts of rainfall in the last 40 days, South Texas growers have had difficulty harvesting their onions. Normally, 1½ to 2 million 50-lb. equivalents of onions have been shipped by April 15, but this year only approximately ½ million were shipped by that date.

Currently, Section 959.322 of the order prohibits the packaging and loading of onions on Sundays during the March 1 through May 20 period each season. This restriction was implemented to contribute to orderly marketing conditions. However, the industry indicates that, since the advent of the heavy rains, all onions must be dried in mechanical dryers prior to packing. This has disrupted the normal pattern of harvesting, packing and loading. Growers cannot harvest more onions until the dryers are emptied. The dryers can not be emptied if onions are unable to be packed and shipped each day of the week.

The Committee met on April 16 and, by telephone vote, unanimously recommended revising the current handling regulation to remove the restriction on packing and loading onions on Sundays. This action will provide handlers with greater flexibility and additional time to prepare the onions for market.

If this action is not taken, crop losses will be significant. The cessation in harvesting activity will result in increased unemployment among onion field workers and employees at handlers' facilities. In addition, reduced supplies would likely result in consumers paying higher prices for these onions.

Thus, this rule relaxes requirements by modifying language in the order's handling regulation, as authorized by § 959.52 of the order, to allow Sunday packing and loading of such onions during the remainder of the 1997 period.

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

Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are 36 handlers of South Texas onions who are subject to regulation under the order and approximately 60 producers in the regulated area. Small agricultural service firms, which includes handlers, have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those having annual receipts of less than $500,000. The majority of handlers and producers of South Texas onions may be classified as small entities.

Committee meetings are widely publicized in advance and are held in a location central to the production area. The meetings are open to all industry members (including small business entities) and other interested persons—who are encouraged to participate in the deliberations and voice their opinions on topics under discussion. Thus, Committee recommendations can be considered to represent the interests of small business entities in the industry.

Many years of marketing experience led to the development of the current shipping and packing procedures. These procedures have helped the industry address marketing problems by keeping supplies and movement of packed onions in balance with market needs, and strengthening market conditions. However, the recent heavy rains have disrupted the normal pattern of harvesting, packing and loading and all onions must now be dried in mechanical dryers prior to packing. Growers cannot harvest more onions until the dryers are emptied and dryers can not be emptied if onions are unable to be packed and shipped each day of the week.

The Committee considered not relaxing the regulation for the remainder of the season, but felt that would result in significant crop losses. The Committee also felt that a cessation in harvesting activity would result in increased unemployment among onion field workers and employees at handlers' facilities. In addition, reduced supplies would likely result in consumers paying higher prices for these onions.

While the level of benefits of this rulemaking are difficult to quantify, the stabilizing effects of the relaxation in the packing and loading regulation impact both small and large handlers positively by helping them maintain markets even though onion harvesting and packing conditions have fluctuated widely this season.

There are some reporting, recordkeeping and other compliance requirements under the marketing order. The reporting and recordkeeping burdens are necessary for compliance purposes and for developing statistical data for maintenance of the program. The forms require information which is readily available from handler records and which can be provided without data processing equipment or trained statistical staff. As with other, similar marketing order programs, reports and forms are periodically studied to reduce or eliminate duplicate information collection burdens by industry and public sector agencies. This interim final rule does not change those requirements.

The Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this regulation.

A 30-day comment period is provided to allow interested persons to respond to this interim final rule. All written comments received within the comment period regarding this action or its effect on small business entities will be considered prior to finalization of this interim final rule.

After consideration of all relevant material presented, including the Committee's recommendation, and other information, it is found that this interim final rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) Record rainfall in the South Texas production area necessitates emergency rulemaking and making this action effective on the date specified; (2) this rule relaxes requirements on regulated handlers; (3) handlers are aware of this action which was unanimously recommended by the Committee at an April 16, 1997, meeting; and (4) this interim final rule provides a 30-day comment period, and all comments timely received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 959

Marketing agreements, Onions, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 959 is amended as follows:

PART 959—ONIONS GROWN IN SOUTH TEXAS

1. The authority citation for 7 CFR part 959 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. In § 959.322, the introductory paragraph is revised to read as follows:

§ 959.322 Handling regulation.

During the period beginning March 1 and ending June 15, no handler shall handle any onions unless they comply with paragraphs (a) through (d) or (e) or (f) of this section. In addition, no handler may package or load onions on Sunday during the period March 1 through May 20, except during the period April 20, 1997, through May 20, 1997.

* * * * *

Dated: April 18, 1997.

Robert C. Keeney,

Director, Fruit and Vegetable Division.

[FR Doc. 97–10570 Filed 4–18–97; 4:19 pm]

BILLING CODE 3410–02–P

DEPARTMENT OF COMMERCE

Office of the Secretary

15 CFR Parts 15, 15a, and 15b

[Docket No. 970416092–7092–01]

RIN 0690–XX03

Statement of Policy and Procedures Regarding Indemnification of Department of Commerce Employees

AGENCY: Department of Commerce.

ACTION: Final rule.

SUMMARY: This final rule adds a statement of policy and procedures regarding indemnification of Department of Commerce employees. During the 1980s, largely in response to the flood of Bivens type lawsuits, *Bivens* v. *Six Unknown Named Agents of the Federal Bureau of Narcotics*, 403 U.S. 388 (1971), approximately a dozen agencies issued regulations establishing procedures and policies to indemnify their employees against personal liability for actions taken within the

scope of their employment. The Justice Department's Office of Legal Counsel has issued several opinions upholding the legality of these regulations. In addition, there is a logical connection between the achievement of an agency's underlying mission and protecting the agency's employees from financial liability for actions taken within the scope of their employment. At present there is no Department of Commerce (the ''Department'') policy that allows for the payment of Department funds to indemnify Department employees who suffer adverse money judgments as a result of official acts, or for the settlement of personal damages claims by the payment of Department funds. This policy statement will permit such payment in appropriate cases as determined by the Secretary.

EFFECTIVE DATE: May 23, 1997.

FOR FURTHER INFORMATION CONTACT: M. Timothy Conner or Donald J. Reed, Department of Commerce, Office of the General Counsel, Room 5890, Washington, DC 20230, (202) 482–1067.

SUPPLEMENTARY INFORMATION: Unlike most state and local governments and private sector corporations, the Department does not now indemnify its employees who are sued personally and suffer an adverse judgment as a result of conduct taken within the scope of employment, nor does it settle ''individual capacity'' claims with Department funds. Lawsuits against federal employees in their individual capacity have proliferated since the 1971 Supreme Court decision in *Bivens.* As reported by the Department of Justice, over 12,000 claims have been filed against federal employees since 1971; nearly 5,000 actions are now pending. These suits personally attack officials at all levels of government and target all federal activities, particularly law enforcement.

The prospect of personal liability and the burden of defending a claim arising from the performance of an employee's official duties has a negative and chilling impact on the Department's law enforcement effectiveness. Uncertainty regarding what conduct may lead to a claim tends to intimidate employees, stifle creativity, and limit decisive action. As Professor Kenneth Culp Davis noted, ''The public suffers whenever a government employee resolves doubt in order to protect his own pocketbook instead of resolving doubt in order to protect the public interest * * *. Courageous action of public employees is discouraged by the threat of a lawsuit against the employee personally.'' K. Davis, Constitutional Torts at 25, 26 (1984).

The Department believes that lawsuits against Federal employees in their personal capacity are an impediment to the Department's effective functioning. A Departmental policy to permit the indemnification of employees would facilitate the removal of this impediment and accord Department employees the same protection now enjoyed by most state and local government employees as well as most corporate employees. This policy would permit, but not require, the Department to indemnify an employee who suffers an adverse verdict, judgment or other monetary award, provided that the actions giving rise to the judgment were taken within the scope of employment and that such indemnification is in the interest of the Department as determined by the Secretary. The policy also allows the Department, in rare cases, to settle an ''individual capacity'' claim with Department funds prior to entry of judgment. However, absent exceptional circumstances, the Department will not agree either to indemnify or settle before entry of an adverse judgment. This policy is thus designed to discourage the filing of lawsuits against employees in their individual capacity solely in order to pressure the government into settlement.

In addition to adding the policy and procedures for indemnification of employees, these regulations reorganize 15 CFR parts 15, 15a, and 15b into one part 15 in order to streamline regulations regarding legal proceedings and Department of Commerce employees.

These regulations are published in final form without the opportunity for public notice and comment because they constitute a general statement of policy regarding Department of Commerce management and personnel; consequently, publication for public notice and comment is not required (5 U.S.C. 533(a)(2)).

Since a notice of proposed rulemaking is not required by 5 U.S.C. 533, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., are inapplicable.

These amendments do not impose additional reporting or recordkeeping requirements on the public that require the approval of the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

List of Subjects in 15 CFR Part 15

Administrative practice and procedure, Alimony, Child support, Courts, Government employees, Indemnity payments, NOAA Corps allotments, Wages.

For the reasons set forth in the preamble, the Department of Commerce amends 15 CFR parts 15, 15a, and 15b as follows:

PART 15—LEGAL PROCEEDINGS

1. The authority for part 15 is revised to read as follows:

Authority: 5 U.S.C. 301; 15 U.S.C. 1501, 1512, 1513, 1515 and 1518; Reorganization Plan No. 5 of 1950; 3 CFR, 1949–1953 Comp., p. 1004; 44 U.S.C. 3101; subpart C is issued under 37 U.S.C. 101, 706; 15 U.S.C. 1673; 42 U.S.C. 665.

2. The heading of part 15 is revised to read as set forth above.

PART 15—[REDESIGNATED AS SUBPART A OF PART 15 (§§ 15.1–15.3)]

3. Part 15 is redesignated as subpart A of part 15 consisting of §§ 15.1, 15.2, and 15.3.

PART 15A—[REDESIGNATED AS SUBPART B OF PART 15 (§§ 15.11–15.18)]

4. Part 15a is redesignated as subpart B of part 15 consisting of §§ 15.11, 15.12, 15.13, 15.14, 15.15, 15.16, 15.17 and 15.18.

PART 15B—[REDESIGNATED AS SUBPART C OF PART 15 [§§ 15.21–15.25)]

5. Part 15b is redesignated as subpart C of part 15 consisting of §§ 15.21, 15.22, 15.23, 15.24, and 15.25.

6. In the regulatory text of newly designated subparts A, B, and C, all references to ''part'' are redesignated to read ''subpart''.

7. In the regulatory text of newly designated subparts A, B, and C, references are amended as indicated in the table below:

Section	Removed	Added
15.1(c)	Part 15a	Subpart B.
15.16, introductory text	15a.1 through 15a.6	15.11 through 15.16.
15.17 (twice)	15a.1 through 15a.8	15.11 through 15.18.
15.24(b)	15b	15.25.

8. A new subpart D is added to part 15 to read as follows:

Subpart D—Statement of Policy and Procedures Regarding Indemnification of Department of Commerce Employees

Sec.
15.31 Policy.
15.32 Procedures for the handling of lawsuits against Department employees arising within the scope of their office or employment.

Subpart D—Statement of Policy and Procedures Regarding Indemnification of Department of Commerce Employees

§ 15.31 Policy.

(a) The Department of Commerce may indemnify a present or former Department employee who is personally named as a defendant in any civil suit in state or federal court, or other legal proceeding seeking damages against a present or former Department employee personally, for any verdict, judgment or other monetary award which is rendered against such employee, provided that the conduct giving rise to the verdict, judgment or award was taken within the scope of his/her employment and that such indemnification is in the interest of the Department as determined by the Secretary or his/her designee.

(b) The Department may settle or compromise a personal damage claim against a present or former employee by the payment of available funds at any time provided the alleged conduct giving rise to the personal property claim was taken within the employee's scope of employment and such settlement is in the interest of the Department as determined by the Secretary or his/her designee.

(c) Absent exceptional circumstances, as determined by the Secretary or his/her designee, the Department will not consider a request either to indemnify or to settle a personal damage claim before entry of an adverse verdict, judgment or award.

(d) Any payment under this section either to indemnify a present or former Department employee or to settle a personal damage claim shall be contingent upon the availability of appropriated funds of the Department of Commerce.

§ 15.32 Procedures for the handling of lawsuits against Department employees arising within the scope of their office or employment.

The following procedures shall be followed in the event that a civil action or proceeding is brought, in any court, against a present or former employee of the Department (or against his/her estate) for personal injury, loss of property or death, resulting from the Department employee's activities while acting within the scope of his/her office or employment:

(a) After being served with process or pleadings in such an action or proceeding, the employee (or the executor(rix) or administrator(rix)) of the estate shall within five (5) calendar days of receipt, deliver all such process and pleadings or an attested true copy thereof, together with a fully detailed report of the circumstances of the incident giving rise to the court action or proceeding to the General Counsel. Where appropriate, the General Counsel, or his/her designee, may request that the Department of Justice provide legal representation for the present or former Department employee.

(b)(1) Only if a present or former employee of the Department has satisfied the requirements of paragraph (a) of this section in a timely fashion, may the employee subsequently request indemnification to satisfy a verdict, judgment, or award entered against that employee.

(2) No request for indemnification will be considered unless the employee has submitted a written request, with appropriate documentation, including copies of the verdict, judgment, appeal bond, award, or settlement proposal through the employee's supervisory chain to the head of the employee's component. The written request will include an explanation by the employee of how the employee was working within the scope of employment and whether the employee has insurance or any other source of indemnification.

(3) The head of the component or his/her designee will forward the employee's request with a recommendation to the General Counsel for review. The request for indemnification shall include a detailed analysis of the basis for the recommendation. The head of the component will also certify to the General Counsel that the component has funds available to pay the indemnification.

(c) The General Counsel or his/her designee will review the circumstances of the incident giving rise to the action or proceeding, and all data bearing upon the question of whether the employee was acting within the scope of his/her employment. Where appropriate, the agency shall seek the views of the Department of Justice and/or the U.S. Attorney for the district embracing the place where the action or proceeding is brought.

(d) The General Counsel shall forward the request, the accompanying documentation, and the General Counsel's recommendation to the Secretary or his/her designee for decision.

Alden F. Abbott,

Assistant General Counsel for Finance and Litigation.

[FR Doc. 97–10487 Filed 4–22–97; 8:45 am]

BILLING CODE 3510–BW–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 560

Iranian Transactions Regulations: Reporting on Foreign Affiliates' Oil-Related Transactions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule; amendment.

SUMMARY: The Treasury Department is amending the reporting requirement set forth in the Iranian Transactions Regulations on foreign affiliates' oil–related transactions. The amended rule requires a U.S. person to file a transaction report as to each foreign affiliate that engaged in reportable transactions of $1,000,000 or more during the calendar quarter. Reports are to be filed within 60 days of the end of the quarter.

EFFECTIVE DATE: April 18, 1997.

FOR FURTHER INFORMATION CONTACT: Loren L. Dohm, Chief, Blocked Assets Division (tel.: 202/622–2440), or William B. Hoffman, Chief Counsel (tel.: 202/622–2410), Office of Foreign Assets

Control, Department of the Treasury, Washington, DC 20220.

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Background

The Office of Foreign Assets Control amended the Iranian Transactions Regulations in September 1995 (60 FR 47061, Sept. 11, 1995 — the ''Regulations''), in implementation of Executive Order 12957 of March 15, 1995 (60 FR 14615, Mar. 17, 1995), and Executive Order 12959 of May 6, 1995 (60 FR 24757, May 9, 1995). This final rule further amends the Regulations to modify the reporting requirements of § 560.603. That section requires U.S. persons to file reports with respect to foreign affiliates engaging in certain oil–related transactions involving Iran. Section 560.603, as amended, provides a minimum dollar threshold for reportable transactions: A report is required only with respect to any foreign affiliate that engaged in a reportable transaction or transactions totaling $1,000,000 or more during the calendar quarter. The information required with respect to a foreign affiliate's relationship to the reporting person is modified, and the term *reportable transaction* is also modified. Reports are now due 60 days, rather than 15 days, after the end of each calendar quarter.

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

List of Subjects in 31 CFR Part 560

Administrative practice and procedure, Agricultural commodities, Banks, banking, Exports, Foreign trade, Imports, Information, Investments, Iran, Loans, Penalties, Reporting and recordkeeping requirements, Services, Specially designated nationals, Terrorism, Transportation.

For the reasons set forth in the preamble, 31 CFR part 560 is amended as follows:

PART 560—IRANIAN TRANSACTIONS REGULATIONS

1. The authority section is revised to read as follows:

Authority: 3 U.S.C. 301; 22 U.S.C. 2349aa; 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 104–132, 110 Stat. 1214, 1254 (18 U.S.C. 2332d); Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); E.O. 12613, 52 FR 41940, 3 CFR, 1987 Comp., p. 256; E.O. 12957, 60 FR 14615, 3 CFR, 1995 Comp., p. 332; E.O. 12959, 60 FR 24757, 3 CFR, 1995 Comp., p. 356.

Subpart F—Reports

2. Section 560.603 is revised to read as follows:

§ 560.603 Reports on oil transactions engaged in by foreign affiliates.

(a) *Requirement for reports.* A report must be filed with the Office of Foreign Assets Control with respect to each foreign affiliate of a United States person that engaged in a reportable transaction, as defined in paragraph (b), during the calendar quarter. Reports are due within 60 days after the end of each calendar quarter.

(b) *Definitions.* For purposes of this section:

(1) The term *reportable transaction* means a transaction of the following type:

(i) Any purchase, sale, or swap of Iranian–origin crude oil, natural gas, or petrochemicals;

(ii) The sale of services (including insurance or financing) or goods (including oilfield supplies or equipment) to the Government of Iran or an entity in Iran for use in the exploration, development, production, processing, pumping, lifting, transporting, or refining of crude oil, natural gas, or petrochemicals. For these purposes, the term petrochemicals means first–stage materials produced directly from a petroleum–based or a natural gas–based feedstock.

(iii) For purposes of paragraph (b)(1)(i) of this section, a purchase, sale or swap is deemed to have occurred as of the date of the bill of lading used in connection with such transaction. For purposes of paragraph (b)(1)(ii) of this section, the sale of services is deemed to have occurred as of the date of loan or commitment, in the case of financial or insurance services, or the date on which services are invoiced, in other cases. The sale of goods is deemed to have occurred as of the date of shipment to Iran.

(2) The term *foreign affiliate* means a person or entity other than a United States person (see § 560.314) which is organized or located outside the United States and which is owned or controlled by a United States person or persons.

(c) *Who must report.* A United States person must file a report with respect to each foreign affiliate owned or controlled by it which engaged in a reportable transaction or transactions during the prior calendar quarter. For the calendar quarter beginning October 1, 1996, and all subsequent quarters, a United States person must file a report only as to each foreign affiliate owned or controlled by it which engaged in a reportable transaction or transactions totaling $1,000,000 or more during the prior calendar quarter. A single United States entity within a consolidated or affiliated group may be designated to report on each foreign affiliate of the United States members of the group. Such centralized reporting may be done by the United States person who owns or controls, or has been delegated authority to file on behalf of, the remaining United States persons in the group.

(d) *What must be reported.* (1) Part I of the report must provide the name, address, and principal place of business of the United States person; its place of incorporation or organization if an entity; and the name, title, and telephone number of the individual to contact concerning the report.

(2) Part II of the report must provide, with respect to the foreign affiliate, its name and address; the type entity, *e.g.*, corporation, partnership, limited

liability company; the country of its incorporation or organization; and its principal place of business.

(3) Part III of the report must include the following information with respect to each reportable transaction (a separate Part III must be submitted for each reportable transaction):

(i) The nature of the transaction, *e.g.*, purchase, sale, swap.

(ii) A description of the product, technology, or service involved;

(iii) The name of the Iranian or third–country party or parties involved in the transaction;

(iv) The currency and amount of the transaction, and corresponding United States dollar value of the transaction if not denominated in United States dollars.

(e) *Where to report*. Reports must be filed with the Compliance Programs Division, Office of Foreign Assets Control, Department of the Treasury, 1500 Pennsylvania Avenue, NW—Annex, Washington, DC 20220. Reports may be submitted by facsimile transmission at 202/622–1657. A copy must be retained for the reporter's records.

(f) *Whom to contact*. Blocked Assets Division, Office of Foreign Assets Control, Department of the Treasury, 1500 Pennsylvania Avenue, NW—Annex, Washington, DC 20220; telephone: 202/622–2440.

Dated: April 4, 1997.

R. Richard Newcomb,

Director, Office of Foreign Assets Control.

Approved: April 11, 1997.

James E. Johnson,

Assistant Secretary (Enforcement).

[FR Doc. 97–10444 Filed 4–18–97; 10:06 am]

BILLING CODE 4810–25–F

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 585 and Chapter V

Federal Republic of Yugoslavia (Serbia & Montenegro) and Bosnian Serb–Controlled Areas of the Republic of Bosnia and Herzegovina Sanctions Regulations: Resolution of Claims Regarding Blocked Yugoslav Vessels and Removal of Names from Appendix C to 31 CFR Chapter V

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule; amendment.

SUMMARY: The Office of Foreign Assets Control is amending the Federal Republic of Yugoslavia (Serbia & Montenegro) and Bosnian Serb–Controlled Areas of the Republic of Bosnia and Herzegovina Sanctions Regulations to authorize all transactions on and after May 19, 1997 with respect to the following five blocked vessels: the M/V MOSLAVINA, M/V ZETA, M/V LOVCEN, M/V DURMITOR and M/V BAR (a.k.a. M/V INVIKEN). These vessels are simultaneously being removed from the list of blocked vessels contained in appendix C to 31 CFR chapter V. U.S. persons are generally licensed to seek and obtain judicial warrants of maritime arrest against these vessels. Such warrants may be served during the ten days prior to the vessels' unblocking if outstanding claims have not been settled with the vessels' owners or agents.

EFFECTIVE DATE: The amendment to 31 CFR part 585 is effective April 18, 1997; the amendment to appendix C to 31 CFR chapter V is effective May 19, 1997.

FOR FURTHER INFORMATION CONTACT: John T. Roth, Chief, Policy Planning and Program Management Division (tel.: 202/622–2500), or William B. Hoffman, Chief Counsel (tel.: 202/622–2410), Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220.

SUPPLEMENTARY INFORMATION:

Electronic Availability

This document is available as an electronic file on *The Federal Bulletin Board* the day of publication in the **Federal Register**. By modem, dial 202/512–1387 and type ''/GO FAC,'' or call 202/512–1530 for disk or paper copies. This file is available for downloading without charge in WordPerfect 5.1, ASCII, and Adobe Acrobat™ readable (*.PDF) formats. For Internet access, the address for use with the World Wide Web (Home Page), Telnet, or FTP protocol is: fedbbs.access.gpo.gov. The document is also accessible for downloading in ASCII format without charge from Treasury's Electronic Library (''TEL'') in the ''Business, Trade and Labor Mall'' of the FedWorld bulletin board. By modem, dial 703/321–3339, and select the appropriate self–expanding file in TEL. For Internet access, use one of the following protocols: Telnet = fedworld.gov (192.239.93.3); World Wide Web (Home Page) = http://www.fedworld.gov; FTP = ftp.fedworld.gov (192.239.92.205). Additional information concerning the programs of the Office of Foreign Assets Control is available for downloading from the Office's Internet Home Page: http://www.ustreas.gov/treasury/services/fac/fac.html, or in fax form through the Office's 24–hour fax–on–demand service: call 202/622–0077 using a fax machine, fax modem, or (within the United States) a touch–tone telephone.

Background

On November 22, 1995, the United Nations Security Council passed Resolution 1022 (''Resolution 1022''), immediately and indefinitely suspending economic sanctions against the Federal Republic of Yugoslavia (Serbia & Montenegro) (the ''FRY (S&M)''). Those sanctions were subsequently terminated by United Nations Security Council Resolution 1074 of October 1, 1996. This termination, however, did not end the requirement of Resolution 1022 that blocked funds and assets that are subject to claims and encumbrances, or that are the property of persons deemed insolvent, remain blocked until ''released in accordance with applicable law.'' This requirement was implemented in the United States on December 27, 1995, by Presidential Determination No. 96–7. The Office of Foreign Assets Control is amending the Federal Republic of Yugoslavia (Serbia & Montenegro) and Bosnian Serb–Controlled Areas of the Republic of Bosnia and Herzegovina Sanctions Regulations, 31 CFR part 585 (the ''Regulations''), by adding new § 585.528, authorizing transactions with respect to the following vessels currently blocked pursuant to the Regulations, effective May 19, 1997: the M/V MOSLAVINA, M/V ZETA, M/V LOVCEN, M/V DURMITOR and M/V BAR (a.k.a. M/V INVIKEN). Appendix C to 31 CFR chapter V, containing the names of vessels blocked pursuant to the various economic sanctions programs administered by the Office of Foreign Assets Control (see 61 FR 32936, June 26, 1996), is also being amended to remove these vessels from the list on May 19, 1997.

During the 30–day period, U.S. persons may negotiate settlements of their outstanding claims with respect to the vessels with the vessels' owners or agents, and are generally licensed to seek and obtain judicial warrants of maritime arrest against the vessels. If claims remain unresolved by 10:00 a.m. local time in the location of the vessel, May 8, 1997, U.S. persons are generally licensed to effect service of such warrants through the U.S. Marshal's Office in the district where the vessel is located during the ten–day period prior to the vessel's unblocking.

Because the Regulations involve a foreign affairs function, Executive Order 12866 and the provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed

rulemaking, opportunity for public participation, and delay in effective date, are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601–612) does not apply.

List of Subjects in 31 CFR Part 585

Administrative practice and procedure, Banks, banking, Blocking of assets, Bosnia and Herzegovina, Foreign investments in the United States, Foreign trade, Penalties, Reporting and recordkeeping requirements, Securities, Specially designated nationals, Transportation, Vessels, Yugoslavia.

For the reasons set forth in the preamble, 31 CFR part 585 and appendix C to 31 CFR chapter V are amended as set forth below:

PART 585—FEDERAL REPUBLIC OF YUGOSLAVIA (SERBIA & MONTENEGRO) AND BOSNIAN SERB–CONTROLLED AREAS OF THE REPUBLIC OF BOSNIA AND HERZEGOVINA SANCTIONS REGULATIONS

1. The authority citation for part 585 is revised to read as follows:

Authority: 3 U.S.C. 301; 22 U.S.C. 287c; 49 U.S.C. 40106; 50 U.S.C. 1601–1651, 1701–1706; Pub.L. 101–410, 104 Stat 890 (28 U.S.C. 2461 note); E.O. 12808, 57 FR 23299, 3 CFR, 1992 Comp., p. 305; E.O. 12810, 57 FR 24347, 3 CFR, 1992 Comp., p. 307; E.O. 12831, 58 FR 5253, 3 CFR, 1993 Comp., p. 576; E.O. 12846, 58 FR 25771, 3 CFR, 1993 Comp., p. 599; E.O. 12934, 59 FR 54117, 3 CFR, 1994 Comp., p. 930.

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

2. Section 585.528 is added to subpart E to read as follows:

§ 585.528 Unblocking of certain vessels.

(a) All transactions with respect to the following vessels are authorized as of May 19, 1997: the M/V MOSLAVINA, M/V ZETA, M/V LOVCEN, M/V DURMITOR, and M/V BAR (a.k.a. M/V INVIKEN).

(b) All transactions by U.S. persons to seek and obtain judicial warrants of maritime arrest against the blocked vessels referenced in paragraph (a) of this section are authorized, but service of a warrant of maritime arrest on a blocked vessel referenced in paragraph (a) of this section may be effected not before 10:00 a.m. local time in the location of the vessel, May 8, 1997.

(c) Nothing in this section authorizes a debit to an account blocked prior to December 27, 1995, unless such debit is independently authorized by or pursuant to this part.

APPENDIX C TO CHAPTER V—ALPHABETICAL LISTING OF VESSELS THAT ARE THE PROPERTY OF BLOCKED PERSONS, OR SPECIALLY DESIGNATED NATIONALS

1. Under the same authority previously cited for 31 CFR part 585, appendix C to chapter V of 31 CFR is amended by removing the entries for the vessels ''M/V MOSLAVINA'', ''M/V ZETA'', ''M/V LOVCEN'', ''M/V DURMITOR'', and ''M/V BAR'', effective May 19, 1997.

Dated: April 4, 1997.

R. Richard Newcomb,

Director, Office of Foreign Assets Control.

Approved: April 11, 1997.

James E. Johnson,

Assistant Secretary (Enforcement).

[FR Doc. 97–10445 Filed 4–18–97; 10:06 am]

BILLING CODE 4810–25–F

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972 Amendment

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Deputy Assistant Judge Advocate General (Admiralty) of the Navy has determined that USS CORONADO (AGF 11) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with certain provisions of the 72 COLREGS without interfering with its special functions as a naval ship. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: March 20, 1997.

FOR FURTHER INFORMATION CONTACT: Captain R. R. Pixa, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate, General, Navy Department, 200 Stovall Street, Alexandria, Virginia, 22332–2400, *Telephone Number:* (703) 325–9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Deputy Assistant Judge Advocate General (Admiralty) of the Navy, under authority delegated by the Secretary of the Navy, has certified that USS CORONADO (AGF 11) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with the following specific provisions of 72 COLREGS: Annex I, section 3(a), pertaining to the placement of the after masthead light and the horizontal distance between the forward and after masthead lights, without interfering with its special functions as a Navy ship. The Deputy Assistant Judge Advocate General (Admiralty) of the Navy has also certified that the lights involved are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), Vessels.

Accordingly, 32 CFR Part 706 is amended as follows:

PART 706—[AMENDED]

1. The authority citation for 32 CFR Part 706 continues to read as follows:

Authority: 33 U.S.C. 1605.

2. Table Five of § 706.2 is amended by revising the entry for USS CORONADO to read as follows:

§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.

* * * * *

TABLE FIVE

Vessel	No.	Masthead lights not over all other lights and obstructions. annex I, sec. 2(f)	Forward masthead light not in forward quarter of ship. annex I, sec. 3(a)	After mast-head light less than ½ ship's length aft of forward masthead light. annex I, sec. 3(a)	Percentage horizontal separation attained
* * *	*	*	*	*	*
USS CORONADO	AGF 11	N/A	N/A	X	55
* * *	*	*	*	*	*

Dated: March 20, 1997.

Approved:

R.R. Pixa,

Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate, General (Admiralty).

[FR Doc. 97–10453 Filed 4–22–97; 8:45 am]

BILLING CODE 3810–FF–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MN48–01–7268a; FRL–5699–1]

Approval and Promulgation of Implementation Plans; Minnesota

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: This action approves a State Implementation Plan (SIP) revision for the State of Minnesota which was submitted pursuant to the Environmental Protection Agency (EPA) general conformity rules set forth at 40 CFR part 51, subpart W—Determining Conformity of General Federal Actions to State or Federal Implementation Plans. Section 51.851(a) of the general conformity rules requires each State to submit to EPA a revision to its applicable SIP which contains criteria and procedures for assessing conformity of Federal actions to applicable SIPs. The general conformity rules, except for the 40 CFR 51.851(a) language requiring State submission of a SIP revision, are repeated at 40 CFR part 93, subpart B. Minnesota's SIP revision incorporates verbatim the criteria and procedures set forth at 40 CFR part 51, subpart W. This general conformity SIP revision will enable the State of Minnesota to implement and enforce the Federal general conformity requirements in the nonattainment and maintenance areas at the State and local level conformity SIP revision submitted pursuant to 40 CFR part 51, subpart W. SIP revisions submitted under 40 CFR part 51, subpart T, relating to conformity of Federal transportation actions funded or approved under Title 23 U.S.C. or the Federal Transit Act, will be addressed in a separate notice. This action provides the rationale for the proposed approval and other information.

DATES: This ''direct final'' rule will be effective June 23, 1997 unless EPA receives adverse or critical comments by May 23, 1997. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Copies of the SIP revision, public comments and EPA's responses are available for inspection at the following address: United States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (It is recommended that you telephone Michael Leslie at (312) 353–6680 before visiting the Region 5 Office.)

A copy of this SIP revision is available for inspection at the following location: Office of Air and Radiation (OAR) Docket and Information Center (Air Docket 6102), room M1500, United States Environmental Protection Agency, 401 M Street S.W., Washington, D.C. 20460, (202) 260–7548.

FOR FURTHER INFORMATION CONTACT: Michael G. Leslie, Regulation Development Section (AR–18J), Air Programs Branch, Air and Radiation Division, United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, Telephone Number (312) 353–6680.

SUPPLEMENTARY INFORMATION:

I. Background

Section 176(c) of the Clean Air Act (Act), 42 U.S.C. 7506(c), provides that no Federal department, agency, or instrumentality shall engage in, support in any way or provide financial assistance for, license or permit, or approve any activity which does not conform to a SIP that has been approved or promulgated pursuant to the Act. Conformity is defined in section 176(c) of the Act as conformity to the SIP's purpose of eliminating or reducing the severity and number of violations of the National Ambient Air Quality Standards (NAAQS) and achieving expeditious attainment of such standards, and that such activities will not: (1) cause or contribute to any new violation of any standard in any area, (2) increase the frequency or severity of any existing violation of any standard in any area, or (3) delay timely attainment of any standard or any required interim emission reductions or other milestones in any area.

Section 176(c)(4)(A) of the Act requires EPA to promulgate criteria and procedures for determining conformity of all Federal actions to applicable SIPs. Criteria and procedures for determining conformity of Federal actions related to transportation projects funded or approved under Title 23 U.S.C. or the Federal Transit Act are set forth at 40 CFR part 51, subpart T. The criteria and procedures for determining conformity of other Federal actions, the ''general conformity'' rules, were published in the November 30, 1993, **Federal Register** and codified at 40 CFR part 51, subpart W—Determining Conformity of General Federal Actions to State or Federal Implementation Plans.

II. Evaluation of the State's Submittal

Pursuant to the requirements under section 176(c)(4)(C) of the Act the Minnesota Pollution Control Agency (MPCA) submitted its general conformity SIP revision to the EPA on December 15, 1995. In its submittal, the State provided Minnesota rules Part 7009.9000 which incorporated the Federal general conformity by reference (40 CFR part 51, subpart W). For the time period between the original submittal and the supplemental submittal, the State of Minnesota was required to comply with 40 CFR part 93, subpart B.

General conformity is required for all areas which are designated nonattainment or maintenance for any NAAQS criteria pollutant. The State of Minnesota currently has eight counties designated moderate carbon monoxide

nonattainment: Anoka, Carver—Partial County (PC), Dakota (PC), Hennepin, Ramsey, Scott (PC), Washington (PC), Wright (PC). Four counties are CO maintenance areas: St. Louis (PC) (city of Duluth), Benton, Sherburne, and Stearns. Two particulate matter areas are currently subject to the general conformity rule: Ramsey County nonattainment area, and Olmsted County maintenance area. Three counties are designated Sulfur Dioxide nonattainment: Dakota (PC), Olmsted (city of Rochester), and Washington (PC).

The MPCA gave public notice and opportunity comment on the general conformity submittal on May 8, 1995. The public comment period closed on June 7, 1995, and no comments were received on this rule.

III. EPA Criteria on Submittal

The State's SIP revision must contain criteria and procedures that are no less stringent than the Federal rule. The revision incorporated the provisions of the Federal general conformity rule, Subpart W: §§ 51.850, 51.852, 51.853, 51.854, 51.855, 51.856, 51.857, 51.858, 51.859, and 51.860. These sections represent the Federal rule in total, therefore the Minnesota rules Part 7009.9000.

IV. EPA Action

The EPA is approving the general conformity SIP revision for the State of Minnesota. The EPA has evaluated this SIP revision and has determined that the State has fully adopted the provisions of the Federal general conformity rules set forth at 40 CFR part 51, subpart W. The appropriate public participation and comprehensive interagency consultations have been undertaken during development and adoption of this SIP revision. Because EPA considers this action to be noncontroversial and routine, EPA is approving it without prior proposal. This action will become effective on June 23, 1997. However, if EPA receives adverse comments by May 23, 1997, EPA will publish a document that withdraws this action.

V. Miscellaneous

A. Executive Order 12866

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

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

C. Unfunded Mandates

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

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

D. Submission to Congress and the General Accounting Office

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

E. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 23, 1997. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, General conformity, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Sulfur dioxide, Volatile organic compounds.

Dated: February 12, 1997.

David A. Ullich,

Acting Regional Administrator.

40 CFR part 52, is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart Y—Minnesota

2. Section 52.1220 is amended by adding paragraph (c)(45) to read as follows:

§ 52.1220 Identification of plan.

* * * * *

(c) * * *

(45) On December 15, 1995, the Minnesota Pollution Control Agency submitted a revision to the State

Implementation Plan for the general conformity rules. The general conformity SIP revisions enable the State of Minnesota to implement and enforce the Federal general conformity requirements in the nonattainment or maintenance areas at the State or local level in accordance with 40 CFR part 93, subpart B—Determining Conformity of General Federal Actions to State or Federal Implementation Plans.

(i) Incorporation by reference.

(A) Minnesota rules Part 7009.9000, as created and published in the (Minnesota) Register, November 13, 1995, number 477, effective November 20, 1995.

[FR Doc. 97–10507 Filed 4–22–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[DC010–5914a; MD033–7157a; FRL–5814–1]

Approval and Promulgation of Air Quality Implementation Plans; District of Columbia and State of Maryland—1990 Base Year Emission Inventory for the Metropolitan Washington DC Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving revisions to the District of Columbia (DC) and the State of Maryland State Implementation Plans (SIPs) which pertain to the 1990 base year ozone emission inventories for the Washington DC–MD–VA Consolidated Metropolitan Statistical Area (CMSA) ozone nonattainment area. This area, commonly referred to as the Metropolitan Washington DC area, is classified as a serious ozone nonattainment area. The SIP revisions were prepared by the Metropolitan Washington Council of Governments and submitted by the District and the State of Maryland for the purpose of establishing the 1990 baseline of emissions contributing to ozone nonattainment problems in the Metropolitan Washington DC area. This rulemaking action is for Washington DC and Maryland portions of the area only. The approval of the SIP revision submitted by the Commonwealth of Virginia for its portion of the base year inventory of the Metropolitan Washington DC area was published on September 16, 1996 (61 FR 48632). This action is being taken under section 110 of the Clean Air Act.

DATES: This action is effective June 9, 1997 unless notice is received on or before May 23, 1997 that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Comments may be mailed to David L. Arnold, Chief, Ozone/CO & Mobile Sources Section, Mailcode 3AT21 Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; the Air and Radiation Docket and Information Center, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; and the District of Columbia Department of Consumer and Regulatory Affairs, 2100 Martin Luther King Avenue, SE., Washington, DC 20020; and Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland, 21224.

FOR FURTHER INFORMATION CONTACT: Pauline De Vose, (215) 566–2186, at EPA Region III address, or via e-mail at devose.pauline@epamail.epa.gov. While information may be requested via e-mail, comments must be submitted in writing to the above Region III address.

SUPPLEMENTARY INFORMATION:

Background

Under the 1990 Clean Air Act Amendments (CAAA), States have the responsibility to inventory emissions contributing to national ambient air quality standard nonattainment, to track these emissions over time, and to ensure that control strategies are being implemented that reduce emissions and move areas towards attainment. The CAAA requires ozone nonattainment areas designated as moderate, serious, severe, and extreme to submit a plan within three years of 1990 to reduce VOC emissions by 15 percent within six years after 1990 (15% plan). The baseline level of emissions, from which the 15 percent reduction is calculated, is determined by adjusting the base year inventory to exclude biogenic emissions and to exclude certain emission reductions not creditable towards the 15% plan. The 1990 base year emissions inventory is the primary inventory from which the periodic inventory, the Reasonable Further Progress (RFP) projection inventory, and the modeling inventory are derived. Further information on these inventories and their purpose can be found in the ''Emission Inventory Requirements for Ozone State Implementation Plans,'' Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina, March 1991. The 1990 base year inventory may also serve as part of statewide inventories for purposes of regional modeling in transport areas. The 1990 base year inventory plays an important role in modeling demonstrations for areas classified as moderate and above that are located outside transport regions.

The air quality planning requirements for marginal to extreme ozone nonattainment areas are set out in section 182(a)–(e) of Title I of the CAAA. The EPA has issued a General Preamble describing EPA's preliminary views on how EPA intends to review SIP revisions submitted under Title I of the CAAA, including requirements for the preparation of the 1990 base year inventory [see 57 FR 13502; April 16, 1992 and 57 FR 18070; April 28, 1992]. Because EPA is describing its interpretations here only in broad terms, the reader should refer to the General Preamble for a more detailed discussion of the interpretations of Title I advanced in today's proposal and the supporting rationale. In today's rulemaking action on the District of Columbia and Maryland portions of the Metropolitan Washington DC ozone nonattainment area's 1990 base year emissions inventory, EPA is applying its interpretations taking into consideration the specific factual issues presented.

Those States containing ozone nonattainment areas classified as marginal to extreme are required under section 182(a)(1) of the CAAA to submit a final, comprehensive, accurate, and current inventory of actual ozone season, weekday emissions from all sources within 2 years of enactment (November 15, 1992). This inventory is for calendar year 1990 and is denoted as the 1990 base year inventory. It includes both anthropogenic and biogenic sources of volatile organic compounds (VOCs), nitrogen oxides (NO_X), and carbon monoxide (CO). The inventory is to address actual VOC, NO_X, and CO emissions for the area during peak ozone season, which is generally comprised of the summer months. All emissions from stationary point and area sources, as well as highway and non-road mobile sources, and biogenic emissions within the nonattainment area, are to be included in the compilation. Available guidance for preparing emission inventories is provided in the General Preamble (57 FR 13498, April 16, 1992).

Criteria for Approval

There are general and specific components of an acceptable emission inventory. In general, a state must meet the minimum requirements for reporting by source category. Specifically, the source requirements are detailed below.

The Levels I and II review process is used to determine that all components of the base year inventory are present. The review also evaluates the level of supporting documentation provided by the state and assesses whether the emissions were developed according to current EPA guidance. The data quality is also evaluated.

The Level III review process, as outlined here, consists of 10 criteria. For a base year emission inventory to be acceptable it must pass all of the following acceptable criteria:

1. An approved Inventory Preparation Plan (IPP) must be provided and the Quality Assurance (QA) program contained in the IPP must be performed and its implementation documented.
2. Adequate documentation must be provided that enables the reviewer to determine the emission estimation procedures and the data sources used to develop the inventory.
3. The point source inventory must be complete.
4. Point source emissions must be prepared or calculated according to the current EPA guidance.
5. The area source inventory must be complete.
6. The area source emissions must be prepared or calculated according to the current EPA guidance.
7. Biogenic emissions must be prepared according to current EPA guidance or another approved technique.
8. The method (e.g., HPMS or a network transportation planning model) used to develop VMT estimates must follow EPA guidance, which is detailed in the document, ''Procedures for Emission Inventory Preparation, Volume IV: Mobile Sources'', Environmental Protection Agency, Office of Mobile Sources and Office of Air Quality Planning and Standards, Ann Arbor, Michigan, and Research Triangle Park, North Carolina, December 1992. The VMT development methods must be adequately described and documented in the inventory report.
9. The MOBILE model (or EMFAC model for California only) must be correctly used to produce emission factors for each of the vehicle classes.
10. Non-road mobile emissions must be prepared according to current EPA guidance for all of the source categories.

The base year emission inventory is approvable if it passes Levels I, II, and III of the review process. Detailed Level I and II review procedures can be found in the following document: ''Quality Review Guidelines for 1990 Base Year Emission Inventories'', Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, NC, July 27, 1992. Level III review procedures are specified in a memorandum from David Mobley and G.T. Helms to the Regions ''1990 O_3/CO SIP Emission Inventory Level III Acceptance Criteria'', October 7, 1992 and revised in a memorandum from John Seitz to the Regional Air Directors dated June 24, 1993.

The District of Columbia and State of Maryland Submittals

On January 13, 1994 and March 21, 1994, the Department of Consumer and Regulatory Affairs (DCRA) for the District of Columbia and the Maryland Department of the Environment (MDE), respectively, submitted the 1990 base year emission inventories as formal revisions to their State Implementation Plans (SIPs).

The submittals were reviewed by EPA to determine completeness shortly after their submittals, in accordance with the completeness criteria set out at 40 CFR Part 51, Appendix V (1991), as amended by 56 FR 42216 (August 26, 1991). The submittals were found to be complete on July 13, 1994; and June 1, 1994, respectively.

EPA Analysis

Based on EPA's Level I, II, and III review findings, the District and Maryland have satisfied all of EPA's requirements for providing a comprehensive and accurate 1990 base year inventory of actual emissions for their portions of the Metropolitan Washington DC ozone nonattainment area. A summary of EPA's Level III findings is given below:

1. The Inventory Preparation Plan (IPP) and Quality Assurance (QA) program have been approved and implemented. These were approved on March 27, 1992 and August 11, 1992 for the District and Maryland, respectively.

2. The documentation was adequate for all emission types (stationary point, area, highway mobile, on-road mobile and biogenic sources) for the reviewer to determine the estimation procedures and data sources used to develop the inventory.

3. The point source inventory was found to be complete.

4. The point source emissions were estimated according to EPA guidance.

5. The area source inventory was found to be complete.

6. The area source emissions were estimated according to EPA guidance.

7. The biogenic source emissions were estimated using the Biogenic Emission Inventory System (PC–BEIS) in accordance with EPA guidance.

8. The method used to develop vehicle miles traveled (VMT) estimates was adequately described and documented.

9. The mobile model was used correctly.

10. The non-road mobile emission estimates were correctly prepared in accordance with EPA guidance.

Thus, EPA has determined that the District's and the State of Maryland's submittals meet the essential reporting and documentation requirements for a 1990 base year emission inventory.

A summary of the emission inventories broken down by point, area, biogenic, on-road, and non-road mobile sources are presented in the table below.

DISTRICT OF COLUMBIA OZONE SEASON EMISSIONS IN TONS PER DAY

NAA	Area source emissions	Point source emissions	On-road mobile emissions	Non-road mobile emissions	Biogenic	Total emissions
VOC	19.991	1.701	32.27	11.32	3.150	68.432
NO_X	2.970	30.919	23.56	13.28	N/A	70.729
CO	2.698	4.306	248.33	145	N/A	400.334

MARYLAND PORTION OF THE METROPOLITAN WASHINGTON DC AREA OZONE SEASON EMISSIONS IN TONS PER DAY

NAA	Area source emissions	Point source emissions	On-road mobile emissions	Non-road mobile emissions	Biogenic	Total emissions
VOC	98.89	8.042	108.47	33.37	225.96	474.742
NO_X	65.476	204.903	125.14	39.15	N/A	434.669
CO	51.799	9.796	901.490	427.42	N/A	1390.505

EPA has determined that the submittals made by DCRA and MDE satisfy the relevant requirements of the CAAA. EPA's detailed review of the emission inventories is contained in a Technical Support Document (TSD) which is available, upon request, from the EPA Regional Office listed in the **ADDRESSES** section of this document.

EPA is approving these SIP revisions without prior proposal because the Agency views these as noncontroversial amendments and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the SIP revisions should adverse or critical comments be filed. This action will become effective June 9, 1997 unless, by May 23, 1997, adverse or critical comments are received.

If EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on June 9, 1997.

Final Action

EPA is approving revisions to the District of Columbia and Maryland SIPs. These revisions consist of the District's and Maryland's portions of the 1990 Base Year Emission Inventory for the Metropolitan Washington DC ozone nonattainment area. The inventories consist of point, area, highway mobile, non-road mobile and biogenic emissions for VOC, NO_X and CO. The revisions were submitted to EPA by DCRA and MDE on January 13, 1994 and March 21, 1994, respectively.

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

Executive Order 12866

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000. SIP approvals under section 110 and subchapter I, part D of the CAAA do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, the EPA certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410 (a)(2).

Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandate Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final that includes a Federal mandate that may result in estimated costs to state, local or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule. EPA has determined that the approval action proposed/promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either state, local, or tribal governments in the aggregate, or the private sector. This Federal action approves pre-existing requirements under state or local law, and imposes no new Federal requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action.

Submission to Congress and the General Accounting Office

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

Petitions for Judicial Review

Under section 307(b)(1) of the CAAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 23, 1997. Filing a petition for reconsideration by the Administrator of this rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action, regarding the District of Columbia,

Maryland, and Virginia Emission Inventories, may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, and SIP requirements.

Dated: April 8, 1997.

Stanley L. Laskowski,

Acting Regional Administrator, Region III.

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

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart J—District of Columbia

2. Section 52.474 is amended by revising the section heading, designating existing text as paragraph (a) and adding paragraph (b) to read as follows:

§ 52.474 1990 Base Year Emission Inventory.

* * * * *

(b) EPA approves as a revision to the District of Columbia State Implementation Plan the 1990 base year emission inventory for the District's portion of the Metropolitan Washington DC ozone nonattainment area submitted by the Director, DCRA, on January 13, 1994. This submittal consists of the 1990 base year point, area, highway mobile, non-road and biogenic source emission inventories in the area for the following pollutants: Volatile organic compounds (VOC), carbon monoxide (CO), and oxides of nitrogen (NO_X).

Subpart V—Maryland

3. Section 52.1075 is amended by adding paragraph (d) to read as follows:

§ 52.1075 1990 Base Year Emission Inventory.

* * * * *

(d) EPA approves as a revision to the Maryland State Implementation Plan the 1990 base year emission inventory for the Maryland portion of the Metropolitan Washington DC ozone nonattainment area submitted by the Secretary of MDE on March 21, 1994. This submittal consists of the 1990 base year point, area, highway mobile, non-road mobile, and biogenic source emission inventories in the area for the following pollutants: Volatile organic compounds (VOC), carbon monoxide (CO), and oxides of nitrogen (NO_X).

[FR Doc. 97–10508 Filed 4–22–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 60 and 61

[FRL–5814–5]

Delegation of New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants for Bay Area and South Coast Air Quality Management Districts; State of California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Delegation of authority.

SUMMARY: In 1992 and 1993, the California Air Resources Board (CARB) requested delegation of authority for the implementation and enforcement of specified New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS) to the following local agencies: Bay Area and South Coast Air Quality Management Districts (AQMDs). EPA's review of the State of California's laws, rules, and regulations showed them to be adequate for the implementation and enforcement of these federal standards, and EPA granted the delegations as requested.

EFFECTIVE DATES: The effective dates of the delegation authority for each local agency are: Bay Area AQMD—May 18, 1992, January 25, 1993, and May 21, 1993 and South Coast AQMD—June 8, 1992 and February 8, 1993.

ADDRESSES: Copies of the requests for delegation of authority and EPA's letters of delegation are available for public inspection at EPA's Region 9 office during normal business hours and at the following locations:

California Air Resources Board, 2020 L Street, Sacramento, CA 95812

Bay Area Air Quality Management District, 939 Ellis Street, San Francisco, CA 94109

South Coast Air Quality Management District, 21865 E. Copley Drive, Diamond Bar, CA 91765–4182

FOR FURTHER INFORMATION CONTACT: Cynthia G. Allen, Rulemaking Office (AIR–4), Air and Toxics Division, EPA, Region 9, 75 Hawthorne Street, San Francisco, CA 94105–3901, Tel: (415) 744–1189.

SUPPLEMENTARY INFORMATION: Section 301, in conjunction with sections 110, 111(c)(1), and 112(d)(1) of the Clean Air Act as amended in 1990, authorize the Administrator to delegate his or her authority to implement and enforce the standards set out in 40 CFR Part 60, Standards of Performance for New Stationary Sources (NSPS) and the standards set out in 40 CFR Part 61, National Emission Standards for Hazardous Air Pollutants (NESHAPS).

After a thorough review of the categories requested for delegation, the Regional Administrator, EPA Region IX determined that such delegation was appropriate for these source categories, as set forth in the original delegation letters.

The CARB has requested authority for delegation of certain NSPS and NESHAPS categories to the Bay Area and South Coast AQMD's. By letters dated May 18, 1992, January 25, 1993, and May 21, 1993, EPA delegated and/or redelegated its authority for 40 CFR Parts 60 and 61 for the following subparts:

NSPS	40 CFR part 60 subpart
Bay Area AQMD	
General Provisions	A
Emission Guidelines and Compliance Times	C
Fossil-Fuel-Fired Steam Generators for Which Construction is Commenced After August 17, 1971	D
Electric Utility Steam Generating Units for Which Construction is Commenced After September 18, 1978	Da
Industrial-Commercial-Institutional Steam Generating Units	Db
Small Industrial-Commercial-Institutional Steam Generating Units	Dc
Incinerators	E
Municipal Waste Combustors	Ea

NSPS	40 CFR part 60 subpart
Bay Area AQMD	
Portland Cement Plants	F
Nitric Acid Plants	G
Sulfuric Acid Plants	H
Asphalt Concrete Plants (Hot Mix Asphalt Facilities)	I
Petroleum Refineries	J
Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After June 11, 1973, and Prior to May 19, 1978.	K
Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After May 18, 1978, and Prior to July 23, 1984.	Ka
Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced after July 23, 1984.	Kb
Secondary Lead Smelters	L
Secondary Brass and Bronze Production Plants	M
Primary Emissions from Basic Oxygen Process Furnaces for Which Construction is Commenced After June 11, 1973	N
Secondary Emissions from Basic Oxygen Process Steelmaking Facilities for Which Construction is Commenced After January 20, 1983.	Na
Sewage Treatment Plants	O
Primary Copper Smelters	P
Primary Zinc Smelters	Q
Primary Lead Smelters	R
Primary Aluminum Reduction Plants	S
Phosphate Fertilizer Industry: Wet-Process Phosphoric Acid Plants	T
Phosphate Fertilizer Industry: Superphosphoric Acid Plants	U
Phosphate Fertilizer Industry: Diammonium Phosphate Plants	V
Phosphate Fertilizer Industry: Triple Superphosphate Plants	W
Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities	X
Coal Preparation Plants	Y
Ferroalloy Production Facilities	Z
Steel Plants: Electric Arc Furnaces Constructed After October 21, 1974, and on or Before August 17, 1983	AA
Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed After August 17, 1983	AAa
Kraft Pulp Mills	BB
Glass Manufacturing Plants	CC
Grain Elevators	DD
Surface Coating of Metal Furniture	EE
Stationary Gas Turbines	GG
Lime Manufacturing Plants	HH
Lead-Acid Battery Manufacturing Plants	KK
Metallic Mineral Processing Plants	LL
Automobile and Light Duty Truck Surface Coating Operations	MM
Phosphate Rock Plants	NN
Ammonium Sulfate Manufacture	PP
Graphic Arts Industry: Publication Rotogravure Printing	QQ
Pressure Sensitive Tape and Label Surface Coating Operations	RR
Industrial Surface Coating: Large Appliances	SS
Metal Coil Surface Coating	TT
Asphalt Processing and Asphalt Roofing Manufacture	UU
Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry	VV
Beverage Can Surface Coating Industry	WW
New Residential Wood Heaters	AAA
Rubber Tire Manufacturing Industry	BBB
Volatile Organic Compound (VOC) Emissions from the Polymer Manufacturing Industry	DDD
Flexible Vinyl and Urethane Coating and Printing	FFF
Equipment Leaks of VOC in Petroleum Refineries	GGG
Synthetic Fiber Production Facilities	HHH
VOC Emissions from the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation Unit Processes	III
Petroleum Dry Cleaners	JJJ
Equipment Leaks of VOC From Onshore Natural Gas Processing Plants	KKK
Onshore Natural Gas Processing; SO_2 Emissions	LLL
VOC Emissions From SOCMI Distillation Operations	NNN
Nonmetallic Mineral Processing Plants	OOO
Wool Fiberglass Insulation Manufacturing Plants	PPP
VOC Emissions From Petroleum Refinery Waste-water Systems	QQQ
Magnetic Tape Coating Facilities	SSS
Industrial Surface Coating: Surface Coating of Plastic Parts for Business Machines	TTT

NSPS	40 CFR part 60 subpart
Bay Area AQMD	
Polymeric Coating of Supporting Substrates Facilities	VVV
NESHAPS	40 CFR part 61 subpart
Benzene Emissions from Coke By-Product Recovery Plants	L
Asbestos	M
Benzene Emissions from Benzene Storage Vessels	Y
Benzene Emissions from Benzene Transfer Operations	BB
Benzene Waste Operations	FF

By letters dated June 8, 1992 and February 8, 1993, EPA delegated and/or redelegated its authority for 40 CFR Part 60 and Part 61 for the following subparts:

NSPS	40 CFR part 60 subpart
South Coast AQMD	
General Provisions	A
Emission Guidelines and Compliance Times	C
Fossil-Fuel-Fired Steam Generators for Which Construction is Commenced After August 17, 1971	D
Electric Utility Steam Generating Units for Which Construction is Commenced After September 18, 1978	Da
Industrial-Commercial-Institutional Steam Generating Units	Db
Small Industrial-Commercial-Institutional Steam Generating Units	Dc
Incinerators	E
Portland Cement Plants	F
Nitric Acid Plants	G
Sulfuric Acid Plants	H
Asphalt Concrete Plants (Hot Mix Asphalt Facilities)	I
Petroleum Refineries	J
Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After June 11, 1973, and Prior to May 19, 1978.	K
Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After May 18, 1978, and Prior to July 23, 1984.	Ka
Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction or Modification Commenced After July 23, 1984.	Kb
Secondary Lead Smelters	L
Secondary Brass and Bronze Production Plants	M
Primary Emissions from Basic Oxygen Process Furnaces for Which Construction is Commenced After June 11, 1973	N
Secondary Emissions from Basic Oxygen Process Steelmaking Facilities for Which Construction is Commenced After January 20, 1983.	Na
Sewage Treatment Plants	O
Primary Copper Smelters	P
Primary Zinc Smelters	Q
Primary Lead Smelters	R
Primary Aluminum Reduction Plants	S
Phosphate Fertilizer Industry: Wet-Process Phosphoric Acid Plants	T
Phosphate Fertilizer Industry: Superphosphoric Acid Plants	U
Phosphate Fertilizer Industry: Diammonium Phosphate Plants	V
Phosphate Fertilizer Industry: Triple Superphosphate Plants	W
Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities	X
Coal Preparation Plants	Y
Ferroalloy Production Facilities	Z
Steel Plants: Electric Arc Furnaces Constructed After October 21, 1974, and on or Before August 17, 1983	AA
Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed After August 17, 1983	AAa
Kraft Pulp Mills	BB
Glass Manufacturing Plants	CC
Grain Elevators	DD
Surface Coating of Metal Furniture	EE
Stationary Gas Turbines	GG
Lime Manufacturing Plants	HH
Lead-Acid Battery Manufacturing Plants	KK
Metallic Mineral Processing Plants	LL
Automobile and Light-Duty Truck Surface Coating Operations	MM
Phosphate Rock Plants	NN

NSPS	40 CFR part 60 subpart
South Coast AQMD	
Ammonium Sulfate Manufacture	PP
Graphic Arts Industry: Publication Rotogravure Printing	QQ
Pressure Sensitive Tape and Label Surface Coating Operations	RR
Industrial Surface Coating: Large Appliances	SS
Metal Coil Surface Coating	TT
Asphalt Processing and Asphalt Roofing Manufacture	UU
Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry	VV
Beverage Can Surface Coating Industry	WW
New Residential Wood Heaters	AAA
Rubber Tire Manufacturing Industry	BBB
Volatile Organic Compound (VOC) Emissions from the Polymer Manufacturing Industry	DDD
Flexible Vinyl And Urethane Coating and Printing	FFF
Equipment Leaks of VOC In Petroleum Refineries	GGG
Synthetic Fiber Production Facilities	HHH
VOC Emissions from the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation Unit Processes	III
Petroleum Dry Cleaners	JJJ
Equipment Leaks of VOC From Onshore Natural Gas Processing Plants	KKK
Onshore Natural Gas Processing; SO_2 Emissions	LLL
VOC Emissions from SOCMI Distillation Operations	NNN
Nonmetallic Mineral Processing Plants	OOO
Wool Fiberglass Insulation Manufacturing Plants	PPP
VOC Emissions from Petroleum Refinery Wastewater Systems	QQQ
Magnetic Tape Coating Facilities	SSS
Industrial Surface Coating: Surface Coating of Plastic Parts for Business Machines	TTT
Polymeric Coating of Supporting Substrates Facilities	VVV
NESHAPS	40 CFR part 61 subpart
General Provisions	A
General Provisions	A
Beryllium	C
Beryllium Rocket Motor Firing	D
Mercury	E
Vinyl Chloride	F
Equipment Leaks (Fugitive Emission Sources) of Benzene	J
Benzene Emissions from Coke By-Product Recovery Plants	L
Asbestos	M
Inorganic Arsenic Emissions from Glass Manufacturing Plants	N
Inorganic Arsenic Emissions from Primary Copper Smelters	O
Inorganic Arsenic Emissions from Arsenic Trioxide and Metallic Arsenic Production Facilities	P
Equipment Leaks (Fugitive Emission Sources)	V
Benzene Emissions from Benzene Storage Vessels	Y
Benzene Emissions from Benzene Transfer Operations	BB
Benzene Waste Operations	FF

Under the terms of the delegations, BAAQMD and SCAQMD are required to follow all applicable provisions of 40 CFR Parts 60 and 61, including but not limited to use of EPA's test methods and continuous monitoring procedures.

As of the effective dates of the delegations to each agency, BAAQMD and SCAQMD have primary authority to enforce the standards listed above. EPA retains independent enforcement authority, and will exercise such authority in a manner consistent with EPA's ''Timely and Appropriate Enforcement Response to Significant Air Pollution Violators'' Guidance, and any revisions thereto, and applicable enforcement agreements.

As of the effective dates of the delegations, all notifications and reports required of sources by the above standards should be sent to either BAAQMD or SCAQMD, as appropriate, with a copy to EPA Region IX.

The EPA hereby notifies the public that it has delegated the authority over the above-listed NSPS and NESHAPS subparts to the Bay Area Air Quality Management District and the South Coast Air Quality Management District.

The Office of Management and Budget has exempted this action from Executive Order 12866 review.

This notice is issued under the authority of sections 101, 110, 111, 112, and 301 of the Clean Air Act, as amended (42 U.S.C. 7401, 7410, 74121, 7412, and 7601).

Dated: April 1, 1997.

John Wise,

Acting Regional Administrator, EPA Region IX.

[FR Doc. 97–10513 Filed 4–22–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300477; FRL–5712–8]

RIN 2070–AB78

Kaolin; Pesticide Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a temporary exemption from the requirement of a tolerance for residues of the insecticide Kaolin, when used on crops (apples, apricots, bananas, beans, cane berries, citrus fruits, corn, cotton, cranberries, cucurbits, grapes, melons, nuts, ornamentals, peaches, peanuts, pears, peppers, plums, potatoes, seed crops, small grains, soybeans, strawberries, sugar beets, and tomatoes) to control certain insect, fungus, and bacterial damage to plants.

DATES: This regulation is effective April 23, 1997 and expires December 31, 1999. Submit written objections and hearing requests on or before June 23, 1997

ADDRESSES: Written objections and hearing requests, identified by the document control number, [OPP–300477; PP–7G4793], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Room M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251.

A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the document control number and submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of the objections and hearing requests to: Crystal Mall #2, Room 1132, 1921 Jefferson Davis Highway, Arlington, VA. A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically to the OPP by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket control number [OPP–300477; PP–7G4793]. No ''Confidential Business Information'' (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found in Unit IV. of this document.

FOR FURTHER INFORMATION CONTACT: By mail: Sheryl K. Reilly, Regulatory Action Leader, Biopesticides and Pollution Prevention Division (7501W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, Office location, telephone number, and e-mail: Room CS15-W29, 2800 Jefferson Davis Highway, Arlington, VA, 703–308–8265), e-mail: reilly.sheryl@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Engelhard Corporation, Research Center, 101 Wood Avenue, Iselin, NJ 08830–0770 has requested in pesticide petition PP–7G4793 the establishment of an exemption from the requirement of a tolerance for residues of the insecticide Kaolin. A notice of filing (FRL–5585–4) was published in the **Federal Register** (62 FR 6524, February 12, 1997), and the notice announced that the comment period would end on March 12, 1997; no comments were received. This temporary exemption from the requirement of a tolerance will permit the marketing of the above food commodities when treated in accordance with the provisions of experimental use permit 70060–EUP–1, which is being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (Pub. L. 95–396, 92 Stat. 819; 7 U.S.C. 136). The data submitted in the petition and all other relevant material have been evaluated. Following is a summary of EPA's findings regarding this petition as required by section 408(d) of the Federal Food, Drug and Cosmetice Act (FFDCA), 21 U.S.C. 346a, as recently amended by the Food Quality Protection Act (FQPA), Pub. L. 104–170.

I. Summary

A. Proposed Use Practices

The experimental program will be conducted in the states of Alabama, Arizona, California, Delaware, Florida, Idaho, Indiana, Georgia, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Jersey, New York, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, Washington, and West Virginia. Crops to be treated are apples, apricots, bananas, beans, cane berries, citrus fruits, corn, cotton, cranberries, cucurbits, grapes, melons, nuts, ornamentals, peaches, peanuts, pears, peppers, plums, potatoes, seed crops, small grains, soybean, strawberries, sugar beets, and tomatoes. Treatment is made shortly after leaf or plant emergence and applied at 7 to 10-day intervals to crops. Treatment will not be applied within 10 days of harvest. Dosage rates are 10 to 100 lbs of the formulated kaolin per acre and are applied with standard commercial spray equipment. The first year target pests are aphids, apple scab, codling moth, fireblight, leaf hoppers, and pear psylla. The second year target pests are aphid complex, apple scab, armyworm, bacteria spot, bollworms, citrus canker, citrus rust, codling moth, Colorado potato beetle, cotton flea hopper, European and spotted red mite, fabrea leaf spot, early and late blight, fireblight, flyspeck, Japanese beetle, leaf hopper complex, leaf rollers, mealybug, mildews, phylloxera, pear psylla, pear rust mites, Pierce's Disease, rots, scales, tarnish plant bug, thrips, wheat stem-saw fly, and whitefly.

B. Product Identity/Chemistry

Kaolin is a white, nonporous, nonswelling, natural aluminosilicate mineral with the chemical formula of $A1_4Si_4O_{10}(OH)_8$. Kaolin is one of the most highly divided and highly refined naturally occurring minerals. Median particle size of commercial products vary between 0.1–10 microns. Kaolin is chemically inert. Its hydrophilic surface allows kaolin to be easily dispersed in water at neutral pH values of 6–8. Common physical properties of kaolin are: platy shape; high brightness (80–95); specific gravity 2.58–2.63; refractive index 1.56–1.62; and Mohs hardness 2–3.

C. Toxicological Profile

Waivers were requested for acute toxicity, genotoxicity, reproductive and developmental toxicity, subchronic toxicity, and chronic toxicity. The waivers were accepted based on its long history of use by humans without any indication of deleterious effects, and on the following: Kaolin is used as an indirect food additive for paper/paper board in wet and fatty food contact, paper/paper board dry food contact, adhesives, polymeric coatings, rubber articles and cellophane; Kaolin is used in pharmaceuticals, tablet diluents, poultices, and surgical dusting powders; Kaolin is used as a cosmetic in face powders, face masks, and face packs;

Kaolin is used in health products and toiletries, in toothpaste and in antiperspirants; Kaolin can be used directly in foods as an anti-caking agent (up to 2.5%).

D. Aggregate Exposure

In examining aggregate exposure, FQPA directs EPA to consider available information concerning exposures from the pesticide residue in food and all other non-occupational exposures. The primary non-food sources of exposure the Agency considers include drinking water or groundwater, and exposure through pesticide use in gardens, lawns, or buildings (residential and other indoor uses).

1. *Dietary exposure.* Dietary exposure of kaolin via food or water is difficult to estimate due to the use of kaolin in thousands of products and its ubiquitous presence in nature. Kaolin has no known mammalian toxicity. The low toxicity, low application rate, and the use patterns leads the Agency to conclude that residues from use of the biochemical pesticide kaolin will not pose a dietary risk of concern under reasonably foreseeable circumstances. Therefore, EPA concludes that there is a reasonable certainty of no harm from aggregate exposure under this temporary exemption.

2. *Non-dietary, non-occupational exposure.* Increased non-dietary exposure of kaolin via lawn care or ornamental use will be minimal. Kaolin is already widely used in the cosmetic, pharmacological, and other products listed above. The amount of kaolin currently used in the U.S. pesticide industry as an inert is between 2 million lbs. and 10 million lbs. per year.

E. Cumulative Exposure

Kaolin has no mode of toxicity and is used in thousands of products used by humans. Cumulative exposure would be difficult to calculate due to its ubiquitous nature in the environment. Because of its low toxicity, low rate of application, and its use patterns, the Agency believes that there is no reason to expect any cumulative effects from kaolin.

F. Endocrine Disruptors

The Agency has no information to suggest that kaolin will have an effect on the immune and endocrine systems. The Agency is not requiring information on the endocrine effects of this biochemical pesticide at this time; Congress has allowed 3 years after August 3, 1996, for the Agency to implement a screening program with respect to endocrine effects.

G. Safety

For the U.S. population, including infants and children, kaolin has no known adverse effects. FFDCA section 408 provides that EPA shall apply an additional tenfold margin of exposure (safety) for infants and children in the case of threshold effects to account for pre- and post-natal toxicity and the completeness of the database, unless EPA determines that a different margin of exposure (safety) will be safe for infants and children. Margins of exposure (safety) are often referred to as uncertainty (safety) factors. In this instance, the Agency believes there is reliable data to support the conclusion that kaolin is not toxic to mammals, including infants and children, and thus there are no threshold effects. As a result, the provision requiring an additional margin of exposure (safety) do not apply, and under reasonable, foreseeable circumstances, kaolin does not pose a dietary risk.

H. Analytical Method

The Agency proposes to establish a temporary exemption from the requirement of a tolerance without any numerical limitation; therefore, the Agency has concluded that an analytical method is not required for enforcement purposes for kaolin residues.

I. Codex Maximum Residue Level

There are no CODEX tolerances nor international tolerance exemptions for Kaolin at this time. Kaolin is listed as exempt from tolerance ''when used in accordance with good agricultural practice as an inert (or occasionally active) ingredient in pesticide formulations applied to growing crops or to food commodities after harvest.'' 40 CFR 180.1001 (subpart D).

II. Conclusion

Based on its long history of use by humans without any indication of deleterious effects, there is reasonable certainty that no harm will result from aggregate exposure to the United States population, including infants and children, to residues of kaolin. This includes all anticipated dietary exposures and all other exposures for which there is reliable information. The Agency has arrived at this conclusion because, as discussed above, no toxicity to mammals has been observed for kaolin. As a result, EPA establishes a temporary exemption from the requirement of a tolerance pursuant to FFDCA section 408(j)(3) for kaolin, on the condition that Kaolin be used in accordance with the experimental use permit 70060–EUP–1, with the following provisions:

The total amount of the active ingredients to be used must not exceed the quantity authorized by the experimental use permits.

Engelhard Corporation must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration (FDA).

This temporary exemption from the requirement of a tolerance expires and is revoked December 31, 1999. Residues remaining in or on the raw agricultural commodity after this expiration date will not be considered actionable if the pesticides are legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary exemption from the requirement of a tolerance. This temporary exemption from the requirement of a tolerance may be revoked if the experimental use permit is revoked or if any experience with or scientific data on this pesticide indicate that the tolerance is not safe.

III. Objections and Hearing Requests

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

Any person adversely affected by this regulation may on or before June 23, 1997 file written objections to the regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given under **ADDRESSES** at the beginning of this rule (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP Docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is

requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is 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). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as ''Confidential Business Information'' (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

IV. Public Record

A record has been established for this rulemaking under the docket control number [OPP–300477; PP–7G4793] (including any comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

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

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

V. Regulatory Assessment Requirements

The Office of Management and Budget has exempted this notice from the requirement of section 3 of Executive Order 12866. This action does not impose any enforceable duty or contain any ''unfunded mandates'' as described in Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), or require prior consultation as specified by Executive Order 12875 (58 FR 58093, October 28, 1993), entitled Enhancing the Intergovernmental Partnership, or special consideration as required by Executive Order 12898 (59 FR 7629, February 16, 1994).

Because tolerances established on the basis of a petition under section 408(d) of FFDCA do not require issuance of a proposed rule, the regulatory flexibility analysis requirements of the Regulatory Flexibility Act (RFA), 5 U.S.C. 604(a), do not apply. Prior to the recent amendment of the FFDCA, EPA had treated such rulemakings as subject to the RFA; however, the amendments to the FFDCA clarify that no proposal is required for such rulemakings and hence that the RFA is inapplicable. Nonetheless, the Agency has previously assessed whether establishing tolerances or exemptions from tolerance, raising tolerance levels, or expanding exemptions adversely impact small entities and concluded, as a generic matter, that there is no adverse impact. (46 FR 24950) (May 4, 1981).

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

List of Subjects in 40 CFR Part 180

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

Dated: April 15, 1997.

Daniel M. Barolo,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

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

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

2. Section 180.1180 is added to subpart D to read as follows:

§ 180.1180 Kaolin; exemption from the requirement of a tolerance.

(a) *General.* The biochemical pesticide kaolin is temporarily exempted from the requirement of a tolerance for residues of the insecticide Kaolin, when used on crops (apples, apricots, bananas, beans, cane berries, citrus fruits, corn, cotton, cranberries, cucurbits, grapes, melons, nuts, ornamentals, peaches, peanuts, pears, peppers, plums, potatoes, seed crops, small grains, soybeans, strawberries, sugar beets, and tomatoes) to control certain insect, fungus, and bacterial damage to plants. This temporary exemption from the requirement of a tolerance will permit the marketing of the food commodities in this paragraph when treated in accordance with the provisions of experimental use permit 70060–EUP–1, which is being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (7 U.S.C. 136). This temporary exemption from the requirement of a tolerance expires and is revoked December 31, 1999. This temporary exemption from the requirement of a tolerance may be revoked at any time if the experimental use permit is revoked or if any experience with or scientific data on this pesticide indicate that the tolerance is not safe.

(b) *Section 18 emergency exemptions.* [Reserved]

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

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

[FR Doc. 97–10536 Filed 4–22–97; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 64 and 68

[CC Docket No. 92–90; FCC 97–117]

Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991, Order on Further Reconsideration

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: On April 10, 1997, the Commission released an Order on Further Reconsideration clarifying that a facsimile broadcast service provider must ensure that the identifying information of the entity on whose behalf the provider sent facsimile messages appears on messages. We determine that the sender of a facsimile message is the creator of the content of the message. The Order on Further Reconsideration is intended to alert the industry and the general public that a facsimile message must include the identification of the business, other entity, or individual creating or originating the message.

EFFECTIVE DATE: May 23, 1997.

ADDRESSES: Federal Communications Commission, 1919 M Street, N.W., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Renee Alexander, Attorney, Network Services Division, Common Carrier Bureau, (202) 418–2497.

SUPPLEMENTARY INFORMATION: This summarizes the Commission's Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991, Order on Further Reconsideration, FCC 97–117, adopted April 3, 1997, and released April 10, 1997. The file is available for inspection and copying during the weekday hours of 9 a.m. to 4:30 p.m. in the Commission's Reference Center, room 239, 1919 M St., NW., Washington DC, or copies may be purchased from the Commission's duplicating contractor, ITS, Inc., 2100 M St., NW., Suite 140, Washington, DC 20037, phone (202) 857–3800.

Analysis of Proceeding

In the Order on Further Reconsideration, the Commission reconsiders our determination in the Memorandum Opinion and Order (60 FR 42068, August 15, 1995) that a facsimile broadcast service provider must ensure that its identifying information and the identifying information of the entity on whose behalf it sent facsimile messages must appear on the messages. The Commission finds that the sender of a facsimile message is the creator of the content of the message. Thus, the Commission concludes that Section 227(d)(1) of the Telephone Consumer Protection Act of 1991, Public Law 102–243 (1991), mandates that a facsimile message must include the identification of the business, other entity, or individual creating or originating that message and not the entity that transmits the message.

Ordering Clauses

Accordingly, pursuant to Sections 4(i), 227(d)(2) and 405(a) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 227(d)(2) and 405(a), and Section 1.106 of the Commission's Rules, 47 CFR § 1.106, it is ordered, that MCI's petition for clarification or, in the alternative, reconsideration is granted.

List of Subjects

47 CFR Part 64

Communications common carriers, Telephone.

47 CFR Part 68

Communications equipment, Telephone.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–10426 Filed 4–22–97; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 674 and 679

[Docket No. 970326069–7069–01; I.D. 022597F]

RIN 0648–AJ38

Fisheries of the Exclusive Economic Zone Off Alaska; High Seas Salmon Fishery Off Alaska

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

ACTION: Final rule and technical amendment.

SUMMARY: NMFS is consolidating 50 CFR part 674 into 50 CFR part 679 as part of the President's Regulatory Reform Initiative. NMFS is also correcting a technical error in regulations implementing pelagic trawl performance standards for the Alaska groundfish trawl fleet. NMFS is also correcting cross-references contained in the Individual Fishing Quota program and in the recordkeeping and reporting requirements.

EFFECTIVE DATE: May 23, 1997.

ADDRESSES: Comments on the collection-of-information requirements repromulgated by this rule may be sent to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget (OMB)(0648–0206), Washington, DC 20503, and to Patsy A. Bearden, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802.

FOR FURTHER INFORMATION CONTACT: Patsy A. Bearden, NMFS, 907-586-7228.

SUPPLEMENTARY INFORMATION:

Final Rule

The Magnuson-Stevens Fishery Conservation and Management Act authorizes the North Pacific Fishery Management Council (Council) to prepare and amend fishery management plans for any fishery in waters under its jurisdiction. In December 1978, the Council prepared the Fishery Management Plan for the High Seas Salmon Fishery off the Coast of Alaska East of 175° E. Long. (Salmon FMP) and submitted it to the Secretary of Commerce (Secretary) for approval. On May 3, 1979, the Secretary approved the Salmon FMP, and it was implemented in May 1979 by Federal regulations at 50 CFR part 674.

As a result of the President's Regulatory Reform Initiative (61 FR 31228, June 19, 1996), NMFS removed parts 671, 672, 673, 675, 676, and 677 of title 50 CFR and consolidated the regulations contained therein into one new part, 50 CFR part 679. The consolidation of 50 CFR part 674, the regulations implementing the Salmon FMP, was delayed due to extensive review of the management of the High Seas Salmon Fishery by NMFS. This final rule removes 50 CFR part 674 and consolidates the regulations contained therein into 50 part 679. This action provides the public with a single reference source for the Federal fisheries regulations specific to the EEZ off Alaska and results in regulations that are more concise and easier to use.

Technical Amendment

Regulations implementing the Fishery Management Plan for Groundfish of the Gulf of Alaska and the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area appear at 50 CFR part 679. Due to the complexity of the consolidation of the six parts into part

679 and the reorganization of material contained therein, an error was introduced into the regulatory text. The original intent of regulations at § 679.7(b) and (c)(3) was to prohibit the possession of 20 or more crabs by the operator of a vessel using trawl gear when directed fishing with nonpelagic trawl gear is prohibited. The final rule implementing this provision was published in the **Federal Register** on July 26, 1993 (58 FR 39680), and correctly implemented the intent of regulations. NMFS is correcting regulations that, during the consolidation of regulations at 50 CFR part 679, inadvertently changed the regulatory language implementing this provision and also omitted its application to the GOA.

NMFS is correcting a cross-reference contained in the introductory text to § 679.42(j). The last sentence of this paragraph references § 676.41(c). Part 676 in title 50 of the CFR was removed as part of NMFS' consolidation of Alaska-related regulations. The regulations contained in part 676 were consolidated in part 679. However, when NMFS published the final rule implementing Amendments 33 and 37 to the BSAI and GOA FMPs, respectively, an error was inadvertently introduced into the regulatory text. Reference was made to part 676 rather than the newly consolidated Alaska regulations contained in part 679 (June 27, 1996, 61 FR 33385). This action corrects the cross-reference contained in the introductory text to paragraph (j) of § 679.41.

NMFS is also correcting a cross-reference contained in § 679.5(a)(1). On September 24, 1996, NMFS issued a final rule, technical amendment which clarified the recordkeeping requirements for catcher vessels under 60 ft (18.3m) length overall by specifically exempting them from the requirement to comply with recordkeeping and reporting requirements contained in § 679.5(a)-(k). However, a cross-reference error was inadvertently introduced into the regulatory text in § 679.5(a)(1). The cross-reference currently reads ''paragraph (a)(iii)''. This action corrects the cross-reference contained in § 679.5(a)(1) to read ''paragraph (a)(1)(iii)''.

Classification

This final rule makes only nonsubstantive changes to existing regulations issued after prior notice and an opportunity for public comment. This technical amendment makes only minor, non-substantive corrections to an existing rule. Therefore, prior notice and opportunity for public comment would serve no purpose. Accordingly, the Assistant Administrator for Fisheries, under 5 U.S.C. 553(b)(B), for good cause finds that prior notice and opportunity for public comment are unnecessary.

Because a general notice of proposed rulemaking is not required to be published for this rule by 5 U.S.C. 553 or by any other law, this rule is exempt from the Regulatory Flexibility Act requirement to prepare a regulatory flexibility analysis and none has been prepared.

Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA unless that collection of information displays a currently valid OMB control number.

This rule contains a collection of information requirement subject to the PRA that has already been approved by OMB under control number 0648-0206. The estimated response time for this requirement is 0.50 hours for a permit application for high seas trollers in the salmon fishery. The estimated response time shown includes the time to review instructions, search existing data sources, gather and maintain the data needed, and complete and review the collection of information.

Send comments regarding this burden estimate, or any other aspect of this collection-of-information, including suggestions for reducing the burden, to NMFS and OIRA, OMB (see **ADDRESSES**).

This final rule has been determined to be not significant for purposes of E.O. 12866. The technical amendment makes minor technical changes to a rule that has been determined to be not significant for purposes of E.O. 12866. No changes in the regulatory impact previously reviewed and analyzed will result from implementation of this technical amendment.

List of Subjects

50 CFR Part 674

Fisheries, Fishing, Reporting and recordkeeping requirements.

50 CFR Part 679

Fisheries, Reporting and recordkeeping requirements.

Dated: April 16, 1997.

Nancy Foster,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For reasons set out in the preamble, 50 CFR chapter VI is amended as follows:

PART 674—HIGH SEAS SALMON FISHERY OFF ALASKA [REMOVED]

1. Under the authority of 16 U.S.C. 1801 *et seq*. and 16 U.S.C. 3631 *et seq*., part 674 is removed.

PART 679–-FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

2. The authority citation for 50 CFR part 679 is revised to read as follows:

Authority: 16 U.S.C. 773 *et seq*., 1801 *et seq*., and 3631 *et seq.*

3. In § 679.1, paragraph (i) is added to read as follows:

§ 679.1 Purpose and scope.

* * * * *

(i) *Fishery Management Plan for the High Seas Salmon Fishery off the Coast of Alaska East of 175 Degrees East Longitude (Salmon FMP).* Regulations in this part govern fishing for salmon by fishing vessels of the United States in the EEZ seaward of Alaska east of 175° E. long., referred to as the High Seas Salmon Management Area.

4. In § 679.2, the introductory paragraph of the definition of ''Authorized fishing gear'' and the definition of ''Optimum yield''are revised; and paragraphs (13) and (14) of the definition of ''Authorized fishing gear'', the definition of ''Commercial fishing'', the definition of ''High Seas Salmon Management Area'', paragraph (3) of the definition of ''Person'', and the definitions of ''Personal use fishing'' and ''Salmon'' are added to read as follows:

§ 679.2 Definitions.

* * * * *

Authorized fishing gear means fixed gear, hook-and-line, jig, longline, longline pot, nonpelagic trawl, nontrawl, pelagic trawl, pot-and-line, trawl, hand troll gear, and power troll gear: * * *

(13) *Hand troll gear* means, for purposes of the High Seas Salmon Fishery, one or more lines with lures or hooks attached, drawn through the water behind a moving vessel, and retrieved by hand or hand-cranked reels or gurdies and not by any electrically, hydraulically, or mechanically-powered device or attachment.

(14) *Power troll gear* means, for purposes of the High Seas Salmon Fishery, one or more lines, with hooks or lures attached, drawn through the water behind a moving vessel, and originating from a power gurdy or power-driven spool fastened to the

vessel, the extension or retraction of which is directly to the gurdy or spool.

* * * * *

Commercial fishing, for purposes of the High Seas Salmon Fishery, means fishing for fish for sale or barter.

* * * * *

High Seas Salmon Management Area means the portion of the EEZ off Alaska east of 175 degrees E. long. The High Seas Salmon Management Area is divided into a West Area and an East Area:

(1) The *West Area* consists of the waters of the High Seas Salmon Management Area which are west of 143°53′36″ W. long. (Cape Suckling).

(2) The *East Area* consists of the waters of the High Seas Salmon Management Area east of 143°53′36″ W. long.

* * * * *

Optimum yield means:

(1) With respect to the High Seas Salmon Fishery, that amount of any species of salmon which will provide the greatest overall benefit to the Nation, with particular reference to food production and recreational opportunities, as specified in the Salmon FMP.

(2) With respect to the groundfish fisheries, see § 679.20(a)(1).

* * * * *

Person * * *

(3) For purposes of High Seas Salmon Fishery permits issued under § 679.4(h), the term ''person'' excludes any nonhuman entity.

Personal use fishing means, for purposes of the High Seas Salmon Fishery, fishing other than commercial fishing.

* * * * *

Salmon means the following species:

(1) Chinook (or king) salmon (*Oncorhynchus tshawytscha*);

(2) Coho (or silver) salmon (*O. kisutch*);

(3) Pink (or humpback) salmon (*O. gorbuscha*);

(4) Sockeye (or red) salmon (*O. nerka*); and

(5) Chum (or dog) salmon (*O. keta*).

* * * * *

5. In § 679.3, paragraph (f) is added to read as follows:

§ 679.3 Relation to other laws.

* * * * *

(f) *Domestic fishing for high seas salmon.* (1) Additional regulations governing the conservation and management of high seas salmon are set forth in § 600.705 of this chapter.

(2) This part does not apply to fishing for salmon by vessels other than vessels of the United States conducted under subpart H, part 660 (West Coast Salmon Fisheries) under the North Pacific Fisheries Act of 1954, 16 U.S.C. 1021-1035, concerning fishing for salmon seaward of Washington, Oregon, and California.

(3) The High Seas Salmon Fishery is administered in close coordination with ADF&G's administration of the State of Alaska's regulations governing the salmon troll fishery off Southeast Alaska. Because no commercial fishing for salmon is allowed in the EEZ west of Cape Suckling, all commercial salmon fishing west of Cape Suckling must take place in Alaska's territorial sea and, consequently, is subject to Alaska's management authority.

(4) For State of Alaska statutes and regulations governing commercial fishing, see Alaska Statutes, title 16—Fish and Game; title 5 of the Alaska Administrative Code, chapters 1-39.

(5) For State of Alaska regulations specifically governing the salmon troll fishery, see 5 Alaska Administrative Code 30 (Yakutat Area), and 5 Alaska Administrative Code 33 (Southeastern Alaska Area).

(6) For State of Alaska statutes and regulations governing sport and personal use salmon fishing other than subsistence fishing, see Alaska Statutes, title 16—Fish and Game; 5 Alaska Administrative Codes 42.010 through 75.995.

(7) For State of Alaska statutes and regulations governing subsistence fishing, see Alaska Statutes, title 16—Fish and Game; 5 Alaska Administrative Codes 01, 02, 39, and 99.010.

6. In 679.4, paragraph (h) is added to read as follows:

§ 679.4 Permits.

* * * * *

(h) *High Seas Salmon permits*—(1) *Operators of commercial fishing vessels using power troll gear.* The operator of a fishing vessel using power troll gear may engage in commercial fishing for salmon in the High Seas Salmon Management Area if the operator:

(i) Held a valid State of Alaska power troll permanent entry permit on May 15, 1979, or is a transferee under paragraph (h)(13) of this section from an operator who held such a permit on that date;

(ii) Held a valid State of Alaska power troll interim use permit on May 15, 1979; or

(iii) Holds a High Seas Salmon Fishery permit issued by the Regional Administrator under paragraph (h)(7) of this section.

(2) *Crew members and other persons not the operator of a commercial fishing vessel using power trawl gear.* Crew members or other persons aboard but not the operator of a fishing vessel may assist in the vessel's commercial salmon fishing operations in the High Seas Management Area without a permit if a person described in paragraph (h)(1)(i) through (iii) of this section is also aboard the vessel and is engaged in the vessel's commercial fishing operations.

(3) *Personal use fishing.* Any person who holds a valid State of Alaska sport fishing license may engage in personal use fishing in the High Seas Salmon Management Area.

(4) *Duration.* Authorization under this paragraph (h) to engage in fishing for salmon in the High Seas Salmon Management Area constitutes a use privilege which may be revoked or modified without compensation.

(5) *Eligibility criteria for permits issued by the Regional Administrator.* (i) Any person is eligible to be issued a High Seas Salmon Fishery permit under paragraph (h)(7) of this section if that person, during any one of the calendar years 1975, 1976, or 1977:

(A) Operated a fishing vessel in the High Seas Salmon Management Area.

(B) Engaged in commercial fishing for salmon in the High Seas Salmon Management Area.

(C) Caught salmon in the High Seas Salmon Management Area using power troll gear.

(D) Landed such salmon.

(ii) The following persons are not eligible to be issued a High Seas Salmon Fishery permit under paragraph (h)(7) of this section:

(A) Persons described in paragraph (h)(1)(i) or (h)(1)(ii) of this section.

(B) Persons who once held but no longer hold a State of Alaska power troll permanent entry or interim-use permit.

(6) *Application.* Applications for a High Seas Salmon Fishery permit must be in writing, signed by the applicant, and submitted to the Regional Administrator, at least 30 days prior to the date the person wishes to commence fishing, and must include:

(i) The applicant's name, mailing address, and telephone number.

(ii) The vessel's name, USCG documentation number or State of Alaska registration number, home port, length overall, registered tonnage, and color of the fishing vessel.

(iii) The type of fishing gear used by the fishing vessel.

(iv) State of Alaska fish tickets or other equivalent documents showing the actual landing of salmon taken in the High Seas Salmon Management Area by the applicant with power troll gear during any one of the years 1975 to 1977.

(7) *Issuance.* (i) Except as provided in subpart D of 15 CFR part 904, upon

receipt of a properly completed application, the Regional Administrator will determine whether the permit eligibility conditions have been met, and if so, will issue a High Seas Salmon Fishery permit.

(ii) If the permit is denied, the Regional Administrator will notify the applicant in accordance with paragraph (h)(16) of this section.

(iii) If an incomplete or improperly completed permit application is filed, the Regional Administrator will notify the applicant of the deficiency. If the applicant fails to correct the deficiency within 30 days following the date of receipt of notification, the application shall be considered abandoned.

(8) *Amended application*. Any person who applies for and receives a High Seas Salmon Fishery permit issued under paragraph (h)(7) of this section must notify the Regional Administrator within 30 days of a change in any of the information submitted under paragraph (h)(6) of this section.

(9) *Replacement*. Replacement permits may be issued for lost or unintentionally mutilated permits. An application for a replacement permit shall not be considered a new application.

(10) *Display*. Any permit or license described in paragraph (h)(1) or (h)(3) of this section must be on board the vessel at all times while the vessel is in the High Seas Salmon Management Area.

(11) *Inspection*. Any permit or license described in paragraph (h)(1) or (h)(3) of this section must be presented for inspection upon request by an authorized officer.

(12) *Sanctions*. Procedures governing permit sanctions and denials are found at subpart D of 15 CFR part 904.

(13) *Transfer of authority to fish in the High Seas Salmon Management Area*—(i) *State of Alaska power troll permanent entry permits*. The authority of any person to engage in commercial fishing for salmon using power troll gear in the High Seas Salmon Management Area shall expire upon the transfer of that person's State of Alaska power troll permanent entry permit to another and shall be transferred to the new holder of that permit.

(ii) *Transfer of Authority by the Regional Administrator*. (A) Any person to whom the proposed transfer of a State of Alaska power troll permanent entry permit is denied by the State of Alaska may apply, with the consent of the current holder of that permit, to the Regional Administrator for transfer to the applicant of the current holder's authority to engage in commercial fishing for salmon using power troll gear in the High Seas Salmon Management Area.

(B) The application for transfer shall be filed with the Regional Administrator within 30 days of the denial by the State of Alaska of the proposed transfer of the permit.

(C) The application for transfer shall include all documents and other evidence submitted to the State of Alaska in support of the proposed transfer of the permit and a copy of the State of Alaska's decision denying the transfer of the permit. The Regional Administrator may request additional information from the applicant or from the State of Alaska to assist in the consideration of the application.

(D) The Regional Administrator shall approve the transfer if it is determined that:

(*1*) The applicant had the ability to participate actively in the fishery at the time the application for transfer of the permit was filed with the State of Alaska.

(*2*) The applicant has access to power troll gear necessary for participation in the fishery.

(*3*) The State of Alaska has not instituted proceedings to revoke the permit on the ground that it was fraudulently obtained.

(*4*) The proposed transfer of the permit is not a lease.

(E) Upon approval of the transfer application by the Regional Administrator, the authority of the permit holder to engage in commercial fishing for salmon in the High Seas Salmon Management Area using power troll gear shall expire, and that authority shall be transferred to the applicant.

(14) *Other Permits*. (i) Except for emergency transfers under paragraph (h)(15) of this section, the authority of any person described in paragraph (h)(1)(ii), (h)(1)(iii), or (h)(3) of this section to fish for salmon in the High Seas Salmon Management Area, may not be transferred to any other person.

(ii) Except for emergency transfers under paragraph (h)(15) of this section, the authority to engage in commercial fishing for salmon which was transferred under paragraph (h)(13)(ii) of this section may not be transferred to any other person except the current holder of the State of Alaska power troll permanent entry permit from which that authority was originally derived.

(iii) The authority described in paragraph (h)(14)(ii) of this section may be transferred to the current holder of that permit upon receipt of written notification of the transfer by the Regional Administrator.

(15) *Emergency transfers—authority to use power troll gear*. (i) The authority of any person to engage in commercial fishing for salmon using power troll gear in the High Seas Salmon Management Area may be transferred to another person for a period not lasting beyond the end of the calendar year of the transfer when sickness, injury, or other unavoidable hardship prevents the holder of that authority from engaging in such fishing.

(ii) Such a transfer shall take effect automatically upon approval by the State of Alaska of an emergency transfer of a State of Alaska power troll entry permit, in accordance with the terms of the permit transfer.

(iii) Any person may apply to the Regional Administrator for emergency transfer of the current holder's authority to engage in commercial fishing for salmon using power troll gear in the High Seas Salmon Management Area for a period not lasting beyond the calendar year of the proposed transfer, if a person:

(A) Is denied emergency transfer of a State of Alaska power troll entry permit by the State of Alaska; or

(B) Requests emergency transfer of a Federal commercial power troll permit previously issued by the Regional Administrator, with the consent of the current holder of that permit.

(iv) The Regional Administrator shall approve the transfer if he determines that:

(A) Sickness, injury, or other unavoidable hardship prevents the current permit holder from engaging in such fishing.

(B) The applicant had the ability to participate actively in the fishery at the time the application for emergency transfer of the permit was filed with the State of Alaska or, in the case of a Federal permit, with the Regional Administrator.

(C) The applicant has access to power troll gear necessary for participation in the fishery.

(D) The State of Alaska has not instituted proceedings to revoke the permit on the grounds that it was fraudulently obtained.

(v) The application in the case of a State of Alaska permit shall be filed with the Regional Administrator within 30 days of the denial by the State of Alaska of emergency transfer of the permit.

(vi) The application shall include all documents and other evidence submitted to the State of Alaska in support of the proposed emergency transfer of the permit and a copy of the State of Alaska's decision denying the emergency transfer of the permit. The Regional Administrator may request additional information from the

applicant or from the State of Alaska to assist in the consideration of the application.

(vii) Upon approval of the application by the Regional Administrator, the authority of the permit holder to engage in commercial fishing for salmon using power troll gear in the High Seas Salmon Management Area shall expire for the period of the emergency transfer, and that authority shall be transferred to the applicant for that period.

(16) *Appeals and hearings.* (i) A decision by the Regional Administrator to deny a permit under paragraph (h)(7) of this section or to deny transfer of authority to engage in commercial fishing for salmon in the High Seas Salmon Management Area under paragraphs (h)(13) and (h)(14) of this section will:

(A) Be in writing.

(B) State the facts and reasons therefor.

(C) Advise the applicant of the rights provided in this paragraph (h)(16).

(ii) Any such decision of the Regional Administrator shall be final 30 days after receipt by the applicant, unless an appeal is filed with the NOAA/NMFS Assistant Administrator within that time.

(iii) Failure to file a timely appeal shall constitute waiver of the appeal.

(iv) Appeals under this paragraph (h)(16) must:

(A) Be in writing.

(B) Set forth the reasons why the appellant believes the Regional Administrator's decision was in error.

(C) Include any supporting facts or documentation.

(v) At the time the appeal is filed with the Assistant Administrator, the appellant may request a hearing with respect to any disputed issue of material fact. Failure to request a hearing at this time will constitute a waiver of the right to request a hearing.

(vi) If a hearing is requested, the Assistant Administrator may order an informal fact-finding hearing if it is determined that a hearing is necessary to resolve material issues of fact and shall so notify the appellant.

(vii) If the Assistant Administrator orders a hearing, the order will appoint a hearing examiner to conduct the hearing.

(viii) Following the hearing, the hearing examiner shall promptly furnish the Assistant Administrator with a report and appropriate recommendations.

(ix) As soon as practicable after considering the matters raised in the appeal, and any report or recommendation of the hearing examiner in the event a hearing is held under this paragraph (h)(16), the Assistant Administrator shall decide the appeal.

(x) The Assistant Administrator shall promptly notify the appellant of the final decision. Such notice shall set forth the findings of the Assistant Administrator and set forth the basis of the decision. The decision of the Assistant Administrator shall be the final administrative action of the Department of Commerce.

7. In § 679.5, paragraph (a)(1) introductory text is revised to read as follows:

§ 679.5 Recordkeeping and reporting.

(a) * * *

(1) * * *. Except as provided in paragraph (a)(1)(iii) of this section, the following must comply with the recordkeeping and reporting requirements of this section:

* * * * *

8. In § 679.7, paragraph (b) is removed and reserved, paragraph (c)(3) is removed, and paragraphs (a)(14) and (i) are added to read as follows:

§ 679.7 Prohibitions.

* * * * *

(a) * * *

(14) *Trawl performance standard.* Use a vessel to participate in a directed fishery for pollock with trawl gear and have on board the vessel, at any particular time, 20 or more crab of any species that have a width of more than 1.5 inches (38 mm) at the widest dimension when directed fishing for pollock with nonpelagic trawl gear is closed.

(b) [Reserved]

* * * * *

(i) *High Seas Salmon Fisheries.* (1) Fish for, take, or retain any salmon in violation of the North Pacific Fisheries Act of 1954, 16 U.S.C. 1021–1035 or this part.

(2) Engage in fishing for salmon in the High Seas Salmon Management Area except to the extent authorized by § 679.4(h).

9. In § 679.42, paragraph (j) introductory text, the last sentence is revised to read as follows:

§ 679.42 Limitations on use of QS and IFQ.

* * * * *

(j) * * * Such transfers of additional QS within these areas must be to an individual pursuant to § 679.41(c) of this part and be used pursuant to paragraphs (c) and (i) of this section.

* * * * *

[FR Doc. 97–10462 Filed 4–22–97; 8:45 am]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 62, No. 78
Wednesday, April 23, 1997

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

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Parts 422 and 457

Potato Crop Insurance Regulations and Common Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes specific crop provisions for the insurance of potatoes. The provisions will be used in conjunction with the Common Crop Insurance Policy Basic Provisions, which contain standard terms and conditions common to most crops. The intended effect of this action is to provide policy changes to better meet the needs of the insured, include the current potato crop insurance regulations with the Common Crop Insurance Policy for ease of use and consistency of terms, and to restrict the effect of the current potato crop insurance regulations to the 1997 and prior crop years.

DATES: Written comments, data, and opinions on this proposed rule will be accepted until close of business May 23, 1997 and will be considered when the rule is to be made final.

ADDRESSES: Interested persons are invited to submit written comments to the Director, Product Development Division, Federal Crop Insurance Corporation, United States Department of Agriculture, 9435 Holmes Road, Kansas City, MO 64131.

FOR FURTHER INFORMATION CONTACT: Rob Coultis, Insurance Management Specialist, Product Development Division, Federal Crop Insurance Corporation, at the Kansas City, MO, address listed above, telephone (816) 926–7730.

SUPPLEMENTARY INFORMATION:

Executive Order No. 12866

The Office of Management and Budget (OMB) has determined this rule to be exempt for the purposes of Executive Order No. 12866, and, therefore, this rule has not been reviewed by OMB.

Paperwork Reduction Act of 1995

The information collection requirements contained in the potato crop insurance regulations were previously approved by OMB pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) under OMB control number 0563–0003 through September 30, 1998.

The amendments set forth in this proposed rule, however, revise the information required to be collected when a producer elects the new Northern Potato Crop Insurance Storage Endorsement. Producers must indicate an additional option code on either the application or contract change form to select this endorsement, an insignificant modification for the purposes of paperwork reduction. Other amendments set forth in this rule not contain additional information collections that require clearance by OMB under the provisions of 44 U.S.C. chapter 35.

The title of this information collection is ''Catastrophic Risk Protection Plan and Related Requirements including, Common Crop Insurance Regulations; Northern Potato Crop Insurance Provisions; Central and Southern Potato Crop Insurance Provisions; Northern Potato Quality Endorsement Crop Insurance Provisions; Northern Processing Potato Quality Endorsement Crop Insurance Provisions; Certified Seed Potato Endorsement Crop Insurance Provisions; and Northern Potato Storage Endorsement Crop Insurance Provisions.'' The information to be collected includes a crop insurance application and an acreage report. Information collected from the application and acreage report is electronically submitted to FCIC by the reinsured companies. Potential respondents to this information collection are producers of potatoes that are eligible for Federal crop insurance.

The information requested is necessary for the reinsured companies and FCIC to provide insurance and reinsurance, determine eligibility, determine the correct parties to the agreement or contract, determine and collect premiums or other monetary amounts, and pay benefits.

All information is reported annually. The reporting burden for this collection of information on crop insurance programs is estimated to average 16.9 minutes per response for each of the 3.6 responses from approximately 1,755,015 respondents. The total annual burden on the public for this information collection is 2,676,932 hours.

FCIC is requesting comments on the following: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information gathering technology.

Comments regarding paperwork reduction should be submitted to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503.

OMB is required to make a decision concerning the collections of information contained in these proposed regulations between 30 and 60 days after submission to OMB. Therefore, a comment to OMB is best assured of having full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment on the proposed regulation.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Executive Order No. 12612

It has been determined under section 6(a) of Executive Order No. 12612, Federalism, that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in this rule will not have a substantial direct effect on States or their political subdivisions, or on the distribution of power and responsibilities among the various levels of government.

Regulatory Flexibility Act

This regulation will not have a significant impact on a substantial number of small entities. New provisions included in this rule will not impact small entities to a greater extent than large entities. Under the current regulations, a producer is required to complete an application and acreage report. If the crop is damaged or destroyed, the insured is required to give notice of loss and provide the necessary information to complete a claim for indemnity.

The insured must also annually certify to the previous years production if adequate records are available to support the certification. The producer must maintain the production records to support the certified information for at least three years. This regulation does not alter those requirements.

The amount of work required of the insurance companies delivering and servicing these policies will not increase significantly from the amount of work currently required. This rule does not have any greater or lesser impact on the producer. Therefore, this action is determined to be exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605), and no Regulatory Flexibility Analysis was prepared.

Federal Assistance Program

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

Executive Order No. 12372

This program is not subject to the provisions of Executive Order No. 12372, which require intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

Executive Order No. 12988

This proposed rule has been reviewed under the provisions of Executive Order 12988. The provisions of this rule will not have a retroactive effect prior to the effective date. The provisions of this rule will preempt State and local laws to the extent such State and local laws are inconsistent herewith. The administrative appeal provisions published at 7 CFR part 11 must be exhausted before any action for judicial review may be brought.

Environmental Evaluation

This action is not expected to have a significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

National Performance Review

This regulatory action is being taken as part of the National Performance Review Initiative to eliminate unnecessary or duplicative regulations and improve those that remain in force.

Background

FCIC proposes to add to the Common Crop Insurance Regulations (7 CFR part 457), new sections: 7 CFR § 457.142, Northern Potato Crop Insurance Provisions; 7 CFR § 457.143, Northern Potato Quality Endorsement Crop Insurance Provisions; 7 CFR § 457.144, Northern Processing Potato Quality Endorsement Crop Insurance Provisions; 7 CFR § 457.145, Certified Seed Potato Endorsement Crop Insurance Provisions; 7 CFR § 457.146, Northern Potato Storage Endorsement Crop Insurance Provisions; and 7 CFR § 457.147, Central and Southern Potato Crop Insurance Provisions. The new provisions will be effective for the 1998 and succeeding crop years. These provisions will replace and supersede the current provisions for insuring potatoes found at 7 CFR part 422 (Potato Crop Insurance Regulations). FCIC also proposes to amend 7 CFR part 422 to limit its effect to the 1997 and prior crop years.

This action will revise the potato crop insurance regulations by providing separate crop provisions for areas in which it is common to store potatoes after harvest (northern areas) and areas in which storage of production is less common (central and southern areas). It also will make available a new endorsement (Northern Potato Storage Endorsement) to provide coverage for damage that occurs within the insurance period but does not become evident until a later time. This rule also makes minor editorial and format changes to improve the Potato Crop Insurance Regulations' compatibility with the Common Crop Insurance Policy. In addition, FCIC is proposing substantive changes in the provisions for insuring potatoes as follows.

Northern Potato Crop Provisions

1. Remove the definition of ''county'' to default to the definition contained in the Basic Provisions (§ 457.8). The current definition includes land identified by an FSA farm serial number for the county that is physically located in another county the new definition does not. This change will require land in another county to be insured using the actuarial materials for the county where the land is located and make this provision consistent with most other crops. Add definitions for ''certified seed,'' ''days,'' ''discard,'' ''FSA,'' ''final planting date,'' ''good farming practices,'' ''grade inspection,'' ''hundredweight,'' ''interplanted,'' ''irrigated practice,'' ''local market,'' ''planted acreage,'' ''practical to replant,'' ''processor contract,'' ''production guarantee (per acre),'' ''replanting,'' ''timely planted,'' and ''written agreement'' for clarification.

2. Section 2—Clarify the guidelines under which basic units may be divided into optional units to be consistent with most other crops.

3. Section 3(a)—Clarify that an insured may select only one price election for all potatoes insured in a county, unless the Special Provisions provide for separate price elections by type, in which case the insured may select one price election for each type designated in the Special Provisions.

4. Sections 3(b) and (c)—Reduce the price used to determine the amount of an indemnity for unharvested acreage to 80 percent of the price election elected by the insured. This will take into account those costs not incurred by the insured when the crop is not harvested.

5. Section 4—Change the contract change date to November 30 for all counties to maintain an adequate time period between this date and the revised cancellation dates (see item 6 below).

6. Section 5—Change the cancellation and termination dates from April 15 to March 15. These changes are made to standardize the cancellation and termination date with the sales closing date. The sales closing dates were previously amended to comply with the requirement of the Federal Crop Insurance Reform Act of 1994 that spring planted crop sales closing dates be moved 30 days earlier.

7. Section 8(b)—Provide that any acreage damaged prior to the final planting date, to the extent that the majority of growers in the area would not normally further care for the crop, must be replanted unless the insurer agrees that it is not practical to replant. This makes these provisions consistent with most other crops.

8. Section 9—The end of the insurance period is changed from:

(a) October 31 to October 15 in Nevada;

(b) October 31 for Russet Burbanks and October 15 for all other types to a single date of October 20 in Maine; and

(c) October 15 to October 31 in Ohio; Rhode Island; Humboldt, Modoc, and Siskiyou Counties, California; and for potato types other than Russets in Idaho, Oregon, and Washington.

These changes were made to more accurately reflect the normal period in which potatoes are grown in the affected states or counties.

9. Section 12(d)(1)(iii)—Increases the amount of production to count when production is harvested prior to full maturity. The production to count will be increased by 2% of harvested production per day for every day the potatoes were harvested prior to full maturity. This percentage is based on University studies of average bulking factors. This adjustment will not be made if production is harvested early to prevent a loss in quantity or quality of production due to disease. These changes will give consistency to the procedure for determining production lost to early harvest.

10. Sections 12 (e) and (f)—Incorporate quality adjustment for production damaged by freeze or other causes that result in soft rot, wet breakdown, or other tuber rot condition into the crop provisions. Previously, such quality adjustments were optional.

11. Section 13—Provides insurance coverage by written agreement in certain instances. FCIC has a long standing policy of permitting certain modifications of the insurance contract by written agreement for some policies. This amendment allows FCIC to tailor the policy to a specific insured in certain instances. The new section will cover the procedures and duration of written agreements.

Central and Southern Potato Crop Provisions

1. Remove the definition of ''county'' to default to the definition contained in the Basic Provisions (§ 457.8). The current definition includes land identified by an FSA farm serial number for the county that is physically located in another county the new definition does not. This change will require land in another county to be insured using the actuarial materials for the county where the land is located and make this provision consistent with most other crops. Add definitions for ''certified seed,'' ''days,'' ''discard,'' ''FSA,'' ''final planting date,'' ''good farming practices,'' ''grade inspection,'' ''hundredweight,'' ''interplanted,'' ''irrigated practice,'' ''marketable lot,'' ''planted acreage,'' ''planting period,'' ''practical to replant,'' ''production guarantee (per acre),'' ''replanting,'' ''timely planted,'' and ''written agreement'' for clarification.

2. Clarify the guidelines under which basic units may be divided into optional units, including for planting periods if allowed by the Special Provisions.

3. Section 3(a)—Clarify that an insured may select only one price election for all potatoes insured in a county, unless the Special Provisions provide for separate price elections by type, in which case, the insured may select one price election for each type designated in the Special Provisions.

4. Sections 3 (b) and (c)—Reduce the price used to determine the amount of an indemnity for unharvested acreage to 80 percent of the price election elected by the insured. This will take into account those costs not incurred by the insured when the crop is not harvested.

5. Section 4—The contract change date has been changed to November 30 in Oklahoma and Haskell County, Texas, and in all counties with a March 15 cancellation date, to maintain an adequate time period between these dates and the revised cancellation dates (see item 6 below).

6. Section 5—The cancellation and termination dates have been changed to February 28 in Oklahoma and Haskell County, Texas to more accurately reflect the period in which potatoes are grown in these locations. The cancellation and termination dates have been changed to March 15 for those counties that currently have an April 15 date. These changes are made to standardize the cancellation and termination date with the sales closing date. The sales closing dates were previously amended to comply with the requirement of the Federal Crop Insurance Reform Act of 1994 that spring planted crop sales closing dates be moved 30 days earlier.

7. Section 8(b)—Provides that any acreage damaged prior to the final planting date (on or before the last day of the applicable planting period in counties for which the Special Provisions designate separate planting periods), to the extent that the majority of growers in the area would not normally further care for the crop, must be replanted unless the insurer agrees that it is not practical to replant. This makes this provision consistent with most other crops.

8. Section 12(d)(1)(iii)—Increases the amount of production to count when production is harvested prior to full maturity. This adjustment will not be made if production is harvested early to prevent a loss in quantity or quality of production due to disease.

9. Section 13—Provides insurance coverage by written agreement in certain instances. FCIC has a long standing policy of permitting certain modifications of the insurance contract by written agreement for some policies. This amendment allows FCIC to tailor the policy to a specific insured in certain instances. The new section will cover the procedures for and duration of written agreements.

Northern Potato Quality Endorsement

1. Section 3(b)—Exclude coverage for acreage grown for the production of seed. Such acreage often is grown under management practices designed to produce potatoes smaller than those required by grading standards for fresh or processing use. These management practices are incompatible with the protection provided under the Potato Quality Endorsement against under-sized production.

2. Section 4(a)—Provide additional quality adjustment for production with internal defects that cannot be sorted from undamaged production. Current provisions do not provide adequate, or in some cases, any adjustment when the entire crop is not marketable due to internal defects and has to be destroyed.

3. Section 5—Clarify that production which is harvested or appraised prior to reaching full maturity that does not grade U.S. No. 2 solely as a result of size will be considered to grade U.S. No. 2.

Northern Processing Potato Quality Endorsement

1. The Processing Quality Endorsement has been rewritten so that it will attach to and amend the Quality Endorsement. This allows removal of duplicative provisions since the primary difference between the two endorsements is the coverage provided for low specific gravity and dark fry color in the processing endorsement. The combination will also result in quality protection for all of a producer's acreage, not just the acreage covered by the processor contract.

2. Section 6(a)(1)(i)—Change the value of undamaged production from the highest price election to the base contract price in order to more accurately reflect lost value.

Certified Seed Potato Endorsement

1. Section 4—Limit the insurable certified seed acreage to not greater than 125% of the average number of acres entered into the state certification program in the three previous years, unless a written agreement allows more acreage to be insured. This change is

made to reduce vulnerability to program abuse caused by persons declaring large acreages insured for seed but intending to produce potatoes for human consumption.

2. Rotation requirements and standards for parent seed have been removed from the endorsement. These requirements are established and administered by individual state certification authorities and vary by state.

List of Subjects in 7 CFR Parts 422 and 457

Crop insurance, Potato crop insurance regulations, Potatoes.

Proposed Rule

Accordingly, for the reasons set forth in the preamble, the Federal Crop Insurance Corporation hereby proposes to amend 7 CFR parts 422 and 457 as follows:

PART 422—POTATO CROP INSURANCE REGULATIONS

1. The authority citation for 7 CFR part 422 is revised to read as follows:

Authority: 7 U.S.C. 1506(1), 1506(p).

2. The subpart heading preceding § 422.1 is revised to read as follows:

Subpart—Regulations for the 1986 through 1997 Crop Years (1987 through 1997 Crop Years in Certain California Counties and Florida)

3. Section 422.7 is amended by revising the introductory text of paragraph (d) to read as follows:

§ 422.7 The application and policy.

* * * * *

(d) The application for the 1986 and succeeding crop years is found at subpart D of part 400—General Administrative Regulations (7 CFR 400.37, 400.38). The provisions of the Potato Crop Insurance Policy for the 1986 through 1997 crop years (1987 through 1997 crop years in certain California counties and Florida) are as follows:

* * * * *

PART 457—COMMON CROP INSURANCE REGULATIONS; REGULATIONS FOR THE 1994 AND SUBSEQUENT CONTRACT YEARS

4. The authority citation for 7 CFR part 457 continues to read as follows:

Authority: 7 U.S.C. 1506(l), 1506(p).

5. Section 457.142 is added to read as follows:

§ 457.142 Northern Potato Crop Insurance Provisions.

The Northern Potato Crop Insurance Provisions for the 1998 and succeeding crop years are as follows:

FCIC policies:

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Reinsured policies:

(Appropriate title for insurance provider)

Both FCIC and reinsured policies:

NORTHERN POTATO CROP PROVISIONS

These provisions will be applicable in: Alaska; Humboldt, Modoc, and Siskiyou Counties, California; Colorado; Connecticut; Idaho; Indiana; Iowa; Maine; Massachusetts; Michigan; Minnesota; Montana; Nebraska; Nevada; New York; North Dakota; Ohio; Oregon; Pennsylvania; Rhode Island; South Dakota; Utah; Washington; Wisconsin; and Wyoming.

If a conflict exists among the Basic Provisions (§ 457.8), these Crop Provisions, and the Special Provisions; the Special Provisions will control these Crop Provisions and the Basic Provisions; and these Crop Provisions will control the Basic Provisions.

1. Definitions

Certified seed—Potatoes for planting a potato crop in a subsequent crop year that have been found to meet the standards of the public agency that is responsible for the seed certification process within the state in which they were grown.

Days—Calendar days.

Discard—Disposal of production by you, or a person acting for you, without receiving any value for it.

FSA—The Farm Service Agency, an agency of the United States Department of Agriculture, or a successor agency.

Final planting date—The date contained in the Special Provisions for the insured crop by which the crop must initially be planted in order to be insured for the full production guarantee.

Good farming practices—The cultural practices generally in use in the county for the crop to make normal progress toward maturity and produce at least the yield used to determine the production guarantee, and are those recognized by the Cooperative State Research, Education, and Extension Service as compatible with agronomic and weather conditions in the county.

Grade inspection—An inspection prior to the sale, storage, or disposal of any lot of potatoes, or any portion of a lot, in which the potatoes are evaluated and quality (grade) determinations are made by us, a laboratory approved by us, or a potato grader licensed or certified by the applicable State or the United States Department of Agriculture.

Harvest—The digging of potatoes.

Hundredweight—One hundred (100) pounds avoirdupois.

Interplanted—Acreage on which two or more crops are planted in a manner that does not permit separate agronomic maintenance or harvest of the insured crop.

Irrigated practice—A method of producing a crop by which water is artificially applied during the growing season by appropriate systems and at the proper times, with the intention of providing the quantity of water needed to produce at least the yield used to establish the irrigated production guarantee on the irrigated acreage planted to the insured crop.

Local market—The area in which the insured potatoes are normally sold.

Planted acreage—Land in which seed has been placed by a machine appropriate for the insured crop and planting method, at the correct depth, into a seedbed that has been properly prepared for the planting method and production practice. Acreage planted in any other manner will not be insurable unless otherwise provided by the Special Provisions or by written agreement.

Practical to replant—In lieu of the definition of ''Practical to replant'' contained in section 1 of the Basic Provisions (§ 457.8), practical to replant is defined as our determination, after loss or damage to the insured crop, based on factors, including but not limited to moisture availability, condition of the field, marketing windows, and time to crop maturity, that replanting the insured crop will allow the crop to attain maturity prior to the calendar date for the end of the insurance period. It will not be considered practical to replant after the end of the late planting period unless replanting is generally occurring in the area.

Processor contract—A written agreement between the producer and a processor, containing at a minimum:

(a) The producer's commitment to plant and grow potatoes, and to deliver the potato production to the processor;

(b) The processor's commitment to purchase the production stated in the contract; and

(c) A price that will be paid to the producer for the production stated in the contract.

Production guarantee (per acre)—The number of hundredweights determined by multiplying the approved actual production history yield per acre by the coverage level percentage you elect.

Replanting—Performing the cultural practices necessary to prepare the land to replace the potato seed and then replacing the potato seed in the insured acreage with the expectation of growing a successful crop.

Timely planted—Planted on or before the final planting date designated in the Special Provisions for the insured crop in the county.

Written agreement—A written document that alters designated terms of this policy in accordance with section 13 of these Crop Provisions.

2. Unit Division

(a) Unless limited by the Special Provisions, a unit as defined in section 1 (Definitions) of the Basic Provisions (§ 457.8) (basic unit) may be divided into optional units only if, for each optional unit, you meet all the conditions of this section or if a written agreement to such division exists.

(b) Basic units may not be divided into optional units on any basis including, but not limited to, production practice, type, variety, and planting period, other than as described in this section.

(c) If you do not comply fully with these provisions, we will combine all optional

units that are not in compliance with these provisions into the basic unit from which they were formed. We will combine the optional units at any time we discover that you have failed to comply with these provisions. If failure to comply with these provisions is determined to be inadvertent, and the optional units are combined into a basic unit, that portion of the additional premium paid for the optional units that have been combined will be refunded to you.

(d) All optional units you selected for a crop year must be identified on the acreage report for that crop year.

(e) The following requirements must be met for each optional unit:

(1) You must have provided records by the production reporting date, which can be independently verified, of planted acreage and production for each optional unit for at least the last crop year used to determine your production guarantee;

(2) You must plant the crop in a manner that results in a clear and discernable break in the planting pattern at the boundaries of each optional unit;

(3) You must have records of marketed production or measurement of stored production from each optional unit maintained in such a manner that permits us to verify the production from each optional unit, or the production from each unit must be kept separate until loss adjustment is completed by us; and

(4) Each optional unit must meet one or more of the following criteria, as applicable:

(i) *Optional Units by Section, Section Equivalent, or FSA Farm Serial Number:* Optional units may be established if each optional unit is located in a separate legally identified section. In the absence of sections, we may consider parcels of land legally identified by other methods of measure including, but not limited to Spanish grants, railroad surveys, leagues, labors, or Virginia Military Lands, as the equivalent of sections for unit purposes. In areas that have not been surveyed using the systems identified above, or another system approved by us, or in areas where such systems exist but boundaries are not readily discernable, each optional unit must be located in a separate farm identified by a single FSA farm serial number.

(ii) *Optional Units on Acreage Including Both Irrigated and Non-irrigated Practices:* In addition to, or instead of, establishing optional units by section, section equivalent, or FSA farm serial number, optional units may be based on irrigated acreage or non-irrigated acreage if both are located in the same section, section equivalent or FSA farm serial number. To qualify as separate irrigated and non-irrigated optional units, the non-irrigated acreage may not continue into the irrigated acreage in the same rows or planting pattern. The irrigated acreage may not extend beyond the point at which the irrigation system can deliver the quantity of water needed to produce the yield on which the guarantee is based, except the corners of a field in which a center-pivot irrigation system is used will be considered as irrigated acreage if separate acceptable records of production from the corners are not provided. If the corners of a field in which a center-pivot irrigation system is used do not qualify as a separate non-irrigated optional unit, they will be a part of the unit containing the irrigated acreage. However, non-irrigated acreage that is not a part of a field in which a center-pivot irrigation system is used may qualify as a separate optional unit provided that all requirements of this section are met.

3. Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities

(a) In addition to the requirements of section 3 (Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities) of the Basic Provisions (§ 457.8), you may select only one price election for all the potatoes in the county insured under this policy unless the Special Provisions provide different price elections by type, in which case you may select one price election for each potato type designated in the Special Provisions. The price elections you choose for each type must have the same percentage relationship to the maximum price offered by us for each type. For example, if you choose 100 percent of the maximum price election for one type, you must also choose 100 percent of the maximum price election for all other types.

(b) If any acreage of the insured crop is not harvested, the price used to determine whether or not an indemnity is owed for such acreage will be 80 percent of your price election.

(c) Any acreage of potatoes damaged to the extent that the majority of producers in the area would not normally further care for the potatoes will be deemed to have been destroyed even though you may continue to care for it. The price election for unharvested acreage will apply to such acreage.

4. Contract Changes

In accordance with section 4 (Contract Changes) of the Basic Provisions (§ 457.8), the contract change date is November 30 preceding the cancellation date.

5. Cancellation and Termination Dates

In accordance with section 2 (Life of Policy, Cancellation, and Termination) of the Basic Provisions (§ 457.8), the cancellation and termination dates are March 15.

6. Annual Premium

In lieu of the premium computation method contained in section 7 (Annual Premium) of the Basic Provisions (§ 457.8), the annual premium amount is computed by multiplying the production guarantee by the price election for harvested acreage, the premium rate, the insured acreage, your share at the time of planting, and any applicable premium adjustment factors contained in the Actuarial Table.

7. Insured Crop

In accordance with section 8 (Insured Crop) of the Basic Provisions (§ 457.8), the crop insured will be all the potatoes in the county for which a premium rate is provided by the Actuarial Table:

(a) In which you have a share;

(b) Planted with certified seed unless otherwise permitted by the Special Provisions;

(c) Planted for harvest as certified seed stock, or for human consumption, unless specified otherwise in the Special Provisions;

(d) That are not (unless allowed by the Special Provisions or by written agreement):

(1) Interplanted with another crop; or

(2) Planted into an established grass or legume.

8. Insurable Acreage

In addition to the provisions of section 9 (Insurable Acreage) of the Basic Provisions (§ 457.8), we will not insure any acreage that:

(a) Does not meet the rotation requirements shown in the Special Provisions; or

(b) Is damaged before the final planting date to the extent that the majority of producers in the area would normally not further care for it, unless it is replanted or we agree that it is not practical to replant.

9. Insurance Period

In accordance with the provisions of section 11 (Insurance Period) of the Basic Provisions (§ 457.8), the calendar date for the end of the insurance period is the date immediately following planting as follows (exceptions for specific counties, varieties or types as may be contained in the Special Provisions):

(a) October 1 in Alaska;

(b) October 10 in Nebraska and Wyoming;

(c) October 15 in Colorado; Indiana; Iowa; Michigan; Minnesota; Montana; Nevada; North Dakota; South Dakota; Utah; and Wisconsin;

(d) October 20 in Maine; and

(e) October 31 in Humboldt, Modoc, and Siskiyou Counties, California; Connecticut; Idaho; Massachusetts; New York; Ohio; Oregon; Pennsylvania; Rhode Island; and Washington.

10. Causes of Loss

(a) In accordance with the provisions of section 12 (Causes of Loss) of the Basic Provisions (§ 457.8), insurance is provided only against the following causes of loss that occur within the insurance period:

(1) Adverse weather conditions;

(2) Fire;

(3) Insects, but not damage due to insufficient or improper application of pest control measures;

(4) Plant disease, but not damage due to insufficient or improper application of disease control measures;

(5) Wildlife;

(6) Earthquake;

(7) Volcanic eruption; or

(8) Failure of the irrigation water supply, if caused by an insured peril listed in section 10(a) (1) through (7) that occurs during the insurance period.

(b) In addition to the causes of loss not insured against as listed in section 12 of the Basic Provisions (§ 457.8), we will not insure against any loss of production due to:

(1) Damage that occurs or becomes evident after the end of the insurance period, including, but not limited to, damage that occurs or becomes evident in storage; or

(2) Causes, such as freeze after certain dates, that are limited by the Special Provisions.

11. Duties in the Event of Damage or Loss

(a) In accordance with the requirements of section 14 (Duties in the Event of Damage or Loss) of the Basic Provisions (§ 457.8), the representative samples of the unharvested

crop must be at least 10 feet wide and extend the entire length of each field in the unit. The samples must not be harvested or destroyed until the earlier of our inspection or 15 days after harvest of the balance of the unit is completed.

(b) We must be given the opportunity to perform a grade inspection on any unit for which you have given notice of damage.

12. Settlement of Claim

(a) We will determine your loss on a unit basis. In the event you are unable to provide separate acceptable production records:

(1) For any optional units, we will combine all optional units for which acceptable production records were not provided; or

(2) For any basic units, we will allocate any commingled production to such units in proportion to our liability on the harvested acreage for the units.

(b) In the event of loss or damage covered by this policy, we will settle your claim by:

(1) Multiplying the insured acreage by its respective production guarantee;

(2) Multiplying each result in section 12(b)(1) by the respective price election;

(3) Totaling the results of section 12(b)(2);

(4) Multiplying the total production to be counted of each type, if applicable, (see section 12(d)) by the respective price election;

(5) Totaling the results of section 12(b)(4);

(6) Subtracting the results of section 12(b)(5) from the result in section 12(b)(3); and

(7) Multiplying the result of section 12(b)(6) by your share.

(c) The extent of any loss must be determined no later than the time the potatoes are placed in storage, if the production is stored prior to sale, or the date they are delivered to a buyer, wholesaler, packer, broker, or other handler if production is not stored.

(d) The total production to count (in hundredweight) from all insurable acreage on the unit will include:

(1) All appraised production as follows:

(i) Not less than the production guarantee per acre for acreage:

(A) That is abandoned;

(B) That is put to another use without our consent;

(C) That is damaged solely by uninsured causes;

(D) From which any production is disposed of without a grade inspection; or

(E) For which you fail to provide acceptable production records;

(ii) Production lost due to uninsured causes;

(iii) Production lost due to harvest prior to full maturity. Production to count from such acreage will be determined by increasing the amount of harvested production by 2 percent per day for each day the potatoes were harvested prior to the date the potatoes would have reached full maturity. The date the potatoes would have reached full maturity will be determined using the normal number of days to full maturity for the variety, growing area, and planting date. This adjustment will not be made if the potatoes are damaged by an insurable cause of loss, and leaving the crop in the field would either reduce production or decrease quality;

(iv) Unharvested production (unharvested production may be adjusted in accordance with sections 12 (e), (f), and (g)); and

(v) Potential production on insured acreage that you intend to put to another use or abandon, if you and we agree on the appraised amount of production. Upon such agreement, the insurance period for that acreage will end when you put the acreage to another use or abandon the crop. If agreement on the appraised amount of production is not reached:

(A) If you do not elect to continue to care for the crop, we may give you consent to put the acreage to another use if you agree to leave intact, and provide sufficient care for, representative samples of the crop in locations acceptable to us, (The stage guarantee will be limited as specified in section 3 even if the representative samples are harvested; and the amount of production to count for such acreage will be based on the harvested production or appraisals from the samples at the time harvest should have occurred. If you do not leave the required samples intact, or fail to provide sufficient care for the samples, our appraisal made prior to giving you consent to put the acreage to another use will be used to determine the amount of production to count); or

(B) If you elect to continue to care for the crop, the amount of production to count for the acreage will be the harvested production, or our reappraisal if additional damage occurs and the crop is not harvested; and

(2) All harvested production from the insurable acreage (the amount of production prior to the sorting or discarding of any production).

(e) Potato production is eligible for quality adjustment if:

(1) The potatoes have freeze damage, soft rot or wet breakdown, or other tuber rot conditions as defined in the United States Standards for Grades of Potatoes;

(2) Freeze damage, soft rot, wet breakdown, or other tuber rot condition is present at or prior to the end of the insurance period;

(3) The amount (percentage) of damage is determined no later than the end of the insurance period; and

(4) A grade inspection is performed.

(f) Potato production that is eligible for quality adjustment, as specified in section 12(e), with 5 percent damage (by weight) or less will be adjusted 0.1 percent for each 0.1 percent of damage through 5.0 percent.

(g) Potato production that is eligible for quality adjustment, as specified in section 12(e), with 5.1 percent damage (by weight) or more will be adjusted as follows:

(1) For potatoes damaged by freeze, production will be reduced 0.1 percent for each 0.1 percent of damage through 5.0 percent, 0.5 percent for each 0.1 percent of damage in from 5.1 through 15.0 percent, and by 1.0 percent for each 0.1 percent of damage from 15.1 through 19.5 percent.

(2) For potatoes that have soft rot, wet breakdown or other tuber rot conditions due to late blight or any other insurable cause (except freeze), production to count will be determined as follows:

(i) For potatoes sold within 7 days of harvest, by dividing the price received per hundredweight by the highest price election designated in the Special Provisions for the insured potato type, and multiplying the result (not to exceed 1.0) by the number of hundredweight of sold production. If production is sold for a price lower than the value appropriate and representative of the local market, we will determine the value of the production based on the price you could have received in the local market;

(ii) For harvested potatoes discarded within 7 days of harvest and appraised unharvested production that could:

(A) Not have been sold, the production to count will be zero; or

(B) Have been sold, the production will be reduced as follows (all percentage points of damage will be rounded to the nearest 0.1 percent):

(*1*) 0.1 percent for each 0.1 percent of damage through 5.0 percent;

(*2*) 0.5 percent for each 0.1 percent of damage from 5.1 percent through 6.0 percent;

(*3*) 1.0 percent for each 0.1 percent of damage from 6.1 through 8.0 percent;

(*4*) 2.0 percent for each 0.1 percent of damage from 8.1 through 9.0 percent; and

(*5*) 2.5 percent for each 0.1 percent of damage from 9.1 through 11.0 percent.

(iii) For potatoes remaining in storage 8 or more days after harvest, adjustment will be made in accordance section 12(g)(2)(ii)(B).

13. Written Agreements

Designated terms of this policy may be altered by written agreement in accordance with the following:

(a) You must apply in writing for each written agreement no later than the sales closing date, except as provided in section 13(e);

(b) The application for a written agreement must contain all variable terms of the contract between you and us that will be in effect if the written agreement is not approved;

(c) If approved, the written agreement will include all variable terms of the contract, including, but not limited to, crop type or variety, the guarantee, premium rate, and price election;

(d) Each written agreement will only be valid for one year (If the written agreement is not specifically renewed the following year, insurance coverage for subsequent crop years will be in accordance with the printed policy); and

(e) An application for a written agreement submitted after the sales closing date may be approved if, after our physical inspection of the acreage, it is determined that no loss has occurred and the crop is insurable in accordance with the policy and written agreement provisions.

6. Section 457.147 is added to read as follows:

§ 457.147 Central and Southern Potato Crop Insurance Provisions.

The Central and Southern Potato Crop Insurance Provisions for the 1998 and succeeding crop years are as follows:

FCIC policies:

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Reinsured policies:

(Appropriate title for insurance provider)

Both FCIC and reinsured policies:

CENTRAL AND SOUTHERN POTATO CROP PROVISIONS

These provisions will be applicable in: Alabama; all California counties except Humboldt, Modoc and Siskiyou; Delaware; Florida; Maryland; Missouri; New Jersey; New Mexico; North Carolina; Oklahoma; Texas; and Virginia.

If a conflict exists among the Basic Provisions (§ 457.8), these Crop Provisions, and the Special Provisions; the Special Provisions will control these Crop Provisions and the Basic Provisions; and these Crop Provisions will control the Basic Provisions.

1. Definitions

Certified seed—Potatoes for planting a potato crop in a subsequent crop year that have been found to meet the standards of the public agency that is responsible for the seed certification process within the State in which they were grown.

Days—Calendar days.

Discard—Disposal of production by you, or a person acting for you, without receiving any value for it.

FSA—The Farm Service Agency, an agency of the United States Department of Agriculture, or a successor agency.

Final planting date—The date contained in the Special Provisions for the insured crop by which the crop must initially be planted in order to be insured for the full production guarantee.

Good farming practices—The cultural practices generally in use in the county for the crop to make normal progress toward maturity and produce at least the yield used to determine the production guarantee, and are those recognized by the Cooperative State Research, Education, and Extension Service as compatible with agronomic and weather conditions in the county.

Grade inspection—An inspection prior to the sale, storage, or disposal of any lot of potatoes, or any portion of a lot, in which the potatoes are evaluated and quality (grade) determinations are made by us, a laboratory approved by us, or a potato grader licensed or certified by the applicable State or the United States Department of Agriculture.

Harvest—The digging of potatoes.

Hundredweight—One hundred (100) pounds avoirdupois.

Interplanted—Acreage on which two or more crops are planted in a manner that does not permit separate agronomic maintenance or harvest of the insured crop.

Irrigated practice—A method of producing a crop by which water is artificially applied during the growing season by appropriate systems and at the proper times, with the intention of providing the quantity of water needed to produce at least the yield used to establish the irrigated production guarantee on the irrigated acreage planted to the insured crop.

Marketable lot—A quantity of production that can be separated from other quantities of production by grade characteristics, load, location or another distinctive feature.

Planted acreage—Land in which seed has been placed in the soil by a machine appropriate for the insured crop and planting method, at the correct depth, into a seedbed which has been properly prepared for the planting method and production practice. Acreage planted in any other manner will not be insurable unless otherwise provided by the Special Provisions or by written agreement.

Planting period—The period of time between the calendar dates designated in the Special Provisions for the planting of spring-planted, summer-planted, fall-planted, or winter-planted potatoes.

Practical to replant—In lieu of the definition of ''Practical to replant'' contained in section one of the Basic Provisions (§ 457.8), practical to replant is defined as our determination, after loss or damage to the insured crop, based on factors, including but not limited to moisture availability, condition of the field, marketing windows, and time to crop maturity, that replanting to the insured crop will allow the crop to attain maturity prior to the calendar date for the end of the insurance period. It will not be considered practical to replant after the end of the late planting period, or the end of the planting period in which initial planting took place in counties for which the Special Provisions designates separate planting periods, unless replanting is generally occurring in the area.

Production guarantee (per acre)—The number of hundredweights determined by multiplying the approved actual production history yield per acre by the coverage level percentage you elect.

Replanting—Performing the cultural practices necessary to prepare the land to replace the potato seed and then replacing the potato seed in the insured acreage with the expectation of growing a successful crop.

Timely planted—Planted on or before the final planting date designated in the Special Provisions for the insured crop in the county.

Written agreement—A written document that alters designated terms of this policy in accordance with section 13 of these crop provisions.

2. Unit Division

(a) Unless limited by the Special Provisions, in addition to the provisions defining a unit in section 1 (Definitions) of the Basic Provisions (§ 457.8), (basic unit) each planting in an area where the Special Provisions allow separate planting periods will be considered to be a separate basic unit.

(b) Basic units may be divided into optional units if, for each optional unit you meet all the conditions of this section or if a written agreement to such division exists.

(c) Basic units may not be divided into optional units on any basis including, but not limited to, production practice, type, and variety, other than as described under this section.

(d) If you do not comply fully with these provisions, we will combine all optional units that are not in compliance with these provisions into the basic unit from which they were formed. We will combine the optional units at any time we discover that you have failed to comply with these provisions. If failure to comply with these provisions is determined to be inadvertent, and the optional units are combined into a basic unit, that portion of the additional premium paid for the optional units that have been combined will be refunded to you.

(e) All optional units you selected for a crop year must be identified on the acreage report for that crop year.

(f) The following requirements must be met for each optional unit:

(1) You must have provided records by the production reporting date, which can be independently verified, of planted acreage and production for each optional unit for at least the last crop year used to determine your production guarantee;

(2) You must plant the crop in a manner that results in a clear and discernable break in the planting pattern at the boundaries of each optional unit;

(3) You must have records of marketed production or measurement of stored production from each optional unit maintained in such a manner that permits us to verify the production from each optional unit, or the production from each unit must be kept separate until after loss adjustment is completed by us; and

(4) Each optional unit must meet one or more of the following criteria, as applicable:

(i) *Optional Units by Section, Section Equivalent, or FSA Farm Serial Number:* Optional units may be established if each optional unit is located in a separate legally identified section. In the absence of sections, we may consider parcels of land legally identified by other methods of measure including, but not limited to Spanish grants, railroad surveys, leagues, labors, or Virginia Military Lands, as the equivalent of sections for unit purposes. In areas that have not been surveyed using the systems identified above, or another system approved by us, or in areas where such systems exist but boundaries are not readily discernable, each optional unit must be located in a separate farm identified by a single FSA farm serial number.

(ii) *Optional Units on Acreage Including Both Irrigated and Non-irrigated Practices:* In addition to, or instead of, establishing optional units by section, section equivalent, or FSA farm serial number, optional units may be based on irrigated acreage or non-irrigated acreage if both are located in the same section, section equivalent, or FSA farm serial number. To qualify as separate irrigated and non-irrigated optional units, the non-irrigated acreage may not continue into the irrigated acreage in the same rows or planting pattern. The irrigated acreage may not extend beyond the point at which your irrigation system can deliver the quantity of water needed to produce the yield on which the guarantee is based, except the corners of a field in which a center-pivot irrigation system is used will be considered as irrigated acreage if separate acceptable records of production from the corners are not provided. If the corners of a field in which a center-pivot irrigation system is used do not qualify as a separate non-irrigated optional unit, they will be a part of the unit containing the irrigated acreage. However, non-irrigated acreage that is not a part of a field in which a center-pivot irrigation system is used may qualify as a separate optional unit provided that all requirements of this section are met.

3. Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities

(a) In addition to the requirements of section 3 (Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities) of the Basic Provisions (§ 457.8), you may select only one price election for all the potatoes in the county insured under this policy unless the Special Provisions provide different price elections by type, in which case you may select one price election for each potato type designated in the Special Provisions. The price elections you choose for each type must have the same percentage relationship to the maximum price offered by us for each type. For example, if you choose 100 percent of the maximum price election for one type, you must also choose 100 percent of the maximum price election for all other types.

(b) If any acreage of the insured crop is not harvested, the price used to determine whether or not an indemnity is owed for such acreage will be 80 percent of your price election.

(c) Any acreage of potatoes damaged to the extent that the majority of producers in the area would not normally further care for the potatoes will be deemed to have been destroyed even though you may continue to care for it. The price election for unharvested acreage will apply to such acreage.

4. Contract Changes

In accordance with section 4 (Contract Changes) of the Basic Provisions (§ 457.8), the contract change date is:

(a) June 30 preceding the cancellation date for counties with a September 30 cancellation date;

(b) September 30 preceding the cancellation date for counties with a November 30 or December 31 cancellation date; and

(c) November 30 preceding the cancellation date for counties with a February 28 or March 15 cancellation date.

5. Cancellation and Termination Dates

In accordance with section 2 (Life of Policy, Cancellation, and Termination) of the Basic Provisions (§ 457.8), the cancellation and termination dates are:

State and county	Dates
Manatee, Hardee, Highlands, Okeechobee, and St. Lucie Counties, Florida, and all Florida counties lying south thereof.	September 30.
All California; and all Texas counties except Bailey, Castro, Dallam, Deaf Smith, Floyd, Gaines, Hale, Hartley, Haskell, Knox, Lamb, Parmer, Swisher, and Yoakum.	November 30.
Alabama; Delaware; Maryland; Missouri; New Jersey; North Carolina; Virginia; and all Florida Counties except Manatee, Hardee, Highlands, Okeechobee, and St. Lucie Counties, Florida, and all Florida counties lying south thereof.	December 31.
Oklahoma; Haskell and Knox County, Texas.	February 28.
Bailey, Castro, Dallam, Deaf Smith, Floyd, Gaines, Hale, Hartley, Lamb, Parmer, Swisher, and Yoakum counties, Texas; and New Mexico.	March 15.

6. Annual Premium

In lieu of the premium computation method contained in section 7 (Annual Premium) of the Basic Provisions (§ 457.8), the annual premium amount is computed by multiplying the production guarantee by the price election for harvested acreage, the premium rate, the insured acreage, your share at the time of planting, and any applicable premium adjustment factors contained in the Actuarial Table.

7. Insured Crop

In accordance with section 8 (Insured Crop) of the Basic Provisions (§ 457.8), the crop insured will be all the potatoes in the county for which a premium rate is provided by the Actuarial Table:

(a) In which you have a share;

(b) Planted with certified seed unless otherwise permitted by the Special Provisions;

(c) Planted for harvest as certified seed stock, or for human consumption, unless specified otherwise in the Special Provisions;

(d) That are not (unless allowed by the Special Provisions or by written agreement):

(1) Interplanted with another crop; or

(2) Planted into an established grass or legume.

8. Insurable Acreage

In addition to the provisions of section 9 (Insurable Acreage) of the Basic Provisions (§ 457.8), we will not insure any acreage that:

(a) Does not meet the rotation requirements shown in the Special Provisions; or

(b) Is damaged before the final planting date or before the end of the applicable planting period in counties for which the Special Provisions designate separate planting periods, to the extent that the majority of producers in the area would normally not further care for it, unless it is replanted or we agree that it is not practical to replant.

9. Insurance Period

In accordance with the provisions of section 11 (Insurance Period) of the Basic Provisions (§ 457.8), the calendar date for the end of the insurance period is the date immediately following planting as follows (exceptions for specific counties, varieties or types may be contained in the Special Provisions):

(a) July 15 in Missouri; North Carolina; and all Texas counties except Bailey, Castro, Dallam, Deaf Smith, Floyd, Gaines, Hale, Haskell, Hartley, Knox, Lamb, Parmer, Swisher, and Yoakum.

(b) July 25 in Virginia.

(c) August 15 in Oklahoma; and Haskell and Knox Counties, Texas.

(d) In Alabama; California; and Florida, the dates established by the Special Provisions for each planting period; and

(e) October 15 in Bailey, Castro, Dallam, Deaf Smith, Floyd, Gaines, Hale, Hartley, Lamb, Parmer, Swisher, and Yoakum Counties, Texas; Delaware; Maryland; New Jersey; and New Mexico.

10. Causes of Loss

(a) In accordance with the provisions of section 12 (Causes of Loss) of the Basic Provisions (§ 457.8), insurance is provided only against the following causes of loss which occur within the insurance period:

(1) Adverse weather conditions;

(2) Fire;

(3) Insects, but not damage due to insufficient or improper application of pest control measures;

(4) Plant disease, but not damage due to insufficient or improper application of disease control measures;

(5) Wildlife;

(6) Earthquake;

(7) Volcanic eruption; or

(8) Failure of the irrigation water supply, if caused by an insured peril listed in section 10(a) (1) through (7) that occurs during the insurance period.

(b) In addition to the causes of loss not insured against as listed in section 12 (Causes of Loss) of the Basic Provisions (§ 457.8), we will not insure against any loss of production due to:

(1) Damage that occurs or becomes evident after the end of the insurance period, including, but not limited to, damage that occurs after potatoes have been placed in storage; or

(2) Causes, such as freeze after certain dates, that are limited by the Special Provisions.

11. Duties in the Event of Damage or Loss

(a) In accordance with the requirements of section 14 (Duties in the Event of Damage or Loss) of the Basic Provisions (§ 457.8), the representative samples of the unharvested crop must be at least 10 feet wide and extend the entire length of each field in the unit. The samples must not be harvested or destroyed until the earlier of our inspection or 15 days after harvest of the balance of the unit is completed.

(b) We must be given the opportunity to perform a grade inspection on any unit for which you have given notice of damage.

12. Settlement of Claim

(a) We will determine your loss on a unit basis. In the event you are unable to provide separate acceptable production records:

(1) For any optional units, we will combine all optional units for which acceptable production records were not provided; or

(2) For any basic units, we will allocate any commingled production to such units in proportion to our liability on the harvested acreage for the units.

(b) In the event of loss or damage covered by this policy, we will settle your claim by:

(1) Multiplying the insured acreage by its respective production guarantee;

(2) Multiplying each result in section 12(b)(1) by the respective price election;

(3) Totaling the results of section 12(b)(2);

(4) Multiplying the total production to be counted of each type, if applicable (see section 12(d)), by the respective price election;

(5) Totaling the results of section 12(b)(4);

(6) Subtracting the results of section 12(b)(5) from the result in section 12(b)(3); and

(7) Multiplying the result of section 12(b)(6) by your share.

(c) The extent of any loss must be determined no later than the time potatoes are placed in storage, if the production is stored prior to sale, or the date they are delivered to a buyer, wholesaler, packer, broker, or other handler if production is not stored.

(d) The total production to count (in hundredweight) from all insurable acreage on the unit will include:

(1) All appraised production as follows:

(i) Not less than the production guarantee per acre for acreage:

(A) That is abandoned;

(B) That is put to another use without our consent;

(C) That is damaged solely by uninsured causes;

(D) From which any production is disposed of without a grade inspection; or

(E) For which you fail to provide acceptable production records;

(ii) Production lost due to uninsured causes;

(iii) Production lost due to harvest prior to full maturity. Production to count from such acreage will be determined by increasing the amount of harvested production by 2 percent per day for each day the potatoes were harvested prior to the date the potatoes would have reached full maturity as determined by us. The date the potatoes would have reached full maturity will be determined using the normal number of days to full maturity for the variety, growing area, and planting date. This adjustment will not be made if the potatoes are damaged by an insurable cause of loss, and leaving the crop in the field would either reduce production or decrease quality.

(iv) Unharvested production (unharvested production may be adjusted in accordance with section 12(e)); and

(v) Potential production on insured acreage that you intend to put to another use or abandon and no longer care for, if you and we agree on the appraised amount of production. Upon such agreement, the insurance period for that acreage will end if when put the acreage to another use or abandon the crop. If agreement on the appraised amount of production is not reached:

(A) If you do not elect to continue to care for the crop, we may give you consent to put the acreage to another use if you agree to leave intact, and provide sufficient care for, representative samples of the crop in locations acceptable to us, (The stage guarantee will be limited as specified in section 3 even if the representative samples are harvested; and the amount of production to count for such acreage will be based on the harvested production or appraisals from the samples at the time harvest should have occurred. If you do not leave the required samples intact, or fail to provide sufficient care for the samples, our appraisal made prior to giving you consent to put the acreage to another use will be used to determine the amount of production to count); or

(B) If you elect to continue to care for the crop, the amount of production to count for the acreage will be the harvested production, or our reappraisal if additional damage occurs and the crop is not harvested; and

(2) All harvested production from the insurable acreage determined in accordance with section 12(e).

(e) With the exception of production with external defects, only marketable lots of mature potatoes will be production to count for loss adjustment purposes. Production not meeting the standards for grading U.S. No. 2 due to external defects will be determined on an individual potato basis for all unharvested potatoes and for any harvested potatoes if we determine it is practical to separate the damaged production. All determinations must be based upon a grade inspection.

(1) Marketable lots of potatoes will include:

(i) Those that are stored;

(ii) Those sold as seed;

(iii) Those sold for human consumption; and

(iv) All unsold harvested and appraised production meeting the standards for grading U.S. No. 2 or better on a sample basis.

(2) Marketable lots will also include any potatoes that we determine:

(i) Could have been sold for seed or human consumption in the general marketing area;

(ii) Were not sold as a result of uninsured causes including, but not limited to, failure to meet chipper or processor standards for fry color or specific gravity; or

(iii) Were disposed of without our prior written consent and such disposition prevented our determination of marketability.

(3) Unless included in section 12(e) (1) or (2), a potato lot will not be considered marketable if, due to insurable causes of damage, it:

(i) Is partially damaged, and is salvageable only for starch, alcohol, or livestock feed;

(ii) Is discarded;

(iii) Is left unharvested and does not meet the standards for grading U.S. No. 2 or better due to internal defects; or

(iv) Does not meet the standards for grading U.S. No. 2 or better due to external defects, is harvested, and from which we determine it is not practical to separate the damaged production.

13. Written Agreements

Designated terms of this policy may be altered by written agreement in accordance with the following:

(a) You must apply in writing for each written agreement no later than the sales closing date, except as provided in section 13(e);

(b) The application for a written agreement must contain all variable terms of the contract between you and us that will be in effect if the written agreement is not approved;

(c) If approved, the written agreement will include all variable terms of the contract, including, but not limited to, crop type or variety, the guarantee, premium rate, and price election;

(d) Each written agreement will only be valid for one year (If the written agreement is not specifically renewed the following year, insurance coverage for subsequent crop years will be in accordance with the printed policy); and

(e) An application for a written agreement submitted after the sales closing date may be approved if, after our physical inspection of the acreage, it is determined that no loss has occurred and the crop is insurable in accordance with the policy and written agreement provisions.

7. Section 457.143 is added to read as follows:

§ 457.143 Northern potato crop insurance—quality endorsement.

The Northern Potato Crop Insurance Quality Endorsement provisions for the 1998 and succeeding years are as follows:

FCIC policies:

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Reinsured policies:

(Appropriate title for insurance provider)

Both FCIC and reinsured policies:

NORTHERN POTATO CROP INSURANCE

QUALITY ENDORSEMENT

1. In return for payment of the additional premium designated in the Actuarial Table, this endorsement is attached to and made part of your Northern Potato Crop Provisions (§ 457.142) subject to the terms and conditions described herein.

2. You must elect this endorsement on or before the sales closing date for the initial crop year in which you wish to insure your potatoes under this endorsement. This endorsement will continue in effect until canceled. It may be canceled by either you or us for any succeeding crop year by giving written notice to the other party on or before the cancellation date.

3. All acreage of potatoes insured under the Northern Potato Crop Provisions (§ 457.142) will be insured under this endorsement except:

(a) Any acreage specifically excluded by the Actuarial Table; and

(b) Any acreage grown for seed.

4. We will adjust production to count (determined in accordance with section 15 of the Basic Provisions (§ 457.8) and section 11 of the Northern Potato Crop Provisions (§ 457.142)) from (1) unharvested acreage; (2) harvested acreage that is stored after a grade inspection; or (3) that is marketed after a grade inspection and contains potatoes that grade less than U.S. No. 2 due to:

(a) Internal defects (the number of potatoes with such defects must be in excess of the tolerance allowed for U.S. No. 2 grade

potatoes on a lot basis and must not be separable from undamaged production using methods normally used by potato packers or processors), will be adjusted as follows:

(1) For potatoes sold within 7 days of harvest, by multiplying the production to count by the factor (not to exceed 1.0) that results from dividing the market value per hundredweight of the damaged production by the highest available price election. If production is sold for a price lower than the value appropriate and representative of the local market, we will determine the value of the production based on the price you could have received in the local market.

(2) For harvested potatoes discarded within 7 days of harvest and appraised unharvested production that could:

(i) Not have been sold, the production to count will be zero; or

(ii) Have been sold, the production to count will be determined in accordance with section 4(a)(1).

(3) For potatoes remaining in storage 8 or more days after harvest, production to count will be determined in accordance with section 4(b).

(b) Factors other than those specified in section 4(a), by multiplying by a factor (not to exceed 1.0) that is determined as follows:

(1) Production damaged by freeze or a cause that results in soft rot or wet breakdown will be removed from representative samples of the production;

(2) The percentage of remaining potatoes that grade U.S. No. 2 or better will be determined by dividing the weight of potatoes that grade U.S. No. 2 or better in the remainder of section 4(b)(1) by the total weight of the remainder of section 4(b)(1); and

(3) The percentage determined in section 4(b)(2) above will be divided by the applicable percentage factor contained in the Special Provisions.

5. Potatoes harvested or appraised prior to full maturity that do not grade U.S. No. 2 due solely to size will be considered to have met U.S. No. 2 standards unless the potatoes are damaged by an insurable cause of loss, and leaving the crop in the field would either reduce production or decrease quality.

6. Production to count for potatoes destroyed, stored or marketed without a grade inspection will be 100 percent of the gross weight of such potatoes.

7. All determinations must be based upon a grade inspection.

8. The Actuarial Table may provide ''U.S. No. 1'' in place of ''U.S. No. 2'' as used in this endorsement.

8. Section 457.144 is added to read as follows:

§ 457.144 Northern potato crop insurance—processing quality endorsement.

The Northern Potato Crop Insurance Processing Quality Endorsement provisions for the 1998 and succeeding crop years are as follows:

FCIC policies:

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Reinsured policies:

(Appropriate title for insurance provider)

Both FCIC and reinsured policies:

NORTHERN POTATO CROP INSURANCE

PROCESSING QUALITY ENDORSEMENT

1. In return for payment of the additional premium designated in the Actuarial Table, this endorsement is attached to and made part of your Northern Potato Crop Provisions (§ 457.142) and Quality Endorsement (§ 457.143) subject to the terms and conditions described herein.

2. You must have a Northern Potato Quality Endorsement (§ 457.143) in place and elect this endorsement on or before the sales closing date for the initial crop year in which you wish to insure your potatoes under this endorsement. This endorsement may be canceled by either you or us for any succeeding crop year by giving written notice to the other party on or before the cancellation date.

3. All terms of the Northern Potato Quality Endorsement (§ 457.143) not modified by this endorsement will be applicable to acreage covered under this endorsement.

4. A processor contract must be executed with a potato processor for the potato types insured under this endorsement and a copy submitted to us on or before the acreage reporting date for potatoes. If you elect this endorsement, all insurable acreage of production under contract with the processor must be insured under this endorsement.

5. When the processor contract requires the processor to purchase a stated amount of production, rather than all of the production from a stated number of acres, the insured acreage will be determined by dividing the stated amount of production by the approved yield for the acreage.

6. In lieu of the provisions contained in section 4 of the Northern Potato Quality Endorsement (7 CFR § 457.143), production that is rejected by the processor will be adjusted as follows:

(a) Production to count (determined in accordance with section 15 of the Basic Provisions (§ 457.8) and section 11 of the Northern Potato Crop Provisions (§ 457.142)) from (1) unharvested acreage; (2) harvested acreage that is stored after a grade inspection; or (3) that is marketed after a grade inspection and contains potatoes that:

(1) Grade less than U.S. No. 2 due to internal defects, a specific gravity of less than 1.070, or a fry color of No. 3 or darker due to either sugar exceeding 10 percent or sugar ends exceeding 19 percent (the number of potatoes with such defects must be in excess of the tolerance allowed for U.S. No. 2 grade potatoes on a lot basis and must not be separable from undamaged production using methods normally used by potato processors), will be adjusted as follows:

(i) For potatoes sold within 7 days of harvest, by multiplying the production to count by the factor (not to exceed 1.0) that results from dividing the market value per hundredweight of the damaged production by the base contract price. If production is sold for a price lower than the value appropriate and representative of the local market, we will determine the value of the production based on the price you could have received in the local market.

(ii) For harvested potatoes discarded within 7 days of harvest and appraised unharvested production that could:

(A) Not have been sold, the production to count will be zero; or

(B) Have been sold, the production to count will be determined in accordance with section 6(a)(1)(i).

(iii) For potatoes remaining in storage 8 or more days after harvest, production to count will be determined in accordance with section 6(b).

(b) Grade less than U.S. No. 2 due to factors other than those specified in section 6(a) will be multiplied by a factor (not to exceed 1.0) that is determined as follows:

(1) Production damaged by freeze or a cause that results in soft rot or wet breakdown will be removed from representative samples of the production;

(2) The percentage of remaining potatoes that grade U.S. No. 2 or better will be determined by dividing the weight of potatoes that grade U.S. No. 2 or better in the remainder of section 6(b)(1) by the total weight of the remainder of section 6(b)(1); and

(3) The percentage determined in section 6(b)(2) above will be divided by the applicable percentage factor contained in the Special Provisions.

7. All grade determinations for the purposes of this endorsement will be made using the United States Standards for Grades of Potatoes for Processing or Chipping.

8. All determinations must be based upon a grade inspection.

9. The Actuarial Table may provide ''U.S. No. 1'' in place of ''U.S. No. 2'' as used in this endorsement.

9. Section 457.145 is added to read as follows:

§ 457.145 Potato crop insurance—certified seed endorsement.

The Potato Crop Insurance Certified Seed Endorsement provisions for the 1998 and succeeding years are as follows:

FCIC policies:

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Reinsured policies:

(Appropriate title for insurance provider)

Both FCIC and reinsured policies:

POTATO CROP INSURANCE

CERTIFIED SEED ENDORSEMENT

1. In return for payment of the additional premium designated in the Actuarial Table, this endorsement is attached to and made part of your Northern Potato Crop Provisions subject to the terms and conditions described herein.

2. You must elect this endorsement on or before the sales closing date for the initial crop year you wish to insure your potatoes under this endorsement. This endorsement

will continue in effect until canceled. It may be canceled by either you or us for any succeeding crop year by giving written notice to the other party on or before the cancellation date.

3. All potatoes grown on insurable acreage and that are entered into the potato seed certification program administered by the state in which the seed is grown must be insured unless limited by section 4 below.

4. The certified seed acreage you insure in the current crop year cannot be greater than 125 percent of the average number of acres grown for seed in the three previous years unless we agree otherwise in writing. If you enter more than this number of acres into the certification program, your certified seed production guarantee for the current crop year will be reduced as follows:

(a) Multiply the average number of acres grown for certified seed the 3 previous years by 1.25 and divide this result by the number of acres grown for certified seed in the current crop year; and

(b) Multiply the result of section 4(a) (not to exceed 1.0) by the production guarantee for certified seed for the current crop year.

5. You must provide acceptable records of your certified seed potato acreage and production for the previous three years. These records must clearly indicate the number of acres entered into the potato seed certification program administered by the state in which the seed is grown.

6. All potatoes insured for certified seed production must be produced and managed in accordance with standards, practices, and procedures required for certification by the state's certifying agency and applicable regulations.

7. If, due to insurable causes occurring within the insurance period, potato production does not qualify as certified seed on any insured certified seed potato acreage within a unit, we will pay you the dollar amount per hundredweight shown in the Special Provisions, multiplied by your production guarantee for such acreage, and multiplied by your share. Any production that does not qualify as certified seed because of varietal mixing or your failure to follow the standard practices and procedures required for certification will be considered as lost due to uninsured causes.

8. You must notify us of any loss under this endorsement not later than 14 days after you receive notice from the state certification agency that any acreage has failed certification.

10. Section 457.146 is added to read as follows:

§ 457.146 Northern potato crop insurance—storage coverage endorsement.

The Northern Potato Crop Insurance Storage Coverage Endorsement provisions for the 1998 and succeeding years are as follows:

FCIC policies:

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Reinsured policies:

(Appropriate title for insurance provider)

Both FCIC and reinsured policies:

NORTHERN POTATO CROP INSURANCE

STORAGE COVERAGE ENDORSEMENT

1. In return for payment of the required additional premium specified on the Actuarial Table, this endorsement is attached to and made part of your Northern Potato Crop Provisions subject to the terms and conditions described herein.

2. You must elect this endorsement on or before the sales closing date for the initial crop year in which you wish to insure your potatoes under this endorsement. This endorsement will continue in effect until canceled. It may be canceled by either you or us for any succeeding crop year by giving written notice to the other party on or before the cancellation date.

3. Potato production grown under a contract that requires the production to be delivered to a buyer within three days of harvest will not be insured under this endorsement. All other potato production insured under the Northern Potato Crop Provisions must be insured under this endorsement unless the Special Provisions allow you to exclude certain potato varieties, types, or groups from insurance under this endorsement, and you elect to exercise this option. Such exclusions, if allowed, must be shown annually on your acreage report and will be applicable to all acreage of the excluded varieties, types, or groups for the crop year.

4. When production from separate insurance units, basic or optional, is commingled in storage, the production to count for each unit will be allocated prorata based on the production placed in storage from each unit. For example, if 500 hundredweight from one unit are commingled with 1,500 hundredweight from another unit and the production to count from the stored production is 1,000 hundredweight, 250 hundredweight of production to count will be allocated to the unit originally contributing 500 hundredweight to the stored production. This provision does not eliminate or change any other requirement contained in this policy to provide or maintain separate records of acreage or production by unit.

5. Production will be adjusted in accordance with this endorsement only if:

(a) The potatoes are damaged by an insured cause other than freeze that later results in soft rot or wet breakdown as defined in the United States Standards for Grades of Potatoes, or other tuber rot condition, to the extent that five percent (by weight) or more of the insured production is affected;

(b) You notify us within 72 hours of your initial discovery of any damage that has or that may later result in soft rot or wet breakdown;

(c) Damage is the result of an insured cause other than freeze that occurs prior to the end of the insurance period;

(d) The percentage of potatoes having soft rot, wet breakdown, or other tuber rot condition is determined no later than 60 days after harvest; and

(e) A grade inspection is performed.

6. Production to count for production that qualifies under the terms of this endorsement will be determined as follows:

(a) For potatoes sold within 60 days of harvest, by dividing the price received per hundredweight by the highest price election designated in the Special Provisions for the insured potato type, and multiplying the result (not to exceed 1.0) by the number of hundredweight of sold production. If production is sold for a price lower than the value appropriate and representative of the local market, we will determine the value of the production based on the price that we determine you could have received in the local market;

(b) For potatoes discarded within 60 days of harvest that could:

(1) Not have been sold, the production to count will be zero; or

(2) Have been sold, the production will be reduced as follows (all percents of damage will be rounded to the nearest 0.1 percent):

(i) 0.1 percentage point for each 0.1 percent of damage through 5.0 percent;

(ii) 0.5 percentage point for each 0.1 percent of damage from 5.1 percent through 6.0 percent;

(iii) 1.0 percentage point for each 0.1 percent of damage from 6.1 through 8.0 percent;

(iv) 2.0 percentage point for each 0.1 percent of damage from 8.1 through 9.0 percent; and

(v) 2.5 percentage point for each 0.1 percent of damage from 9.1 through 11.0 percent.

(c) For potatoes stored more than 60 days after harvest, adjustment will be made in accordance with subsection 6(b)(2) of this endorsement.

Signed in Washington, DC, on April 17, 1997.

Kenneth D. Ackerman,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 97–10449 Filed 4–22–97; 8:45 am]

BILLING CODE 3410–FA–P

DEPARTMENT OF ENERGY

10 CFR Part 490

Office of Energy Efficiency and Renewable Energy

[Docket No. EE–RM–96–200]

Alternative Fueled Vehicle Acquisition Requirements for Private and Local Government Fleets

AGENCY: Department of Energy (DOE)

ACTION: Notice of termination of proposed rule.

SUMMARY: The Department of Energy (DOE) will not promulgate regulations to implement alternative fueled vehicle (AFV) acquisition requirements for certain private and local government fleets according to the early schedule of section 507(a)(1) of the Energy Policy Act of 1992 (EPACT).

ADDRESSES: The docket file material has been filed under ''EE–RM–96–200.''

This docket will remain open indefinitely. Copies of the transcripts of the public hearings, written comments, technical reference materials mentioned in the Advanced Notice of Proposed Rulemaking, and any other docket material received may be read and copied at the DOE Freedom of Information Reading Room, U.S. Department of Energy, Room 1E–190, 1000 Independence Avenue, S.W., Washington, D.C. 20585, telephone (202) 586–6020 between the hours of 8:30 a.m. and 4:00 p.m. Monday through Friday except Federal holidays. For further information on this rulemaking you should contact Ken Katz at 202–586–6116.

FOR FURTHER INFORMATION CONTACT: Kenneth Katz, 202–586–6116.

SUPPLEMENTARY INFORMATION: EPACT authorizes DOE to pursue a rulemaking concerning alternative fueled vehicle acquisition requirements for private and local government fleets on two distinct schedules. First, section 507(b) provides for an early rulemaking concerning such requirement which must be completed by December 15, 1996. As part of that rulemaking, section 507(a)(3) of EPACT, Pub. L. 102–486, requires DOE to publish an Advance Notice of Proposed Rulemaking (ANOPR) to begin a rulemaking to determine whether alternative fueled vehicle (AFV) acquisition requirements for private and local government fleets are necessary to achieve EPACT's energy security and other goals. If no rule is promulgated by December 15, 1996, then section 507(b)(3), (c), and (e) requires a later rulemaking (beginning no later than April 1998) to determine by January 1, 2000, whether vehicle acquisition requirements are ''necessary'' in light of then current circumstances. 42 U.S.C. 13256(b)(3), (c) and (e). EPACT provides that if a final rule to implement an early mandate is not promulgated by December 15, 1996, DOE must proceed to the later rulemaking. 42 U.S.C. 13256(b).

DOE published an ANOPR for the purposes described in section 507(a) and (b) on August 7, 1996. 61 FR 41032. This notice was intended to stimulate comments to assist DOE in making decisions concerning future rulemaking actions and non-regulatory initiatives to promote alternative fuels and alternative fueled vehicles. Three hearings were held to receive oral comments on the ANOPR on September 17, 1996, in Dallas, Texas; on September 25, 1996, in Sacramento, California; and on October 9, 1996, in Washington, D.C. A total of 70 persons spoke at the three hearings and 105 written comments were received by November 5, 1996.

Based on the comments received, DOE intends to continue to investigate the full array of measures that could be available and effective to help meet the EPACT goals, focussing on incentives and voluntary measures, as suggested by a great majority of commenters. A number of commenters urged DOE to convene a forum for bringing together all stakeholders of AFV programs with the aim of reaching a consensus on desirable measures and strategies for achieving substantial use of replacement fuels and AFVs. DOE intends to fully explore the possibilities for convening such a process in the near future.

DOE will not implement private and local government fleet AFV acquisition requirements under the early schedule of section 507(a). Consistent with the above-described statutory limitations on early rulemaking under section 507 (a), DOE is terminating this rulemaking without prejudice to initiating the later rulemaking authorized by section 507 (e) and (g).

Issued in Washington, DC, on April 11, 1997.

Christine A. Ervin,

Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. 97–10495 Filed 4–22–97; 8:45 am]

BILLING CODE 6450–01–P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Chapter VII

Federal Credit Union Bylaws

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comments; extension of comment period.

SUMMARY: On March 13, 1997 (62 FR 11778), the National Credit Union Administration (NCUA) published for public comment a request for comments regarding the Federal Credit Union Bylaws. The comment period for the request for comments was to have expired on May 12, 1997. At the request of a trade association and to encourage additional comments, the NCUA Board has decided to extend the comment period on the request for comments. The extended comment period now expires June 12, 1997.

DATE: The comment period has been extended and now expires June 12, 1997. Comments must be received on or before June 12, 1997.

ADDRESSES: Comments should be directed to Becky Baker, Secretary of the Board. Mail or hand-deliver comments to: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428. Fax comments to (703) 518–6319. E-mail comments to boardmail@ncua.gov. Please send comments by one method only.

FOR FURTHER INFORMATION CONTACT: Mary F. Rupp, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428 or telephone: (703) 518–6540.

By the National Credit Union Administration Board on April 15, 1997.

Becky Baker,

Secretary of the Board.

[FR Doc. 97–10483 Filed 4–22–97; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Parts 701, 712 and 740

Organization and Operations of Federal Credit Unions; Credit Union Service Organizations; Advertising

AGENCY: National Credit Union Administration (NCUA).

ACTION: Proposed rule; extension of comment period.

SUMMARY: On March 13, 1997 (62 FR 11779), the National Credit Union Administration (NCUA) published for public comment a proposed rule regarding credit union service organizations (CUSOs) of federal credit unions (FCUs). The comment period for this proposed rule was to have expired on May 12, 1997. At the request of a national trade association and to encourage additional comments, the NCUA Board has decided to extend the comment period on the proposed rule one more time. The extended comment period now expires June 12, 1997.

DATES: The comment period has been extended and now expires June 12, 1997. Comments must be received on or before June 12, 1997.

ADDRESSES: Comments should be directed to Becky Baker, Secretary of the Board. Mail or hand-deliver comments to: National Credit Union Administration Board, 1775 Duke Street, Alexandria, Virginia 22314–3428. Fax comments to (703) 518–6319. E-mail comments to boardmail@ncua.gov. Please send comments by one method only.

FOR FURTHER INFORMATION CONTACT: Martin ''Sparky'' Conrey, Staff Attorney, Division of Operations, Office of

General Counsel, at the above address or telephone: (703) 518–6540; or Linda Groth, Program Officer, Division of Supervision, Office of Examination and Insurance, at the above address or telephone: (703) 518–6360.

By the National Credit Union Administration Board on April 15, 1997.

Becky Baker,

Secretary of the Board.

[FR Doc. 97–10484 Filed 4–22–97; 8:45 am]

BILLING CODE 7535–01–P

FEDERAL TRADE COMMISSION

16 CFR PART 254

Request For Comments Concerning Guides For Private Vocational Schools

AGENCY: Federal Trade Commission.

ACTION: Supplemental request for public comments.

SUMMARY: The Federal Trade Commission (''Commission'') is requesting public comments on a proposal to amend its Guides for Private Vocational Schools to add a provision addressing deceptive express or implied claims of job placement success.

DATES: Written comments will be accepted until June 23, 1997.

ADDRESSES: Comments should be directed to: Secretary, Federal Trade Commission, Room H–159, Sixth Street and Pennsylvania Ave., NW., Washington, DC 20580. Comments about the Guides for Private Vocational Schools should be identified as ''16 CFR Part 254—Comment.''

FOR FURTHER INFORMATION CONTACT: Joseph J. Koman, Jr., (202) 326–3014, or Walter Gross III, (202) 326–3319, Federal Trade Commission, Bureau of Consumer Protection, Sixth Street and Pennsylvania Ave., NW., Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

I. Background

As part of the Commission's systematic review of all of its rules and guides to assess their continued need and usefulness, the Guides for Private Vocational Schools were scheduled for review in 1996 (61 FR 1538 (Jan. 22, 1996)). These reviews seek information about the costs and benefits of the Commission's rules and guides and their regulatory and economic impact. The information obtained assists the Commission in identifying rules and guides that warrant modification or recision. On April 3, 1996, the Commission published a notice in the **Federal Register** requesting public comments on the Vocational Schools Guides (61 FR 14685). The comment period, originally scheduled to end on May 3, 1996, was subsequently extended to July 1, 1996 (61 FR 19869 (May 3, 1996)). Nine comments were filed in response to the notice. The comments indicate that there is support in all sectors (including other government agencies, consumer groups and the vocational schools industry) for retaining the Guides, although some industry commenters recommended repealing them.

II. Description of the Guides

The Guides were originally issued in May, 1972, and became effective August 4, 1972. The are intended to advise proprietary businesses offering vocational training courses, either on the school's premises or through correspondence, how to avoid unfair or deceptive advertising and promotional claims when recruiting students. Specifically, the Guides address claims that are descriptive of the school, such as potentially deceptive trade or business names, and claims about accreditation, content of curricula, teachers' qualifications, teaching methods, affiliations with other private or public institutions, and approval by other agencies or institutions. The Guides also address misleading representations regarding financial assistance, program costs, and savings. Schools are cautioned to avoid using the help-wanted sections of newspaper classified advertising for lead generation or misleading prospective students about such matters as opportunities for employment while undergoing training. Finally, the Guides address appropriate disclosures as to the nature of courses or training programs available, misleading pictorial representations, and sales and debt collection practices.

These Guides, like other industry guides issued by the Commission, ''are administrative interpretations of laws administered by the Commission for the guidance of the public in conducting its affairs in conformity with legal requirements.'' 16 CFR 1.5. Conduct inconsistent with the Guides may result in corrective action by the Commission under applicable statutory provisions.

III. The Review of the Guides

Based upon the comments received in this review, as well as its own independent assessment of the need for these Guides, the Commission has determined to retain the Guides for Private Vocational Schools. The Commission recognizes that there is some overlap between its Guides and regulations of the Department of Education. Because the Department of Education administers student loan and grant money for vocational training, it plays the primary role in addressing abuses in this industry. There is a concurrent role for the Commission, however, in monitoring and addressing deceptive promotional practices.[1] State licensing agencies also regulate vocational training. Increasingly, however, vocational schools are owned by national or regional chains; thus, maintaining a federal enforcement presence remains important.

The Commission proposes certain modifications to its Guides for Private Vocational Schools. Some of these changes are an effort to streamline the Guides and eliminate redundancy, while others are substantive.

In particular, the Commission solicits written public comments regarding its proposal to amend the Guides to add a provision addressing misrepresentations about a school's placement success following training. Currently, the Guides address claims about placement assistance offered to graduates of a school. They do not, however, address false or deceptive claims about the availability of employment after graduation from a course of training or the success that a school's graduates have realized in obtaining employment related to the training. The Commission believes that such claims are important to prospective students of vocational training and are likely to become even more important in the future.

At the same time, in order to streamline the Guides, the Commission has preliminary determined to delete certain provisions that do not offer specific guidance concerning vocational schools and merely duplicate other provisions of law. These include Guide provisions that address deceptive pricing (§§ 254.8(a) and (b)); use of the word ''free'' (§ 254.8(c)); deceptive debt collection practices (§ 254.9(a)); and assignment of contracts deceptively obtained (§ 254.9(b)). For example the Fair Debt Collection Practices Act, 15 U.S.C. 1692, and the Commission's Trade Regulation Rule pertaining to the Preservation of Consumers' Claims and Defense (the ''Holder-in-Due-Course Rule''), 16 CFR 433, have superseded the provisions in the Vocational Schools Guides that pertain to those areas.

In order to further streamline the Guides, the Commission also has

[1] It is the Commission's understanding that the Department of Education must use its investigative and enforcement resources to address practices primarily occurring after a student has signed up for training, rather than advertising and promotional practices that take place during recruitment of students.

preliminarily determined to delete section 254.10, ''Affirmative disclosures prior to enrollment.'' Subsections (a) through (d) of this section address school policy concerning attendance, lateness, and make-up work; additional costs a student might incur; the school's physical facilities and equipment; and placement assistance offered by the school. To the extent they are needed, discussion of these issues can be folded into prior sections of the Guides dealing with misrepresentations and deceptive practices, possibly as examples of suggested disclosures that might prevent deception. Finally, section 254.10(e) of the Guides advises affirmative disclosure of any ''material facts [other than those specifically addressed in subsections (a)-(d) of this section] concerning the school and the program of instruction or course which are reasonably likely to affect the decision of the student to enroll therein.'' Such a general admonishment adds little to the more specific advice set out in the remainder of the Guides. This provision merely amounts to a statement of the law concerning failure to disclose material facts and therefore appears unnecessary.

IV. Request for Comment

The Commission solicits public comments on the following questions:

1. Should the Guides be amended to add the following provision to § 254.4? (e) An industry member, in promoting any course of training in its advertising, promotional materials or in any other manner, should not misrepresent, directly or by implication, whether through the use of text, images, endorsements,* or other means, the availability of employment after graduation from a course of training, or the success that the member's graduates have realized in obtaining such employment.

*__Note:__ The Commission's Guides Concerning Use of Endorsements and Testimonials in Advertising (part 255 of this chapter) provide further guidance in this area.

2. Are there currently problems in the vocational schools industry with use of the kinds of claims addressed in the proposed addition to the Guides? If yes, please describe.

3. Are there other issues, relevant to a prospective student's decision to enroll in a vocational school or course of training, that are not already covered by the Guides but should be addressed? Please explain.

Authority: 15 U.S.C. 41–58.

List of Subjects in 16 CFR Part 254

Advertising, Trade practices.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 97–10530 Filed 4–22–97; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 24, 111, 143, 162, and 163

RIN 1515–AB77

Recordkeeping Requirements

AGENCY: U.S. Customs Service; Department of the Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to amend the Customs Regulations by adding a new part which will cover recordkeeping requirements and reflect legislative changes to the Customs laws regarding recordkeeping, examination of books and witnesses, regulatory audit procedures and judicial enforcement. These statutory amendments are contained in the Customs Modernization provisions of the North American Free Trade Agreement Implementation Act. The new provisions are being incorporated into the new part with the existing recordkeeping requirements (presently in Part 162) which remain effective, although they are being updated to permit the use of new technology and alternative methods for record maintenance. The proposed amendment also contains provisions establishing a voluntary recordkeeping compliance program.

DATES: Comments must be submitted on or before June 23, 1997.

ADDRESSES: Written comments on the proposed regulation (preferably in triplicate) must be submitted to the U.S. Customs Service, ATTN: Regulations Branch, Franklin Court, 1301 Constitution Avenue, NW., Washington, D.C. 20229, and may be inspected at the Regulations Branch, 1099 14th Street, NW, Suite 4000, Washington, D.C.

Copies of the Recordkeeping Compliance Handbook are available from the public access Customs Electronic Bulletin Board (703)-440–6155 or by requests addressed or faxed to the following: U.S. Customs Service, Regulatory Audit Division, Miami Branch 909 S.E. First Street, Suite 710, Miami, FL 33131, Attention: Recordkeeping Compliance Program, Fax: (305–536–7442).

Written comments on the Recordkeeping Compliance Handbook may be sent by facsimile or mail to the following address: U.S. Customs Service, Regulatory Audit Division, Atlanta Branch 1691 Phoenix Boulevard, Suite 250A, College Park, GA 30349, Attention: Recordkeeping Compliance Program, Fax: (770–994–2270).

FOR FURTHER INFORMATION CONTACT: For questions relating to recordkeeping in general, and the voluntary Recordkeeping Compliance Program, call Stan Hodziewich, Regulatory Audit Division, Washington, D.C. at (202–927–0999) or Howard Spencer, Regulatory Audit Division, Atlanta Branch at (770–994–2273, Ext.158).

For questions relating to the Appendix ((a)(1)(A) list), its underlying documents and other entry records/information call Rychelle Ingram, Office of Trade Compliance 202–927–1131.

SUPPLEMENTARY INFORMATION:

Background

On December 8, 1993, the President signed Public Law 103–182, the North American Free Trade Agreement Implementation Act (NAFTA Implementation Act)(107 Stat. 2057). Title VI of this Act, known as the Customs Modernization Act (the Mod Act), amended certain Customs laws. Sections 614, 615, and 616 of the Mod Act amended §§ 508, 509, and 510 of the Tariff Act of 1930, as amended (19 U.S.C. 1508, 1509, and 1510) which pertain to recordkeeping requirements established for importers and others. Title II of the NAFTA Implementation Act, entitled ''Customs Provisions'', also amended §§ 508 and 509 of the Tariff Act of 1930, as amended, to include recordkeeping requirements for exportations to Canada and Mexico.

Part 162 of the Customs Regulations which addresses records, recordkeeping and its associated requirements also covers unrelated subjects. Because of the enhanced importance of recordkeeping, Customs believes that a new part devoted solely to this subject is appropriate. Accordingly, Customs is proposing to create a new Part 163 regarding recordkeeping.

Recordkeeping Requirements

Before its amendment by the Mod Act, § 508 of the Tariff Act of 1930 (19 U.S.C. 1508) limited recordkeeping requirements to any owner, importer, consignee, or agent thereof who imported, or knowingly caused to be imported any merchandise into the Customs territory of the United States. Section 614 of the Mod Act amended

these requirements and expanded the parties subject to Customs recordkeeping requirements to include parties who file an entry or declaration, transport or store merchandise carried or held under bond, file drawback claims, or cause an importation, or transportation or storage of merchandise carried or held under bond. Section 614 of the Mod Act further amended section 508 of the Tariff Act of 1930 to clarify that all parties who must keep records for Customs purposes are subject to recordkeeping requirements. The Mod Act further distinguished between those business, financial or other records that pertain to activities listed in section 508 of the Tariff Act and are maintained in the normal course of business and those that are identified as ''(a)(1)(A) list'' or entry records. As discussed more fully later in this document, these latter records are those which have been identified by Customs as being necessary for the entry of merchandise. The failure to maintain, or produce these records upon Customs demand could subject the responsible party to substantial administrative penalties.

Proposed § 163.2 sets forth the parties who are subject to recordkeeping requirements. It is noted that the parties who are required to maintain records for purposes of the U.S.—Canada Free Trade Agreement and NAFTA are set forth respectively in parts 10 and 181.

In § 163.2(a), a provision concerning recordkeeping requirements for records kept in the ordinary course of business is proposed to reflect the expanded parties to whom recordkeeping requirements extend. The proposed section provides that records are to be made and kept by such parties as carriers, cartmen, bonded warehouse proprietors, foreign trade zone operators and drawback claimants.

Because Customs recognizes that the likelihood it will require or request records from travelers regarding their baggage or oral declarations after they have physically cleared the Customs facility is extremely small except for large purchases, and because Customs does not wish to impose an unnecessary recordkeeping burden on the general public, Customs, in § 163.2(g), is proposing to not require that such travelers retain the documentation which supports their declaration when the merchandise acquired abroad is covered by the traveler's personal exemption or by a flat rate of duty (See, for example, subheadings 9804.00.65—9804.00.72, 9816.00.20 and 9816.00.40, Harmonized Tariff Schedule of the United States (19 U.S.C. 1202), and part 148 of the Customs Regulations). However, such travelers while not being required to retain records for Customs purposes may deem it advisable to retain them for other personal reasons, such as insurance or warranty matters.

Section 163.4 of the proposed regulations provides that records relating to drawback be retained for a period of three years from the date the drawback claim is paid. Since entry records relating to the merchandise for which the drawback claim was paid must be kept for five years, it is possible that the total retention requirement could extend to eight years' it is possible that the total retention requirement could extend to eight years. All other records, except for packing lists, that relate to filing an entry or declaration, transporting or storing merchandise carried or held under bond, or causing an importation, transportation or storage of merchandise carried or held under bond into or from the Customs territory of the U.S. are required to be kept for a five year period from the date of entry or exportation, or other activity, as appropriate. An exception from the normal retention period is made for packing lists because of the limited period in which information contained on those lists would be useful for either Customs or the importer.

The Mod Act also amended 19 U.S.C. 1508 to reflect the current electronic environment in which both Customs and the importing and exporting community operate and expanded the definition of ''records'' to include information and data maintained in the form of electronically generated or machine readable data. The proposed amendment reflects this expansion of the concept of what constitute ''records'' in § 163.1(a).

Examination of Records

The Mod Act granted Customs authority not to require the presentation of certain documentation or information at time of entry. These provisions will allow Customs and the importing community to reduce the documentation and information requirements at time of entry, thereby facilitating the entry process without jeopardizing Customs ability to obtain records from an importing party at a later date. However, in exchange for not requiring presentation of documents at the time of entry, Customs has the authority to require, after entry, the production of any entry records whose presentation may not have been requested at entry. Section 615 of the Mod Act amended § 509 of the Tariff Act of 1930 (19 U.S.C. 1509) to authorize Customs to examine any records which are required by law for the entry of merchandise, whether or not Customs required its presentation at the time of entry. Failure to maintain or produce requested entry documents may result in the imposition of substantial administrative penalties.

In the spirit of ''informed compliance'' and in fairness to those who may be required to produce records, the Act requires Customs to identify and make available to the importing community, by publication, a list of all records, statements, declarations or documents required by law or regulation for the entry of merchandise whose production may or may not have been requested at time of entry and for which substantial administrative penalties may be imposed for failure to maintain or produce for Customs within a reasonable time. This list of records has commonly been referred to as the ''(a)(1)(A) list'' because of the section of the Mod Act which contained the requirement. This list, which was published in the Customs Bulletin on January 3, 1996 (T.D. 96–1), and the **Federal Register** on July 15, 1996 (61 FR 36956) is included as an Appendix to part 163.

It should be noted that while the ''(a)(1)(A) list'' pertains to records or information required for the entry of merchandise, an owner, importer, consignee, importer of record, entry filer, or other party who imports merchandise, files a drawback claim, exports to a NAFTA country or transports or stores bonded merchandise is also required to make, keep and render for examination and inspection records (including, but not limited to, statements, declarations, documents and electronically generated or readable data) directly or indirectly pertaining to such activity or to the information contained in the records required by the Tariff Act of 1930, as amended, in connection with any such activity and which are normally kept in the ordinary course of business. Parties have the responsibility to maintain supporting records, documents, and information which will demonstrate that information on declarations regarding classification, valuation and rate of duty at entry, as well as all other data on entry records is accurate.

In the future, as Customs expands its electronic entry processes, presentation of certain supporting paper documentation for entries may be waived at the time of entry. However, importers shall be required to maintain such documentation subject to this part. Before Customs implements any new procedures which relate to the electronic entry of goods, a Notice of

Proposed Rulemaking will be published in the **Federal Register**.

The present ''(a)(1)(A) list'' is based on existing entry requirements. It contains a list of records that are required for the entry of merchandise and that may be waived at the time of entry, but that must be produced for Customs examination upon demand. A party who fails to produce an ''(a)(1)(A) list'' record can be held liable for penalties under the provisions of the Mod Act. Customs will presently revise its processes relating to entry. It is expected that the ''(a)(1)(A) list'' will be extensively revised. The proposed regulations incorporate Customs authority to waive the presentation of certain documentation or information at the time of entry.

Penalties

The proposed regulations incorporate Customs authority to assess administrative penalties for failure to produce entry records for Customs examination within a reasonable time. In determining a reasonable time, Customs proposes to take into account the number, type, and age of the item asked to be produced. Included in the proposed regulation is a chart that is intended to provide general guidelines so the public will know the time frames within which Customs expects documents to be produced. It is expected that all parties will discuss the expected production date of any items Customs has requested when that item has been requested. It is also expected that any party anticipating difficulty in meeting the expected production date will immediately inform Customs of that difficulty. Parties who have been assessed administrative penalties for failure to produce demanded ''(a)(1)(A) list'' records will be able to petition for mitigation of the penalties under the provisions of part 171 of the Customs Regulations. In addition to administrative penalties, the Mod Act has granted courts the authority to impose monetary penalties for the failure to produce records summoned by Customs. These provisions are contained in § 163.12.

Requests for Production of Records, Summons

The proposed regulations contain provisions in §§ 163.6 through 163.11 that are similar to existing regulations regarding Customs ability to request and summon records when audits, inquiries, reviews or investigations are being conducted or when such information is otherwise necessary to verify information submitted to Customs or to complete Customs processing of an entry. However, the regulations have been expanded to include additional parties who are subject to Customs summons authority.

Regulatory Audit Procedures

The proposed § 163.13 details the role and responsibility of Customs regulatory auditors and formally sets forth regulatory audit procedures for conducting a regulatory audit that have been in place by directive for several years. The regulations provide for time lines for conducting an audit as well as issuance of audit reports.

Recordkeeping Compliance Program

The proposed regulations contain provisions that describe a voluntary recordkeeping compliance program available to all parties who are required to maintain and produce records under the Customs Regulations and are in compliance with Customs laws and regulations. Applicants to the program may have Customs review their recordkeeping procedures and methods. If Customs determines that the party meets the program requirements, Customs may certify that fact and permit him to participate in the program. To assist the public in meeting Customs recordkeeping requirements, Customs has prepared a Recordkeeping Compliance Handbook which can be obtained from the Customs Electronic Bulletin Board or by faxing or writing the Regulatory Audit Division, Miami Field Office. Refer to the beginning of this document for the address and/or fax number. Participants in the program are eligible for alternatives to penalties and may be entitled to greater mitigation of any recordkeeping penalty the party might be assessed should he be unable to produce a requested record. However, repeated or willful failure to produce records or failure to exercise reasonable care in the maintenance of records or be in compliance with the recordkeeping requirements may cause a party's removal from the program and subject him to penalties. The recordkeeping compliance program will also permit participants to receive approval of recordkeeping formats that are tailored to the needs of their operations or involve conversion of records from one format to another.

Other Sections Affected

In order to establish uniform recordkeeping requirements for parties who transact business with Customs in accordance with objectives of the Mod Act, the retention period for records relating to user fees for arrivals by railcar, which are contained in § 24.22(d)(5), and those for passengers aboard commercial vessels and commercial aircraft in § 24.22(g)(6) is being amended to the same five year period that other recordkeepers must observe.

However, it must be noted that while the regulations establish a minimum requirement for the maintenance for records, this does not preclude Customs auditors from examining fee remitters' records, if records exist, to determine whether fees are owed for periods prior to the record retention period. Under section 19 CFR 162.1d (proposed 163.6), and 19 U.S.C. 1508 and 1509, Customs officers currently have the authority to examine records to determine the liability of any person from whom duties, fees, and taxes are due, or that may be due, and to determine compliance with the laws or regulations enforced by the Customs Service. If a fee remitter refuses to supply records to verify user fees, the Customs Service has the authority to summon those records pursuant to 19 U.S.C. 1509 or, if Customs possesses information to determine fee payments, collection action may be initiated. It should be pointed out that there is no language in 19 U.S.C. 58c or in the current regulations or other Customs laws that limits the liability for fees owed to a particular period. All fee remitters are liable for fees that are accrued on or after the effective dates of the statutes enacting the fees. Statutory and regulatory requirements for keeping fee-related records are not equivalent to statutes of limitations on collecting fees.

The document also proposes to make several changes to parts 111 and 143. The reference to § 162.1a and § 162.1b in the definition of records in § 111.1(f) will be changed to § 163.1(a) and § 163.2. An addition is made to § 111.21 to add new paragraphs (b) and (c). Section 111.21(b) will require brokers to comply with the provisions of § 163 when maintaining records that reflect on their transactions as a broker. Section 111.21(c) will require brokers to designate a recordkeeping officer and also designate a back-up recordkeeping officer. A change is proposed to § 111.22 (b), (c), (d), and (e) that will permit requests for exemptions for recordkeeping formats to be granted by the Field Director, Regulatory Audit responsible for the geographical area in which the designated broker's recordkeeping officer is located rather than requiring that the request be referred to port directors.

A change is being proposed to § 111.23(a)(1) that will permit brokers to consolidate all records they are required to maintain if their proposed consolidation plan is approved by the

Field Director of Regulatory Audit who has responsibility for the geographical area in which the designated broker's recordkeeping officer is located. This potentially shortens the approval time by removing port directors from the review and approval process. The current regulations permit brokers to centralize only accounting records and requires they maintain entry records within the district to which they relate. Brokers will also be permitted to store powers of attorney in alternative formats, if such storage has been approved in accordance with Part 163. These proposed changes will give brokers more flexibility in their record maintenance options.

The document contains proposals to amend §§ 143.35 and 143.36 to reflect Customs present practice relating to the submission of paper documents when entries are transmitted electronically through the ACS system. As Customs and the business community proceed into the paperless, electronic operating environment it is anticipated that actual transfer of documentation will occur less frequently and usually only at Customs request. However, Customs decision not to request presentation or submission of documents at the time of entry does not relieve the filer from the responsibility of maintaining those documents or records in accordance with the provisions of this part.

Amendments to § 143.37 are also proposed. A new proposed section (a) will require all brokers and importers to maintain records in accordance with the new part 163. The proposed language means that hard copy or electronic documentation supporting electronic immediate delivery, entry, and entry summary must be retained in the condition as received by the filer or importer, unless the filer has received permission to store such documentation in accordance with § 163.5. This change establishes uniform procedures for storing records in alternative formats. It is also proposed that § 143.37(c) be amended to permit filers to consolidate and store records and electronic data in alternative formats if their proposed plan is approved by the Field Director, Regulatory Audit who has responsibility for the geographical area in which the designated broker's recordkeeping officer is situated. Appeals from the decision of the Field Director would be to the Director of the Regulatory Audit Division in Washington, DC. This eliminates the need to refer the request to the Assistant Commissioner, Field Operations, as the current regulations require.

Other language changes to § 143.37(c) are proposed. The term ''centralized locations'' is replaced with ''consolidated locations''. This proposed change is intended to give filers more flexibility in their record maintenance. Finally, § 143.39 is being amended to state that the failure to produce records in a timely manner could subject importers to penalties pursuant to part 163 and brokers to penalties pursuant to parts 111 and 163.

Comments

Before adopting this proposal, consideration will be given to any written comments (preferably in triplicate) that are timely submitted to Customs. All such comments received from the public pursuant to this notice of proposed rulemaking will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Branch, 1099 14th Street, NW., Suite 4000, Washington, DC.

Regulatory Flexibility Act

Insofar as the proposed regulation closely follows legislative direction, pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is certified that the amendment, if adopted, will not have a significant economic impact on a substantial number of small entities. Accordingly, it is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Executive Order 12866

The proposed amendment does not meet the criteria for a ''significant regulatory action'' under E.O. 12866.

Paperwork Reduction Act

The collection of information contained in this rulemaking has been submitted to the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995. (44 U.S.C. 3507).

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless the collection of information displays a valid control number.

The collection of information in these regulations is in §§ 163.2, 163.3 and 163.14. Although other parts of the Customs Regulations are being amended, all information required by this proposed amendment is contained or identified in the above-cited sections. This information is to be maintained in the form of records which are necessary to ensure that the Customs Service will be able to effectively administer the laws it is charged with enforcing while, at the same time, imposing a minimum burden on the public it is serving. Respondents or recordkeepers are already required by statute or regulation to maintain the vast majority of the information covered in this proposed regulation. The likely respondents or recordkeepers are business organizations including importers, exporters and manufacturers.

Estimated total annual reporting and/or recordkeeping burden: 732,600 hours.

Estimated average annual burden per respondent/recordkeeper: 117.2.

Estimated number of respondents and/or recordkeepers: 6250.

Estimated annual frequency of responses: 4.

Comments concerning the collections of information should be sent to the Office of Management and Budget, Attention: Desk Officer of the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, D.C. 20503. A copy should also be sent to the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229. Comments should be submitted within the time frame that comments are due regarding the substance of the proposal.

Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Drafting Information

The principal authors of this document are Peter T. Lynch, Regulations Branch, Office of Regulations and Rulings and Cindy Covell, Regulatory Audit Division, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects

19 CFR Part 24

Accounting, Customs duties and inspection, Reporting and recordkeeping requirements, Harbors, Taxes.

19 CFR Part 111

Administrative practice and procedures, Customs duties and inspection, Brokers, Reporting and recordkeeping requirements, Penalties.

19 CFR Part 143

Customs duties and inspection, Reporting and recordkeeping requirements.

19 CFR Part 162

Administrative practice and procedure, Customs duties and inspection, Recordkeeping and reporting requirements, Trade agreements.

19 CFR Part 163

Administrative practice and procedure, Customs duties and inspection, Recordkeeping and reporting requirements, Trade agreements.

Proposed Amendments to the Regulations

It is proposed to amend Chapter I of Title 19, Code of Federal Regulations (19 CFR Chapter I) by amending parts 24, 111, 143 and 162, and by adding a new part 163 to read as follows:

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

1. The general authority citation for Part 24 continues to read in part as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 58a-58c, 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States), 1624; 31 U.S.C. 9701.

* * * * *

2. It is proposed to amend § 24.22(d)(5) by removing the phrase ''shall be maintained for a period of 3 years'' and adding, in its place, the phrase ''shall be maintained in the United States for a period of 5 years''.

3. It is proposed to amend § 24.22(g)(6) by removing the phrase ''shall be maintained for a period of 2 years'' and adding, in its place, the phrase ''shall be maintained in the United States for a period of 5 years''.

PART 111—CUSTOMS BROKERS

1. The general authority citation for Part 111 continues to read in part as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 20 Harmonized Tariff Schedule of the United States), 1624, 1641.

* * * * *

2. In § 111.1, it is proposed to remove the section references ''§ 162.1a'' and ''§ 162.1b'' in the definition of ''*Records*'' and add, in their place, respectively, the following section references: ''§ 163.1a'' and ''§ 163.2''.

3. Section 111.21 is proposed to be amended by designating the existing paragraph as paragraph (a) and adding new paragraphs (b) and (c) to read as follows:

§ 111.21 Record of transactions.

(a) * * *

(b) Each broker shall comply with the provisions of part 163 of this chapter when maintaining records that reflect on his transactions as a broker.

(c) Each broker will designate a knowledgeable company employee to be the broker's recordkeeping officer as well as a back-up recordkeeping officer for broker-wide entry and financial recordkeeping requirements.

§ 111.22 [Amended]

4. Section 111.22 is proposed to be amended by removing the titles of ''port director'' and ''director of the port'' and adding, in their place, the phrase, ''Field Director of Regulatory Audit responsible for the geographical area in which the broker's designated recordkeeping officer is located.''

5. Section 111.23 is proposed to be amended by revising paragraphs (a)(1) and (b) to read as follows, by removing paragraphs (c) and (d), and by redesignating paragraph (e) as paragraph (c) and revising it by removing the word ''centralized'' and adding the word ''consolidated'' each time it appears, and by removing the words ''office of Field Operations, Headquarters'' and adding the words ''Field Director, Regulatory Audit Division responsible for the geographic area in which the broker's designated recordkeeping officer is located'' in its place.

§ 111.23 Retention of records.

(a) *Place and period of retention*—(1) *Place.* The records, as defined in § 111.1(f), and required by § 111.21 and § 111.22 to be kept by the broker, shall be retained within the broker district that covers the Customs port to which they relate unless approval for consolidation of records by the broker has been received from the Field Director of Regulatory Audit responsible for the geographical area in which the broker's designated recordkeeping officer is located. Appeals from a denial of consolidation privileges shall be filed with the Director, Regulatory Audit Division, U.S. Customs Service, Washington, DC 20229 within 30 days from the mailing of the Field Director's decision.

* * * * *

(b) *Maintenance of records.* All records must be maintained in accordance with standards set forth in part 163 of this chapter.

* * * * *

PART 143—SPECIAL ENTRY PROCEDURES

1. The general authority citation for part 143 continues to read as follows:

Authority: 19 U.S.C. 66, 1481, 1484, 1498, 1624.

2. Section 143.31 is proposed to be amended by removing the reference to § 162.1a(a) in paragraph (n) and replacing it with ''Part 163''.

3. Section 143.35 is proposed to be revised to read as follows:

§ 143.35 Procedure for electronic entry summary.

In order to obtain entry summary processing electronically, the filer will submit certified entry summary data electronically through ABI. Data will be validated and, if found error-free, will be accepted. If it is determined through selectivity criteria and review of data that documentation is required for further processing of the entry summary, Customs will so notify the filer. Documentation submitted before being requested by Customs will not be accepted or retained by Customs. The entry summary will be scheduled for liquidation once payment is made under statement processing (see § 24.25 of this chapter).

4. Section 143.46 is proposed to be amended by revising the first sentence of paragraph (a), and the first sentence of paragraph (c) to read as follows:

§ 143.36 Forms of immediate delivery, entry and entry summary.

(a) *Electronic form of data.* If Customs determines that the immediate delivery, entry or entry summary data is satisfactory under §§ 143.34 and 143.35, the electronic form of the immediate delivery, entry or entry summary through ABI shall be deemed to satisfy all filing requirements under this part.

* * *

(b) * * *

(c) *Submission of invoice.* The invoice will be retained by the filer unless requested by Customs. If the invoice is submitted by the filer before a request is made by Customs, it will not be accepted or retained by Customs. When Customs requests presentation of the invoice, invoice data must be submitted in one of the following forms:

* * * * *

5. Section 143.37(a) is proposed to be revised to read as follows:

§ 143.37 Retention of records.

(a) *Record maintenance requirements.* All records received or generated by a broker or importer must be maintained in accordance with part 163 of this chapter.

* * * * *

6. In § 143.37, paragraph (c) is proposed to be amended by removing the words ''Assistant Commissioner, Field Operations, U.S. Customs Service, Washington, D.C.'' and adding the phrase ''Field Director, Regulatory Audit Division responsible for the geographical area in which the broker's designated recordkeeping officer is located for consolidation of entry and/or financial records by the broker'' in its place and removing the word ''centralized'' wherever it appears and replacing it with the word ''consolidated'.

§ 143.37 [Amended]

7. Section 143.37 (d) is proposed to be amended by removing the title ''Assistant Commissioner, Field Operations'' each time it appears and adding in its place, the title ''Director, Regulatory Audit Division''.

8. Section 143.39 is proposed to be revised to read as follows:

§ 143.39 Penalties.

(a) *Brokers.* Brokers unable to produce documents requested by Customs within a reasonable time will be subject to penalties pursuant to parts 111 and/or 163 of this chapter.

(b) *Importers.* Importers unable to produce documents requested by Customs within a reasonable time will be subject to penalties pursuant to part 163 of this chapter.

PART 162—INSPECTION, SEARCH, AND SEIZURE

1. The authority citation for Part 162 continues to read in part as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1624.

* * * * *

2. The heading of Part 162 is proposed to be revised to read as set forth above.

3. Section 162.0 is proposed to be revised to read as follows:

§ 162.0 Scope.

This part contains provisions for the inspection, examination, and search of persons, vessels, aircraft, vehicles, and merchandise involved in importation, for the seizure of property, and for the forfeiture and sale of seized property. It also contains provisions for Customs enforcement of the controlled substances, narcotics and marihuana laws. Provisions relating to petitions for remission or mitigation of fines, penalties, and forfeitures incurred are contained in part 171 of this chapter.

4. In Subpart A, the Subpart heading is proposed to be revised to read as follows:

Subpart A—Inspection, Examination, and Search

5. In Subpart A, §§ 162.1a through 162.1i are proposed to be removed.

6. Part 163 is proposed to be added to read as follows:

PART 163—RECORDKEEPING

Sec.

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1508, 1509, 1510, 1624.

§ 163.0 Scope.

This part sets forth the recordkeeping requirements and procedures governing the maintenance, production, and examination of records. It also sets forth the procedures governing the examination of persons in connection with any audit, compliance assessment or other inquiry or investigation conducted for the purposes of ascertaining the correctness of any entry, for determining the liability of any person for duties, fees and taxes due or that may be due, for determining liability for fines, penalties and forfeitures, or for insuring compliance with the laws and regulations administered or enforced by Customs. Additional provisions concerning records maintenance and examination applicable to U.S. importers, exporters, and producers under the U.S. Canada Free Trade Agreement and the North American Free Trade Agreement are contained in parts 10 and 181 of this chapter, respectively.

§ 163.1 Definitions.

When used in this part, the following terms shall have the meaning indicated:

(a) *Records.* The term ''records'' means any information made or kept in the ordinary course of business that pertain directly or indirectly to the activities listed in paragraph (a)(1) of this section. Further, the term includes any information required for the entry of merchandise (the ''(a)(1)(A) List'') and other information pertaining directly or indirectly to any information element set forth in a collection of information required by the Tariff Act of 1930, as amended, in connection with any activity listed in paragraph (a)(1) of this section.

(1) *Activities.* The following are activities for purposes of the definition of ''records'' in paragraph (a) of this section:

(i) any importation, declaration or entry;

(ii) the transportation or storage of merchandise carried or held under bond into or from the customs territory of the United States;

(iii) the filing of a drawback claim;

(iv) any exportation to a NAFTA country;

(v) the collection or payment of fees and taxes to Customs; or

(vi) any other activity required to be undertaken pursuant to the laws or regulations administered by the Customs Service.

(2) *Examples.* Examples of information which are considered records include but are not limited to: statements, declarations, documents or electronically generated or machine readable data, books, papers, correspondence, accounts, financial accounting data, technical data, computer programs necessary to retrieve information in a usable form, and entry records (contained on the ''(a)(1)(A)'' list).

(b) *''(a)(1)(A) list''.* See Entry Records.

(c) *Audit.* ''Audit'' means a Customs regulatory audit verification of records and other information required to be maintained and produced by parties listed in § 163.2 or other applicable laws and regulations administered by the Customs Service. The purpose of an audit is to determine that information submitted or required is accurate, complete and in accordance with laws and regulations administered by the Customs Service.

(d) *Certified recordkeeper.* A ''certified recordkeeper'' is a party, required to keep and maintain records, who is the primary responsible participant of a Customs approved recordkeeping compliance agreement in accordance with § 163.14. An agent may not be a certified recordkeeper unless the agent is the importer of record and meets the requirements of § 163.14;

however a Customs broker may be a certified recordkeeper's agent in its own name and on its own account for records required by § 111.21 without client participation. The parties who are certified by Customs as participants in a recordkeeping compliance program with Customs will consist of the following: Customs and a certified recordkeeper, or Customs and a certified recordkeeper and its certified recordkeeping agent, or Customs and a Customs broker who requests certification in its own name and on its own account.

(e) *Certified recordkeeper's agent.* A ''certified recordkeeper's agent'' is a party, other than a certified recordkeeper, who will keep and maintain records on behalf of a certified recordkeeper, pursuant to a Customs approved agreement, subject to the provisions of § 163.14.

(f) *Compliance assessment.* A ''compliance assessment'' is the first phase of an audit. During this phase, Customs officers review, examine and test samples of an auditee's documentation (records normally kept in the ordinary course of business that support statements and declarations made to Customs), internal controls, operations, and procedures to ensure compliance with laws and regulations administered byCustoms. The completion of a compliance assessment does not necessarily mandate that a detailed audit be performed. However, if a compliance assessment is expanded, auditors will conduct detailed audit steps to further examine non-compliant practices, to identify causes, effects, and necessary corrective action, to implement corrective action plans and to conduct follow-up of corrective actions.

(g) *Entry records/''(a)(1)(A) list''.* The terms ''entry records'' and ''(a)(1)(A) list'' refer to records or information required by law or regulation for the entry of merchandise (whether or not Customs required its presentation at the time of entry). The ''(a)(1)(A) list'' is contained in the Appendix.

(h) *Original records/information.* The terms ''original records'' or ''original information'' mean paper documents or electronic data retained in the condition they were received by the party responsible for maintaining records pursuant to 19 U.S.C. 1508. Electronic information which was used to develop paper documents will be considered the original record/information. Original electronic information or paper documents must be provided to Customs within a reasonable time if requested or demanded pursuant to § 163.6. Electronic information shall be provided to Customs officials in a readable format such as in a facsimile paper format or an electronic or hardcopy spreadsheet. If a paper record or document is part of a multi-part form where all copies are made by the same impression, a carbon-copy original form, a facsimile copy, or a photocopy of the original will be acceptable. When an original record or document is provided to another government agency which retains it, a certified copy will be acceptable, and penalties will not be assessed for not having the original information/records in accordance with § 163.6. When requested by Customs, a signed statement shall accompany the copy certifying it to be a true copy of the original record or document.

(i) *Summons.* ''Summons'' means any summons issued that requires either the production of records or the giving of testimony, or both.

(j) *Technical data.* ''Technical data'' are records which include diagrams, and other data with regard to a business or an engineering or exploration operation, whether conducted inside or outside the United States, and whether on paper, cards, photographs, blueprints, tapes, microfiche, film, magnetic storage or other media.

(k) *Third-party recordkeeper.* ''Third-party recordkeeper'' means any attorney, any accountant or any Customs broker unless such Customs broker is the importer of record on an entry.

§ 163.2 Parties required to maintain records.

(a) *Recordkeeping required.* The following parties shall make, keep, and render for examination and inspection such records as defined in § 163.1(a):

(1) An owner, importer, consignee, importer of record, entry filer, or other party who—

(i) imports merchandise into the customs territory of the United States, files a drawback claim, or transports or stores merchandise carried or held under bond, or

(ii) knowingly causes the importation or transportation or storage of merchandise carried or held under bond into or from the customs territory of the United States;

(2) An agent of any party described in paragraph (a)(1); or

(3) A person whose activities require the filing of a declaration or entry, or both.

(b) *Domestic transaction excluded.* A person ordering merchandise from an importer in a domestic transaction who does not knowingly cause merchandise to be imported is not required to make and keep records unless:

(1) The terms and conditions of the importation are controlled by the person placing the order with the importer (e.g., the importer is not an independent contractor but the agent of the person placing the order. For example: The average consumer who purchases an imported automobile would not be required to maintain records, but a transit authority that prepared detailed specifications from which imported subway cars or buses were manufactured would be required to maintain records); or

(2) Technical data, molds, equipment, other production assistance, material, components, or parts are furnished by the person placing the order with the importer with knowledge that they will be used in the manufacture or production of the imported merchandise.

(c) *Recordkeeping required for exporters.* Any party that exports to Canada or Mexico pursuant to the North American Free Trade Agreement must maintain records in accordance with the regulations as set forth in part 181 of this chapter.

(d) *Recordkeeping required for Customs brokers.* Each Customs broker shall maintain and produce records in accordance with parts 111 and 163 of this chapter.

(e) *Recordkeeping required for parties filing drawback claims.* A party filing a drawback claim shall make, keep and render for examination records required by the Customs Regulations and other records which pertain to that activity and are ordinarily kept in the normal course of business.

(f) *Recordkeeping required for other activities.* Each party who transports or stores merchandise carried or held under bond into or from the customs territory of the United States shall make, keep and render for examination records which pertain to such Customs activity and are ordinarily kept in the normal course of business or are required by law or regulation for the entry of merchandise.

(g) *Recordkeeping required for travelers.* After having physically cleared the Customs facility, a traveler who made a baggage or oral declaration upon arrival in the United States will not be required to maintain supporting records regarding non-commercial merchandise acquired abroad which falls within the traveler's personal exemptions or which is covered by a flat rate of duty.

§ 163.3 Entry records.

Any party described in § 163.2(a) in connection with an import transaction shall be prepared to produce or transmit

to Customs within a reasonable time after demand any records which are required by law or regulation for the entry of merchandise (''(a)(1)(A) list''). If the records are returned by Customs, or production at the time of entry is waived by Customs, the party shall retain such records. Copies of records which are kept ordinarily in the normal course of business, must be retained whether or not a copy is retained by Customs. In any situation, the responsible party shall, upon demand by Customs, taking into consideration the number, type, and age of the items demanded, produce such records within a reasonable time. (See § 163.6)

§ 163.4 Record retention period.

(a) *General rule.* Any record required to be made, kept, and rendered for examination and inspection by Customs under § 163.2 shall be kept for 5 years from the date of entry, if the record relates to an entry, or 5 years from the date of the activity which required creation of the record unless excepted pursuant to paragraph (b) of this section.

(b) *Exceptions.* (1) Any record relating to a drawback claim shall be kept until the third anniversary of the date of payment of the claim.

(2) Packing Lists shall be retained for a period of 60 days from the end of the release or conditional release period, or, if a demand for recall has been issued, for a period of 60 days from the date the goods are redelivered, or by the date specified in the notice as the latest redelivery date.

(3) If another regulation in this chapter specifies a different record retention period than this section for a specific type of record, the other regulation controls.

§ 163.5 Methods of storage for records.

(a) *Original Records/Information.* All parties listed in § 163.2 must maintain all records required by law and regulation for the required retention periods, in the original formats as defined in § 163.1(h), whether paper or electronic, unless alternative storage methods have been approved in writing by the director of the regulatory audit field office who has responsibility for the geographical area in which the designated requestor's recordkeeping officer resides. The records must be capable of being retreived upon lawful request or demand by Customs.

(b) *Approval for alternative method of storage.* Any of the parties listed in § 163.2 may request Customs approval to maintain any records in an alternative format by writing to the director of the regulatory audit field office who has audit oversight responsibility for the geographical area in which the designated requestor's recordkeeping officer resides and describing the proposed system of storage, the conversion techniques to be used and the security safeguards that will be employed to prevent alteration. If the applicable director of the regulatory audit field office is satisfied that the alternative methods proposed by the recordkeeper will insure the accuracy and availability of the records when required, written approval will be granted.

(c) *Standards for alternative storage methods.* Among methods commonly used in standard business practice for storage of records are: Machine readable data, CD ROM, and Microfiche. Methods that are in compliance with generally accepted business standards will generally satisfy Customs requirements provided that the method used is capable of retrieving records requested within a reasonable time after the request and that adequate provisions exist to prevent alteration, destruction, or deterioration of the records. The following are minimum standards that will be considered by Customs in evaluating proposals for alternative storage methods:

(1) A responsible and knowledgeable recordkeeping officer and a back up officer are designated to be accountable for the alternative storage of records;

(2) Operational and written procedures are in place to ensure that the imaging and/or other media storage process preserves the integrity, readability, and security of the original records. Procedures must also indicate and it must be certified (i) that documents that are required by other Federal or state agencies and that are similar to Customs records, are created and stored by the same procedures and (ii) that there is a standardized retrieval process for such records. Additionally, written procedures must document the electronic media used to store records and the life cycle and disposition procedures.

(3) The medium to which the transfer will occur is shown to be reliable. (Vendor specifications/documentation and benchmark data must be available for Customs review.)

(4) The data retention and transfer procedures are documented and provide reasonable assurance that the integrity, reliability, and security of the original data will be maintained. Procedures must include descriptions of authorized personnel access processes and back up and recovery systems.

(5) There is an audit trail describing the data transfer.

(6) The medium cannot be destroyed, discarded, or written over. The recordkeeper, after appropriate transition, and exception-reporting/testing of accuracy and readability of information, will transfer all information to non-erasable storage.

(7) The transfer process includes all relevant notes, worksheets, and other papers necessary for reconstructing or understanding the records (this also includes appropriate back-up procedures).

(8) There is an effective labeling, naming, filing, and indexing system that will permit easy retrieval in a timely fashion of records/information. Any indices, registers, or other finding aids shall be at the beginning of the records to which they relate unless alternative indexing is specifically authorized.

(9) There are adequate internal control systems, including segregation of duties, particularly between those responsible for maintaining and producing the original records and those responsible for the transfer process.

(10) All original records must be maintained for a minimum of one year after the date of transfer and internal sampling-exception-reporting/testing of accuracy and readability must be performed on a quarterly basis. No original records will be destroyed after a year unless there is acceptable proof that records/information are being accurately transferred.

(11) There is a system of continuing surveillance over the medium transfer system. Files of all internal reviews will be made available to Customs within a reasonable time after demand is made and retained for five years from the date of entry or the activity unless maintenance of records is required for another time period.

(12) There are procedures for preventing the destruction of any hard copy records that are required to be maintained by existing laws or regulations.

(13) All parties listed in § 163.2 who requested and were granted permission to use alternative storage methods shall have the capability to make hard-copy reproductions of alternatively stored records. Parties shall bear the expense of the cost of making hardcopy reproductions of any or all alternatively stored records required by proper Customs officials for audit, inquiry, investigation, or inspection of such records/information.

(d) *Retention of records.* All parties listed in § 163.2 who requested and were granted permission to use alternative storage methods shall retain and keep available two copies of the records/information on approved media

at different locations for the periods specified in § 163.4.

(e) *Retrievability of records.* All parties listed in § 163.2 who requested and were granted permission to use alternative storage methods shall produce records as specified by § 163.6. A certified hardcopy may be used when information is received and stored electronically for Customs requests for information. Records shall be kept of the frequency and to whom copies of the records were given.

(f) *Changes to alternate storage procedures.* No changes to alternate recordkeeping procedures may be made without the approval of the appropriate Field Director, Regulatory Audit.

(g) *Notification of non-compliance.* Notification of non-compliance with the agreed upon alternative storage methods must be made within 10 business days to the applicable Field Director, Regulatory Audit. Notification must be in writing and it must detail what corrective action will take place.

(h) *Penalties.* All parties listed in § 163.2 who requested and were granted permission to use alternative storage methods who fail to maintain or produce records in a reasonable time period shall be subject to penalties pursuant to § 163.6 for (a)(1)(A) records, and sanctions pursuant to §§ 163.11 and 163.12 for other records, and will have their alternative storage privileges revoked immediately by written notice.

(i) *Revocation of privilege to maintain alternative records.* All parties listed in § 163.2 who requested and were granted permission to use alternative storage methods and who fail to meet regulatory conditions and requirements shall, upon written notice, have the privilege revoked by the applicable regulatory audit field office director. The revocation shall be effective on the date of issuance of the written notice and shall remain in effect pending any appeal. Revocation requires the party immediately to begin to maintain original records and subjects them to penalties provided for in § 163.6 for failure to do so.

(j) *Appeal procedures for denial of alternate storage method or revocation action taken.* The denial of any proposed alternate method for the storage of records required to be maintained or any revocation of the privilege to store records in alternative formats may be appealed. Any appeal of such denial or revocation shall be in writing and directed to the Director, Regulatory Audit Division, Office of Strategic Trade, U.S. Customs Service, Washington, DC 20229. Appeals shall be filed within 30 days from the mailing of the Field Director's decision.

§ 163.6 Notices for production and examination of records and witnesses; penalties.

(a) *Production of entry records.* (1) Upon written, oral, or electronic notice, Customs may require the production of records required by law or regulation for the entry of merchandise, whether or not presentation was requested at the time of entry. Any oral request for records will be followed by a written request. The records shall be produced timely taking into consideration the number, type, and age of the item demanded. In order to provide the public with general guidelines of the time frames within which Customs expects parties to produce requested records, the following table shows various ages of records and the maximum length of time Customs expects to wait for their production. Should any recordkeeper from whom Customs has requested records foresee the inability to comply with the given time periods, Customs expects that they will immediately notify Customs, provide an explanation for the inability to meet the deadline, and provide Customs with a date on which the records will be produced.

Age of entry/entry summary	Maximum period for production of records (business days)
1 day to 1 month	5
1 month to 6 months	10
6 months to 1 year	15
1 year to 3 years	20
3 years to 5 years	30

(2) If the request includes records previously requested by Customs and provided to a Customs officer, the recordkeeper will provide the following information concerning the record: a copy of the Customs notice letter which originally requested the record, the date the record was provided to Customs, and the name and address of the person to whom the record was provided.

(b) *Nonproduction of entry records*—(1) *Penalties applicable for failure to maintain or produce entry records.* If the record Customs wishes to have produced is required by law or regulation for the entry of merchandise, the following penalties may be imposed if a person described in § 163.2(a) fails to comply with a lawful demand for the record and is not excused from a penalty in accordance with paragraph (b)(2) of this section:

(i) If the failure to comply is a result of the willful failure of the person to maintain, store, or retrieve the demanded record, such person shall be subject to a penalty for each release of merchandise not to exceed $100,000, or an amount equal to 75 percent of the appraised value of the merchandise, whichever amount is less.

(ii) If the failure to comply is a result of negligence of the person in maintaining, storing, or retrieving the demanded information, such person shall be subject to a penalty, for each release of merchandise, not to exceed $10,000, or an amount equal to 40 percent of the appraised value of the merchandise, whichever amount is less.

(2) *Additional actions.* In addition to any penalty imposed under paragraph (b)(1)(i) and (b)(1)(ii) of this section, regarding demanded records, if the demanded record relates to the eligibility of merchandise for a column 1 special rate of duty in the Harmonized Tariff Schedule of the United States, the entry of such merchandise, unless subject to the exception in paragraph (b)(3) of this section:

(i) If unliquidated, shall be liquidated at the applicable column 1 general rate of duty; or

(ii) If liquidated within the 2-year period preceding the date of the demand, shall be reliquidated, notwithstanding the time limitation in 19 U.S.C. 1514 or 1520, at the applicable column 1 general rate of duty;

(3) *Exceptions.* Any liquidation or reliquidation under paragraph (b)(2)(i) or (b)(2)(ii) of this section shall be at the applicable column 2 rate of duty if the Customs Service demonstrates that the merchandise should be dutiable at such rate.

(4) *Avoidance of penalties for failure to maintain or produce entry records.* No penalty may be assessed under paragraph (b)(1) of this section if the person described in § 163.2(a) who fails to comply with a lawful demand for entry records can show:

(i) That the loss of the demanded information was the result of an act of God or other natural casualty or disaster beyond the fault of such person or an agent of the person;

(ii) On the basis of other evidence satisfactory to Customs, that the demand was substantially complied with;

(iii) That the information demanded was presented to and retained by the Customs Service at the time of entry or submitted in response to an earlier demand; or

(iv) that he is a participant in the recordkeeping compliance program (see § 163.14(b)(1)) and that this is his first violation and that it is a non-willful violation.

(5) *Penalties for failure to maintain or produce entry records not exclusive.* Any penalty imposed under paragraph

(b)(1) of this section shall be in addition to any other penalty provided by law except for:

(i) A penalty imposed under 19 U.S.C. 1592 for a material omission of the demanded information, or

(ii) Disciplinary action taken under 19 U.S.C. 1641.

(6) *Remission or mitigation of penalties for failure to maintain or produce entry records.* A penalty imposed under this section may be remitted or mitigated under 19 U.S.C. 1618.

(7) *Customs summons.* In addition to assessing penalties, Customs may issue a summons, pursuant to § 163.7 or seek its enforcement, pursuant to §§ 163.11–163.12, to compel the furnishing of any records required by law or regulation for the entry of merchandise.

(c) *Examination of records*—(1) *Reasons for.* Customs may initiate an inquiry, audit, compliance assessment or investigation to:

(i) Determine the correctness of any entry, the liability of duties, taxes and fees due or which may be due, or any liability for fines, penalties and forfeitures; or

(ii) Insure compliance with the laws and regulations administered or enforced by the Customs Service.

(2) *Availability of records.* During the course of any inquiry, audit, compliance assessment or investigation, a Customs officer, during normal business hours, and to the extent possible, at a time mutually convenient to the parties, may examine or cause to be examined, any relevant records, statements, declarations, or other documents by providing the person responsible for such records with notice, either electronically, orally or in writing, that describes the records with reasonable specificity.

(3) *Examination notice not exclusive.* In addition to, or in lieu of, issuing an examination notice under this section, Customs may issue a summons pursuant to § 163.7 and seek its enforcement, pursuant to §§ 163.11 and 163.12, to compel the furnishing of any records required by law or regulation.

§ 163.7 Summons.

(a) *Who may be served.* During the course of any inquiry, audit, compliance assessment, or investigation initiated for the reasons set forth in § 163.6, the Commissioner of Customs or his designee, but no designee of the Commissioner below the rank of port director, regulatory audit field director, or special agent in charge, may, upon reasonable notice, issue a summons requiring certain persons to produce records or to give testimony or both. Such summons may be issued to any person who:

(1) Imported or knowingly caused to be imported merchandise into the customs territory of the United States;

(2) Exported merchandise or knowingly caused merchandise to be exported to Canada or Mexico pursuant to the North American Free Trade Agreement Implementation Act (19 U.S.C. 3301(4)), or to Canada during such time as the United States-Canada Free Trade Agreement was in force with respect to, and the United States applied that Agreement to, Canada;

(3) Transported, or stored merchandise that was or is carried or held under customs bond, or knowingly caused such transportation or storage;

(4) Filed a declaration, entry, or drawback claim with the Customs Service;

(5) Is an officer, employee, or agent of any person described in this paragraph; or

(6) Had possession, custody or care of records related to the importation or other activity described in this paragraph or;

(7) Customs otherwise deems proper.

(b) *Transcript of testimony under oath.* Testimony of any person taken pursuant to a summons may be taken under oath and when so taken shall be transcribed. When testimony is transcribed, a copy shall be made available on request to the witness unless for good cause shown the issuing officer determines under 5 U.S.C. 555 that a copy should not be provided. In that event, the witness shall be limited to inspection of the official transcript of the testimony. The testimony or transcript may be in the form of a written statement under oath provided by the person examined at the request of the Customs officer.

§ 163.8 Contents of summons.

(a) *Summons for person.* Any summons issued under § 163.7 to compel appearance shall state:

(1) The name, title, and telephone number of the Customs officer before whom the appearance shall take place;

(2) The address where the person shall appear, not to exceed 100 miles from the place where the summons was served;

(3) The time of appearance; and

(4) The name, address, and telephone number of the Customs officer issuing the summons.

(b) *Summons of records.* If the summons requires the production of records, the summons, in addition to containing the information required by paragraph (a) of this section, shall describe the records with reasonable specificity.

§ 163.9 Service of summons.

(a) *Who may serve.* Any Customs officer is authorized to serve a summons issued under § 163.7.

(b) Method of service.—(1) *Natural person.* Service upon a natural person shall be made by personal delivery.

(2) *Corporation, partnership, or association.* Service shall be made upon a domestic or foreign corporation, or upon a partnership or other unincorporated association which is subject to suit under a common name, by delivery to an officer, managing or general agent, or any other agent authorized by appointment or law to receive service of process.

(c) *Certificate of service.* On the hearing of an application for the enforcement of a summons, the certificate of service signed by the person serving the summons is prima facie evidence of the facts it states.

§ 163.10 Third-party recordkeeper.

(a) *Notice.* Except as provided by paragraph (f) of this section, if a summons issued under § 163.7 to a third-party recordkeeper requires the production of records or testimony relating to transactions of any person other than the person summoned, and the person is identified in the description of the records in the summons, notice of the summons shall be provided to the person identified in the description of the records contained in the summons.

(b) *Time of notice.* Notice of service of summons required by paragraph (a) of this section should be provided by the issuing officer immediately after service of summons is obtained under § 163.9, but in no event shall notice be given less than 10 business days before the date set in the summons for the examination of records or persons.

(c) *Contents of notice.* The issuing officer shall insure that any notice issued under this section includes a copy of the summons and contains the following information:

(1) That compliance with the summons may be stayed if written direction is given by the person receiving notice to the person summoned not to comply with the summons;

(2) That a copy of the direction not to comply and a copy of the summons shall be mailed by registered or certified mail to the person summoned at the addresses in the summons and to the issuing Customs officer; and

(3) That the actions under paragraphs (c)(1) and (c)(2) of this section shall be accomplished not later than the day before the day fixed in the summons as

the day upon which the records are to be examined or testimony given.

(d) *Service of notice.* The issuing officer shall serve the notice required by paragraph (a) of this section in the same manner as is prescribed in § 163.9 for the service of a summons, or by certified or registered mail to the last known address of the person entitled to notice.

(e) *Examination precluded.* If notice is required by this section, no record may be examined and no testimony may be taken before the date fixed in the summons as the date to examine the records or to take the testimony. If the owner, importer, consignee, or their agent, or any other person concerned issues a stay of the summons, no examination shall take place, and no testimony shall be taken, without the consent of the person staying compliance, or without an order issued by a U.S. district court.

(f) *Exceptions to notice* —(1) *Personal liability for duties, fees and taxes.* This section does not apply to any summons served on the person, or any officer or employee of the person, with respect to whose liability for duties, fees, and taxes the summons is issued.

(2) *Verification.* This section does not apply to any summons issued to determine whether or not records of the transactions of an identified person have been made or kept.

(3) *Court order.* Notice shall not be given if a U.S. district court determines, upon petition by the issuing Customs officer, that reasonable cause exists to believe giving notice may lead to an attempt:

(i) To conceal, destroy, or alter relevant records;

(ii) To prevent the communication of information from other persons through intimidation, bribery, or collusion; or,

(iii) To flee to avoid prosecution, testifying, or production of records.

§ 163.11 Enforcement of summons.

Whenever any person does not comply with a summons issued under § 163.7, the issuing officer may request the appropriate U.S. attorney to seek an order requiring compliance from the U.S. district court for the district in which the person is found or resides or is doing business.

§ 163.12 Failure to comply with court order; Penalties.

(a) *Monetary penalties.* The U.S. district court of the United States for any district in which a party who has been served with a Customs summons is found or resides or is doing business may order a party to comply with the summons. Upon the failure of a party to obey a court order to comply with a Customs summons, the court may find such party in contempt, assess a monetary penalty, or do both.

(b) *Importations prohibited.* If a person fails to comply with a court order enforcing the summons and is adjudged guilty of contempt, the Commissioner of Customs, with the approval of the Secretary of the Treasury, for so long as that person remains in contempt:

(1) May prohibit importation of merchandise by that person, directly or indirectly, or for that person's account; and

(2) May withhold delivery of merchandise imported by that person, directly, or indirectly, or for that person's account.

(c) *Sale of merchandise.* If any person remains in contempt for more than 1 year after the Commissioner issues instructions to withhold delivery, the merchandise shall be considered abandoned, and shall be sold at public auction or otherwise disposed of in accordance with Subpart E of part 162.

§ 163.13 Regulatory audit procedures.

(a) *Conduct of a Customs regulatory audit.* In conducting an audit under this section (which does not include a quantity verification for a customs bonded warehouse or general purpose foreign trade zone or an inquiry), Customs auditors, except as provided in paragraph (b) of this section, shall:

(1) Provide notice, telephonically and in writing, to the person being audited, in advance of the audit with a reasonable estimate of the time required for the audit;

(2) Inform the party to be audited, in writing, before commencing an audit, of his right to an entrance conference at which time the purpose of the audit and the estimated termination date would be given;

(3) Provide a further estimate of such additional time if in the course of an audit it becomes apparent that additional time will be required;

(4) Schedule a compliance assessment (first phase of an audit) closing conference upon completion of the assessment to explain the preliminary results of the assessment;

(5) Write a compliance assessment report if, after the assessment, it is determined that no audit will be performed and all on-site work will end;

(6) At the conclusion of the compliance assessment, if it is determined that an audit is warranted, schedule and hold an audit entrance conference to explain the objectives, records requirements, and time required. If it is decided that an audit will be conducted, it will not be necessary for a formal compliance assessment report to be prepared for the party being audited;

(7) Schedule a closing conference to explain preliminary results of the audit upon completion of the audit field work;

(8) Complete the formal written audit report within 90 days following the closing conference, provided paragraph (b) of this section is not applicable, unless the Director, Regulatory Audit Division, at Customs Headquarters provides written notice to the person being audited of the reason for any delay and the anticipated completion date; and

(9) After application of any exception contained in 5 U.S.C. 552, send a copy of the formal written audit report to the person audited within 30 days following completion of the report unless a formal investigation has commenced. All pertinent details should be explained at the compliance assessment closing conference and reiterated in the final audit report.

(b) *Exception to procedures.* Paragraphs (a)(4) through (a)(6) and (a)(8) through (a)(9) and (c) of this section shall not apply after Customs commences a formal investigation with respect to the issue involved.

(c) *Petitioning procedures for the failure to conduct closing conference.* Except as provided in paragraph (b) of this section, if the estimated or actual termination date for an audit passes without a Customs auditor providing a closing conference to explain the results of the audit, the person being audited may petition in writing for such a conference to the Director, Regulatory Audit Division, at Customs Headquarters. Upon receipt of such a request, the Director shall provide for such a conference to be held within 15 days after the date of receipt.

§ 163.14 Recordkeeping Compliance Program.

The Recordkeeping Compliance Program is a voluntary program under which certified recordkeepers are eligible for alternatives to penalties and may be entitled to greater mitigation of any recordkeeping penalty that might be assessed should they be unable to produce a requested record.

(a) *Certification procedures.*—(1) *Who may apply.* Any party described in § 163.2 (a) and (c), and any person or organization designated to maintain entry records for those entities previously listed may apply to participate in Customs Recordkeeping Compliance Program. Participation in Customs Recordkeeping Compliance Program is voluntary.

(2) *Where to apply.* Applications shall be submitted to the U.S. Customs Service, Field Director, Regulatory Audit Division, 909 S.E. First Street, Miami, Florida 33131. Applications shall be submitted in accordance with guidelines in the Recordkeeping Compliance Handbook.

(3) *Certification requirements.* A recordkeeper may be certified and enter into a recordkeeping agreement with Customs as a participant in the recordkeeping compliance program after meeting the general recordkeeping requirements established by Customs or after negotiating an alternative program suited to the needs of the recordkeeper and Customs. To be certified, a recordkeeper must be in compliance with Customs laws and regulations. Customs will take into account, the size and nature of the importing business, volume of imports and Customs workload constraints, prior to proceeding with any certification. In order to be certified, a recordkeeper is required to:

(i) Comply with the requirements set forth in the applicable Customs Recordkeeping Compliance Handbook;

(ii) Understand the legal requirements for recordkeeping, including the nature of the records required to be maintained and produced and the required time periods;

(iii) Have in place procedures to explain the recordkeeping requirements to those employees who are involved in the preparation, maintenance and production of required records;

(iv) Have in place procedures regarding the preparation and maintenance of required records, and the production of such records to Customs;

(v) Have designated a dependable individual or individuals to be responsible for recordkeeping compliance under the program whose duties include maintaining familiarity with the recordkeeping requirements of Customs;

(vi) Have a record maintenance procedure approved by Customs for original records, or, if approved by Customs, for alternative records or recordkeeping formats other than original records; and

(vii) Have procedures for notifying Customs of occurrences of variances to, and violations of, the requirements of the recordkeeping compliance program or negotiated alternative program, and for taking corrective action when notified by Customs of violations or problems regarding such program. The term ''variance'' means a deviation from the signed recordkeeping agreement that does not involve a failure to maintain or produce records or a failure to maintain the requirements set forth in this paragraph. The term ''violation'' means a deviation from the signed agreement that involves a failure to maintain or produce records or a failure to maintain the requirements set forth in this paragraph.

(b) *Benefits of participation.*—(1) *Alternatives to penalties.* Participants in the program are eligible for alternatives to the recordkeeping penalties and to greater mitigation of any recordkeeping penalty the party might be assessed should they be unable to produce a requested entry record. If a certified participant does not produce a demanded entry record or information for a specific release or provide information by acceptable alternate means, Customs shall, in the absence of willfulness or repeated violations and in lieu of a monetary penalty, issue a written notice of violation to the party as described in paragraph (b)(2) of this section. Willful failure to produce records or repeated violations of the recordkeeping requirements with no attempt to correct deficiencies and/or a failure to exercise reasonable care in the maintenance of records or compliance with recordkeeping requirements may cause a certified recordkeeper to be removed from the program and may subject the recordkeeper to immediate penalty action for failing to produce records.

(2) *Contents of notice.* A notice of violation issued for failure to release or provide information to Customs by a participant in the recordkeeping compliance program shall:

(i) State that the recordkeeper has violated the recordkeeping requirements;

(ii) Indicate the record or information which was demanded and not produced;

(iii) Warn the recordkeeper that future failures to produce demanded records or information may result in the imposition of monetary penalties; and

(iv) Warn the recordkeeper that noncompliance could result in the removal of the participant from the recordkeeping compliance program.

(c) *Application, approval and certification process.*—(1) *Application procedures.* Applicants must follow the guidance and requirements contained in Customs Recordkeeping Compliance Handbook. This handbook may be obtained by downloading it from the Customs Electronic Bulletin Board (703–440–6155) or, by mail from the U.S. Customs Service, Office of Strategic Trade, Regulatory Audit Division, Recordkeeping Compliance Program, 909 S.E. First Street, Suite 710, Miami, FL 33131.

(2) *Action on applications.* The regulatory audit field office designee will process the application coordinating with the appropriate Customs headquarters and field officials. The regulatory audit field office will review and verify the information contained within the application and may perform an on-site verification prior to certification. If an on-site visit is warranted, the regulatory audit field office shall inform the applicant. If additional information is necessary to process the application, the applicant shall be notified. Customs requests for information not submitted with the application or additional explanation of details will cause delays in the certification of applicants. Requests by Customs for information will result in the suspension of the application certification process. Upon receipt of satisfactory information the certification process will recommence.

(3) *Approval and certification.* If, upon review, Customs determines that certification shall be granted, the applicable Regulatory Audit Field Director shall issue a certification with all the conditions stated.

§ 163.15 Denial, suspension, revocation, and appeal procedures.

(a) *General information.* Applicants and program participants may appeal the following decisions for administrative review:

(1) Denial of program participation application;

(2) Certification suspension; or

(3) Certification revocation.

(b) *Denials of Program Eligibility or Certification*—(1) Applicants and participants may appeal Field Director application denials by filing an appeal with the Director, Office of Regulatory Audit, U.S. Customs Service, Washington, DC 20229.

(2) Appeals must be received by the Director, Office of Regulatory Audit within 30 days after notice of the denial.

(3) The Director, Office of Regulatory Audit will review the appeal and respond with a decision within 30 days. If a decision cannot be made within 30 days, the Director will advise the appellant of the reasons for the delay and further actions which will be carried out to resolve the matter and the planned completion date.

(c) *Certification suspension*—(1) A Regulatory Audit Field Director may suspend the program participation for a certified recordkeeper or a certified recordkeeper's agent when Customs discovers that:

(i) The participant refuses or neglects to obey any proper Customs order or request for records;

(ii) The participant is convicted of acts which would constitute a felony or misdemeanor involving tax fraud, theft, smuggling or other crime involving Customs business;

(iii) The participant commits repeated violations of its recordkeeping compliance program agreement and fails to take corrective action;

(iv) The participant repeatedly fails to produce and maintain records;

(v) The participant's continuous bond has been terminated;

(vi) The participant has failed to file the biennial statement;

(vii) The participant fails to exercise reasonable care in the maintenance of records subject to the recordkeeping requirements; or

(viii) The participant fails to comply with Customs requirements generally.

(2) The suspension shall be effective on the date of issuance and shall remain in effect pending any appeal. Suspension may immediately subject parties to penalties pursuant to § 163.6. Suspension of a certified recordkeeper's agent for a single certified recordkeeper shall also cause suspension for that certified recordkeeper. Suspension of a certified recordkeeper's agent who is an agent for multiple certified recordkeepers and has committed violations of the agreements for multiple clients may also cause suspension for all certified recordkeepers for whom the agent is acting or receiving reimbursement for acting as an agent. Customs will review the agent's recordkeeping procedures to determine whether such action is necessary. It shall be the duty of the agent to provide notification of the suspension to all certified recordkeepers and other recordkeepers for whom the agent is acting or receiving reimbursement for acting as an agent. Failure of an agent to provide such notification shall be grounds for revocation of an agent's certification for all certified recordkeepers. Customs shall publish in the **Federal Register** all agent suspensions.

(d) *Certification revocation*. (1) A Regulatory Audit Field Director may revoke the program certification of a certified recordkeeper or a certified recordkeeper's agent after appropriate notice when the following conditions are discovered:

(i) The certification privilege was obtained through fraud or mistake of fact;

(ii) The participant fails to take corrective action after notification of a suspension by Customs;

(iii) The participant fails to provide entry information or documents when requested by Customs on a recurring basis;

(iv) A certified recordkeeper's agent fails to notify all certified recordkeepers for whom it acts as an agent that it has been suspended for actions relating to one of the certified recordkeepers for whom it acts;

(v) The participant is convicted of or has committed acts which would constitute a felony, or a misdemeanor involving theft, smuggling, or a theft-connected crime; or

(vi) The participant fails to exercise reasonable care in the maintenance of records in accordance with the recordkeeping requirements.

(2) The revocation shall be effective on the date of issuance and shall remain in effect pending any appeal. Revocation subjects parties to penalties pursuant to § 163.6. Revocation of a certified recordkeeper's agent for a single certified recordkeeper shall also cause revocation for that certified recordkeeper. Revocation of a certified recordkeeper's agent who is an agent for multiple certified recordkeepers and has committed violations of the agreements for multiple clients shall also cause revocation for all certified recordkeepers for whom the agent is acting or receiving reimbursement for acting as an agent. It shall be the duty of the agent to provide notice of the revocation to all certified recordkeepers and other recordkeepers for whom the agent is acting or receiving reimbursement for acting as an agent. Customs shall publish in the **Federal Register** all agent revocations.

(e) *Procedures for revocation or suspension.* A Regulatory Audit Field Director may for due cause serve notice in writing to a certified recordkeeper suspending or revoking certification. Such notice shall advise the recordkeeper of the grounds for the action and shall inform the recordkeeper of the procedures which should be followed should the recordkeeper wish to appeal the suspension or revocation.

(f) *Appeal of revocation or suspension.* (1) A recordkeeper who has received a notice of revocation or suspension of certification in the recordkeeping compliance program may appeal the decision of the Field Director to the Director, Regulatory Audit Division at Customs Headquarters.

(2) The Director, Regulatory Audit Division at Customs Headquarters shall consider the allegations and responses made by the recordkeeper and shall render his decision, in writing, within 30 days.

Appendix to Part 163—Interim (a)(1)(A) List

List of Records Required for the Entry of Merchandise General Information

Section 508 of the Tariff Act of 1930, as amended (19 U.S.C. 1508), sets forth the general record keeping requirements for Customs-related activities. Section 509 of the Tariff Act of 1930, as amended (19 U.S.C. 1509) sets forth the procedures for the production and examination of those records (which includes, but is not limited to, any statement, declaration, document, or electronically generated or machine readable data).

Section 509(a)(1)(A) of the Tariff Act of 1930, as amended by title VI of Public Law 103–182, commonly referred to as the Customs Modernization Act (19 U.S.C. 1509(a)(1)(A)), requires the production, within a reasonable time after demand by the Customs Service is made (taking into consideration the number, type and age of the item demanded) if ''such record is required by law or regulation for the entry of the merchandise (whether or not the Customs Service required its presentation at the time of entry)''. Section 509(e) of the Tariff Act of 1930, as amended by Public Law 103–182 (19 U.S.C. 1509(e)) requires the Customs Service to identify and publish a list of the records and entry information that is required to be maintained and produced under subsection (a)(1)(A) of section 509 (19 U.S.C. 1509(a)(1)(A)). This list is commonly referred to as ''the (a)(1)(A) list.''

The Customs Service has tried to identify all the presently required entry information or records on the following list. However, as automated programs and new procedures are introduced, these may change. In addition, errors and omissions to the list may be discovered upon further review by Customs officials or the trade. Pursuant to section 509(g), the failure to produce listed records or information upon reasonable demand may result in penalty action or liquidation or reliquidation at a higher rate than entered. A record keeping penalty may not be assessed if the listed information or records are transmitted to and retained by Customs.

Other recordkeeping requirements: The importing community and Customs officials are reminded that the (a)(1)(A) list only pertains to records or information required for the entry of merchandise. An owner, importer, consignee, importer of record, entry filer, or other party who imports merchandise, files a drawback claim or transports or stores bonded

merchandise, any agent of the foregoing, or any person whose activities require them to file a declaration or entry, is *also* required to make, keep and render for examination and inspection records (including, but not limited to, statements, declarations, documents and electronically generated or machine readable data) which pertain to any such activity or the information contained in the records required by the Tariff Act in connection with any such activity; and are normally kept in the ordinary course of business. While these records are not subject to administrative penalties, they are subject to examination and/or summons by Customs officers. Failure to comply could result in the imposition of significant judicially imposed penalties and denial of import privileges.

The following list does not replace entry requirements, but is merely provided for information and reference. In the case of the list conflicting with regulatory or statutory requirements, the latter will govern.

List of Records and Information Required for the Entry of Merchandise

The following records (which includes, but is not limited to, any statement, declaration, document, or electronically generated or machine readable data) are required by law or regulation for the entry of merchandise and are required to be maintained and produced to Customs upon reasonable demand (whether or not Customs required its presentation at the time of entry). Information may be submitted to Customs at time of entry in a Customs authorized electronic or paper format. Not every entry of merchandise requires all of the following information. Only those records or information applicable to the entry requirements for the merchandise in question will be required/mandatory. The list may be amended as Customs reviews its requirements and continues to implement the Customs Modernization Act. When a record or information is filed with and retained by Customs, the record is not subject to record keeping penalties, although the underlying backup or supporting information from which it is obtained may also be subject to the general record retention regulations and examination or summons pursuant to 19 U.S.C. 1508 and 1509.

(All references, unless otherwise indicated, are to title 19, Code of Federal Regulations, April 1, 1995 Edition, as amended by subsequent **Federal Register** notices.)

I. General list or records required for most entries. Information shown with an asterisk (*) is usually on the appropriate form and filed with and retained by Customs:

141.11–.15 Evidence of right to make entry (airway bill/bill of lading or *carrier certificate, etc.) when goods are imported on a common carrier.
141.19 *Declaration of entry (usually contained on the entry summary or warehouse entry)
141.32 Power of attorney (when required by regulations)
141.54 Consolidated shipments authority to make entry (if this procedure is utilized)
142.3 Packing list (where appropriate)
142.4 Bond information (except if 10.101 or 142.4(c) applies)

Parts 4, 18, 122, 123 *Vessel, Vehicle or Air Manifest (filed by the carrier)

II. The following records or information are required by 141.61 on Customs Form (CF) 3461 or CF 7533 or the regulations cited. Information shown with an asterisk (*) is contained on the appropriate form and/or otherwise filed with and retained by Customs:

142.3, .3a *Entry Number
*Entry Type Code
*Elected Entry Date
*Port Code
142.4 *Bond information
141.61, 142.3a *Broker/Importer Filer Number
141.61, 142.3 *Ultimate Consignee Name and Number/street address of premises to be delivered
141.61 *Importer of Record Number
*Country of Origin
141.11 *IT/BL/AWB Number and Code
*Arrival Date
141.61 *Carrier Code
*Voyage/Flight/Trip
*Vessel Code/Name
*Manufacturer ID Number (for AD/CVD must be actual mfr.)
*Location of Goods-Code(s)/Name(s)
*U.S. Port of Unlading
*General Order Number (only when required by the regulations)
142.6 *Description of Merchandise
142.6 *HTSUSA Number
142.6 *Manifest Quantity
*Total Value
*Signature of Applicant

III. In addition to the information listed above, the following records or items of information are required by law and regulation for the entry of merchandise and are presently required to be produced by the importer of record at the time the Customs Form 7501 is filed.

141.61 *Entry Summary Date
141.61 *Entry Date
142.3 *Bond Number, Bond Type Code and Surety code
142.3 *Ultimate Consignee Address
141.61 *Importer of Record Name and Address
141.61 *Exporting Country and Date Exported
*I.T. (In-bond) Entry Date (for IT Entries only)
*Mode of Transportation (MOT Code)
141.61 *Importing Carrier Name
141.82 Conveyance Name/Number
*Foreign Port of Lading
*Import Date and Line Numbers
*Reference Number
*HTSUS Number
141.61 *Identification number for merchandise subject to Anti-dumping or Countervailing duty order (ADA/CVD Case Number)
141.61 *Gross Weight
*Manifest Quantity
141.61 *Net Quantity in HTSUSA Units
141.61 *Entered Value, Charges, and Relationship
141.61 *Applicable HTSUSA Rate, ADA/CVD Rate, I.R.C. Rate, and/or Visa Number, Duty, I.R. Tax, and Fees (e.g. HMF, MPF, Cotton)
141.61 Non-Dutiable Charges
141.61 *Signature of Declarant, Title, and Date
*Textile Category Number
141.83, .86 Invoice information which includes—e.g., date, number, merchandise (commercial product) description, quantities, values, unit price, trade terms, part, model, style, marks and numbers, name and address of foreign party responsible for invoicing, kind of currency
Terms of Sale
Shipping Quantities
Shipping Units of Measurements
Manifest Description of Goods
Foreign Trade Zone Designation and Status Designation (if applicable)
Indication of Eligibility for Special Access Program (9802/GSP/CBI)
141.89 CF 5523
141.89, et al Corrected Commercial Invoice
141.86(e) Packing List
177.8 *Binding Ruling Identification Number (or a copy of the ruling)
10.102 Duty Free Entry Certificate (9808.00.30009 HTS)
10.108 Lease Statement

IV. Documents/records or information required for entry of special categories of merchandise (The listed documents or information is only required for merchandise entered (or required to be entered) in accordance with the provisions of the sections of 19 CFR (the Customs Regulations) listed). These are In addition to any documents/records or information required by other agencies in their regulations for the entry of merchandise:

4.14 CF 226 Information for vessel repairs, parts and equipment
7.8(a) CF 3229 Origin certificate for insular possessions
7.8(b) CF 3311 and Shipper's declaration for insular possessions
Part 10 Documents required for entry of articles exported and returned:
10.1–10.6 foreign shipper's declaration or master's certificate, declaration for free entry by owner, importer or consignee
10.7 certificate from foreign shipper for reusable containers
10.8 declaration of person performing alterations or repairs declaration for non-conforming merchandise
10.9 declaration of processing
10.24 declaration by assembler endorsement by importer
10.31, .35 Documents required for Temporary Importations Under Bond:
Information required, Bond or Carnet
10.36 Lists for samples, professional equipment, theatrical effects

Documents required for Instruments of International Traffic:

10.41 Application, Bond or TIR carnet
Note: additional 19 U.S.C. 1508 records: see 10.41b(e)
10.43 Documents required for exempt organizations
10.46 Request from head of agency for 9808.00.10 or 9808.00.20 HTSUS treatment

Documents required for works of art

10.48 declaration of artist, seller or shipper, curator, etc.
10.49, .52 declaration by institution
10.53 declaration by importer
USFWS Form 3–177, if appropriate
10.59, .63 Documents/ CF 5125/ for withdrawal of ship supplies
10.66,.67 Declarations for articles exported and returned
10.68, .69 Documents for commercial samples, tools, theatrical effects
10.70, .71 Purebred breeding certificate
10.84 Automotive Products certificate
10.90 Master records and metal matrices: detailed statement of cost of production
10.98 Declarations for copper fluxing material
10.99 Declaration of non-beverage ethyl alcohol, ATF permit
10.101–.102 Stipulation for government shipments and/or certification for government duty-free entries, etc.
10.107 Report for rescue and relief equipment
15 CFR 301 Requirements for entry of scientific and educational apparatus
10.121 Certificate from USIA for visual/auditory materials
10.134 Declaration of actual use (When classification involves actual use)
10.138 End Use Certificate
10.171– Documents, etc. required for entries of GSP merchandise
10.173, 10.175 GSP Declaration (plus supporting documentation)
10.174 Evidence of direct shipment
10.179 Certificate of importer of crude petroleum
10.180 Certificate of fresh, chilled or frozen beef
10.183 Civil aircraft parts/simulator documentation and certifications
10.191–.198 Documents, etc. required for entries of CBI merchandise
CBI declaration of origin (plus supporting information)
10.194 Evidence of direct shipment
†[10.306 Evidence of direct shipment for CFTA]
†[10.307 Documents, etc. required for entries under CFTA Certificate of origin of CF 353]
[†CFTA provisions are suspended while NAFTA remains in effect. See part 181]
12.6 European Community cheese affidavit
12.7 HHS permit for milk or cream importation
12.11 Notice of arrival for plant and plant products
12.17 APHIS Permit animal viruses, serums and toxins
12.21 HHS license for viruses, toxins, antitoxins, etc for treatment of man
12.23 Notice of claimed investigational exemption for a new drug
12.26–.31 Necessary permits from APHIS, FWS & foreign government certificates when required by the applicable regulation
12.33 Chop list, proforma invoice and release permit from HHS
12.34 Certificate of match inspection and importer's declaration
12.43 Certificate of origin/declarations for goods made by forced labor, etc.
12.61 Shipper's declaration, official certificate for seal and otter skins
12.73, 12.80 Motor vehicle declarations
12.85 Boat declarations (CG–5096) and USCG exemption
12.91 FDA form 2877 and required declarations for electronics products
12.99 Declarations for switchblade knives
12.104–.104i Cultural property declarations, statements and certificates of origin
12.105–.109 Pre-Columbian monumental and architectural sculpture and murals certificate of legal exportation evidence of exemption
12.110– Pesticides, etc. notice of arrival
12.118–.127 Toxic substances: TSCA statements
12.130 Textiles & textile products
Single country declaration
Multiple country declaration
VISA
12.132 NAFTA textile requirements
54.5 Declaration by importer of use of use of certain metal articles
54.6(a) Re-Melting Certificate
114 Carnets (serves as entry and bond document where applicable)
115 Container certificate of approval
128 Express consignments
128.21 *Manifests with required information (filed by carrier)
132.23 Acknowledgment of delivery for mailed items subject to quota
133.21(b)(6) Consent from trademark or trade name holder to import otherwise restricted goods
134.25, .36 Certificate of marking; notice to repacker
141.88 Computed value information
141.89 Additional invoice information required for certain classes of merchandise including, but not limited to:
Textile Entries: Quota charge Statement, if applicable including Style Number, Article Number and Product
Steel Entries Ordering specifications, including but not limited to, all applicable industry standards and mill certificates, including but not limited to, chemical composition
143.13 Documents required for appraisement entries
bills, statements of costs of production
value declaration
143.23 Informal entry: commercial invoice plus declaration
144.12 Warehouse entry information
145.11 Customs Declaration for Mail, Invoice
145.12 Mail entry information (CF 3419 is completed by Customs but formal entry may be required)
148 Supporting documents for personal importations
151 subpart B Scale Weight
151 subpart B Sugar imports sampling/ lab information (Chemical Analysis)
151 subpart C Petroleum imports sampling/lab information

Out turn Report 24. to 25.—Reserved

151 subpart E Wool and Hair invoice information, additional documents
151 subpart F Cotton invoice information, additional documents
181.22 NAFTA Certificate of origin and supporting records
19 USC 1356k Coffee Form O (currently suspended)

Other Federal and State Agency Documents

State and Local Government Records Other Federal Agency Records (See 19 CFR Part 12, 19 U.S.C. 1484, 1499)
Licenses, Authorizations, Permits

Foreign Trade Zones

146.32 Supporting documents to CF 214

Approved: December 30, 1996.

Samuel H. Banks,

Acting Commissioner of Customs.

John P. Simpson,

Deputy Assistant Secretary of the Treasury.

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DEPARTMENT OF COMMERCE

International Trade Administration

19 CFR Part 351

Countervailing Duties; Extension of Deadline To File Public Comments on Proposed Countervailing Duty Regulations

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Extension of deadline to file public comments on proposed countervailing duty regulations.

SUMMARY: The Department of Commerce (''the Department'') is extending the deadline to file public comments on the proposed countervailing duty regulations containing changes resulting from the Uruguay Round Agreements Act (the URAA). The deadline for filing comments on the proposed regulations is now May 12, 1997.

DATES: The comment deadline has been extended to May 12, 1997.

ADDRESSES: Address written comments to the following: Robert S. LaRussa, Acting Assistant Secretary for Import Administration, Central Records Unit, Room 1870, U.S. Department of Commerce, Pennsylvania Avenue and 14th Street NW., Washington, D.C. 20230. The address should also include the following: Attention: Proposed Regulations/Uruguay Round Agreements Act—Countervailing Duties. Each person submitting a comment is requested to include his or her name and address, and give reasons for any recommendation.

FOR FURTHER INFORMATION CONTACT: Jennifer A. Yeske at (202) 482–0189.

SUPPLEMENTARY INFORMATION: On February 26, 1997, the Department published proposed countervailing duty regulations (62 FR 8818). We requested written comments from the public to be submitted by April 28, 1997. We have now extended the deadline for filing written comments to May 12, 1997.

Proposed Regulations

The proposed regulations are available on the Internet at the following address: Http://www.ita.doc.gov/import__admin/records/

In addition, the proposed regulations are available to the public on 3.5″ diskettes, with specific instructions for accessing compressed data, at cost, and paper copies available for reading and photocopying in Room B–099 of the Central Records Unit. Any questions concerning file formatting, document conversion, access on Internet, or other file requirements should be addressed to Andrew Lee Beller, Director of Central Records, (202) 482–0866.

Format and Number of Copies

To simplify the processing and distribution of the public comments pertaining to the Department's proposed regulations, parties are encouraged to submit documents in electronic form accompanied by an original and three paper copies. All documents filed in electronic form must be on DOS formatted 3.5″ diskettes, and must be prepared in either WordPerfect format or a format that the WordPerfect program can convert and import into WordPerfect. If possible, the Department would appreciate the documents being filed in either ASCII format or WordPerfect, and containing generic codes. The Department would also appreciate the use of descriptive file names.

Dated: April 17, 1997.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–10529 Filed 4–22–97; 8:45 am]

BILLING CODE 3510–DS–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MN48–01–7268b; FRL–5699–2]

Approval and Promulgation of Implementation Plan; Minnesota

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) proposes to approve a revision to the Minnesota State Implementation Plan (SIP) for the general conformity rules. The general conformity SIP revisions enable the State of Minnesota to implement and enforce the Federal general conformity requirements in the nonattainment or maintenance areas at the State or local level in accordance with 40 CFR part 93, subpart B—Determining Conformity of General Federal Actions to State or Federal Implementation Plans.

DATES: Comments on this proposed action must be received by May 23, 1997.

ADDRESSES: Written comments should be sent to: Carlton T. Nash, Chief, Regulation Development Section, Air Programs Branch (AR–18J), EPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590.

SUPPLEMENTARY INFORMATION: For additional information, see the Direct Final rule which is located in the Rules section of this **Federal Register**. Copies of the request and the EPA's analysis are available for inspection at the following address: EPA, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590. (Please telephone Michael G. Leslie at (312) 353–6680 before visiting the Region 5 office.)

Authority: 42 U.S.C. 7401–7671q.

Dated: February 12, 1997.

David A. Ullich,

Regional Administrator.

[FR Doc. 97–10506 Filed 4–22–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[DC010–5914b; MD033–7157b; FRL–5814–2]

Approval and Promulgation of Air Quality Implementation Plans; District of Columbia and State of Maryland—1990 Base Year Emission Inventory for the Metropolitan Washington DC Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plans (SIPs) revisions submitted by the District of Columbia and the State of Maryland for the purpose of establishing 1990 ozone base year emission inventories for the Metropolitan Washington DC ozone nonattainment area. In the Final Rules section of this **Federal Register**, EPA is approving the District's and State of Maryland's SIP revisions as a direct final rule without prior proposal

because the Agency views them as noncontroversial SIP revisions and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this action serving as a proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by May 23, 1997.

ADDRESSES: Comments may be mailed to David L. Arnold, Chief, Ozone/CO and Mobile Sources Section, Mail code 3AT21, Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the EPA office listed above; and the District of Columbia Department of Consumer and Regulatory Affairs, 2100 Martin Luther King Avenue, S.E., Washington, DC 20020, and Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland 21224.

FOR FURTHER INFORMATION CONTACT: Pauline De Vose, (215) 566–2186, at the EPA Region III office, or via e-mail at devose.pauline@epamail.epa.gov. While information may be requested via e-mail, comments must be submitted in writing to the above Region III address.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final action of the same title, the District of Columbia and Maryland 1990 Base Year Emission Inventory for the Metropolitan Washington DC Area, which is located in the Rules and Regulations section of this **Federal Register**.

Authority: 42 U.S.C. 7401–7671q.

Dated: April 8, 1997.

Stanley L. Laskowski,

Acting Regional Administrator, Region III.

[FR Doc. 97–10509 Filed 4–22–97; 8:45 am]

BILLING CODE 6560–50–P

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101–40

RIN 3090–AG34

Transportation and Traffic Management Regulations

AGENCY: Office of Governmentwide Policy, GSA.

ACTION: Proposed rule.

SUMMARY: The General Services Administration proposes to amend Part 101–40 of the Federal Property Management Regulations by revising and/or removing text in the first three subparts to reflect procedural and policy changes. This action gives individual agencies greater flexibility and authority for administering their freight and household goods transportation and traffic management activities.

DATES: Comments must be received by June 23, 1997.

ADDRESSES: Written comments must be sent to the General Services Administration (MTT), 18th & F Streets, NW, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: William P. Hobson, Travel and Transportation Management Policy Division, (202) 501–0483.

SUPPLEMENTARY INFORMATION: The General Services Administration (GSA) has determined that this rule is not a significant regulatory action for the purpose of Executive Order 12866 of September 30, 1993, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. Therefore, a regulatory impact analysis has not been prepared. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for and consequences of this rule; has determined that potential benefits to society from this rule outweigh the potential costs and has maximized the net benefit; and has chosen the alternative approach involving the least net cost to society.

The reporting forms required by this regulation are not subject to the provisions of the Paperwork Reduction Act of 1996 (44 U.S.C. Chapter 35). Therefore, the Paperwork Reduction Act does not apply.

Pursuant to the Regulatory Flexibility Act, it is determined that this rule will not have a significant economic impact on a substantial number of small entities. Therefore, no regulatory flexibility analysis has been prepared.

List of Subjects in 41 CFR Part 101–40

Freight, Government property management, Moving of household goods, Reporting and recordkeeping requirements, Transportation.

GSA proposes to amend 41 CFR Part 101–40 as follows:

PART 101–40—TRANSPORTATION AND TRAFFIC MANAGEMENT

1. The authority citation for 41 CFR Part 101–40 continues to read as follows:

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

§101–40.001 [Reserved]

2. Section 101–40.001 is removed and reserved.

Subpart 101–40.1—General Provisions

3. Section 101–40.101–1 is revised to read as follows:

§101–40.101–1 Freight transportation management assistance.

Executive agencies may request assistance from the Department of State on shipments of household goods moving from, to, and between foreign countries. The Department of State, if requested, will prepare documents, book shipments, and make all customs arrangements. Assistance on movements originating abroad should be arranged through the nearest Embassy or Consulate. International shipments originating in the conterminous United States can be arranged with Transportation Operations, Room 1244, Department of State, Washington, DC 20520, (202) 647–4140 or 1–800–424–2947.

§101–40.101–2 [Removed and Reserved]

4. Section 101–40.101–2 is removed and reserved.

§101–40.106 [Removed and Reserved]

§101–40.107 [Removed and Reserved]

§101–40.108 [Removed and Reserved]

5. Sections 101–40.106 through 101–40.108 are removed and reserved.

§101–40.109–1 [Removed and Reserved]

6. Section 101–40.109–1 is removed and reserved.

7. Section 101–40.109–2 is revised to read as follows:

§101–40.109–2 Office relocation contracts.

(a) Prior to entering into office relocation contracts, agencies should ensure they are complying with the provisions of FPMR Temp. Reg. D–73, or reissues thereof. (See 41 CFR, appendix to subchapter D.) Compliance

assistance may be obtained from the respective regional directors of the GSA Public Building Service, Real Estate Division.

(b) Arrangements for moving services, other than local office relocation moves, will be contracted for using competitive procedures or other appropriate relocation arrangements including Government tenders pursuant to section 13712 of the ICC Termination Act of 1995 (49 U.S.C. 13712).

(c) Local office relocation moves must be acquired by contract. Neither the statutory exemption provided for in paragraph (3) of section 7 of the McNamara-O'Hara Service Contract Act of 1965 (Service Contract Act) (41 U.S.C. 351 *et seq.*) exempting ''any contract for the carriage of freight of personnel * * * where published tariff rates are in effect'' nor the administrative exemption for contracts for the carriage of freight or personnel subject to rates covered by section 13712 of the ICC Termination Act of 1995. (See 29 CFR 4.123.) The Service Contract Act applies to local office relocation moves where transportation costs (such as packing, crating, handling, loading, and/or storage of goods prior to or following line-haul transportation) are incidental to the principal purpose of the contract. (See 29 CFR 4.118.)

§ 101–40.109–3 [Removed and Reserved]

8. Section 101–40.109–3 is removed and reserved.

9. Section 101–40.110–2 is revised to read as follows:

§ 101–40.110–2 Minority business enterprises.

Consistent with the policies of the Government stated in 48 CFR part 19, minority business enterprises shall have the maximum practicable opportunity to participate in the performance of Government purchases and contracts. Agencies shall encourage transportation-related minority enterprises, regardless of the mode of transportation, to identify themselves and provide services that will support the agencies' transportation requirements.

10. Section 101–40.111 is revised to read as follows:

§ 101–40.111 Maintenance of tariff files.

Executive agencies should maintain those tariffs and rate tenders necessary to meet their operational requirements.

11. Section 101–40.112 is amended by revising paragraph (b) to read as follows:

§ 101–40.112 Transportation factors in the location of Government facilities.

* * * * *

(b) If changes in the location, relocation or deactivation of Government installations or facilities are contemplated and will result in significant changes in the movement of property, executive agencies shall ensure that consideration is given to the various transportation factors that may be involved in this relocation or deactivation.

12. The heading of Subpart 101–40.2 is revised to read as follows:

Subpart 101–40.2—Household Goods Transportation

13. Section 101–40.200 is revised to read as follows:

§ 101–40.200 Scope of subpart.

This subpart prescribes regulations concerning the movement of household goods of Government employees and their dependents who are eligible for relocation within the conterminous United States. As used in this subpart, the term ''household goods'' includes personal effects, and the term ''employee(s)'' includes eligible dependents.

§ 101–40.202 [Removed and Reserved]

14. Section 101–40.202 is removed and reserved.

15. The heading of Section 101–40.203 is revised to read as follows:

§ 101–40.203 Household goods movement evaluation procedures.

16. Section 101–40.203–1 is revised to read as follows:

§ 101–40.203–1 Negotiations by executive agencies.

Executive agencies are authorized to negotiate with carriers in establishing or modifying rates, charges, classification ratings, services, and rules or regulations for household goods transportation. (See § 101–40.306.)

17. Section 101–40.203–2 is amended by revising paragraph (a) to read as follows:

§ 101–40.203–2 The GBL method.

(a) For the purposes of this subpart, shipments of Government employees' household goods authorized to move under a Government bill of lading (GBL) are classified as ''GBL method'' shipments. This method is distinguishable from the commuted rate system (§ 101–40.203–3) in that when a GBL is used, the Government, not the employee, is the shipper and the Government pays the carrier the applicable transportation charges. The decision on which method shall be authorized is the decision of the employing agency, and shall be based on a comparison of costs between the two systems (see § 101–40.203–4). When a shipment moves under a GBL, the agency or its agent prepares the bill of lading, books the shipment, and in event of loss or damage to the household goods, may either file claims directly with the carrier, on behalf of the employee, or assist the employee in filing claims against the carrier.

* * * * *

18. Section 101–40.203–4 is revised to read as follows:

§ 101–40.203–4 Cost comparisons.

Agencies shall compare the costs of using the commuted rate system with the cost of using the GBL method. The comparisons shall include the costs of transportation, packing, and other accessorial services. The calculation of costs for the commuted rate system shall be based on the Commuted Rate Schedule in effect at the time the cost comparison is prepared. The calculation of costs of the GBL method shall be based on actual carrier rates and charges as maintained by a carrier or otherwise tendered to the Government. Section 302–8.3(c)(4)(i) of the Federal Travel Regulation (41 CFR chapters 301 through 304) provides that the commuted rate system shall be used for individual employee transfers without consideration being given to the GBL method, except that the GBL method may be used if the actual transportation costs (including the costs of packing and other accessorial services) to be incurred by the Government are predetermined and can be expected to result in a real savings to the Government of $100 or more. Agencies requiring the Commuted Rate Schedule for Transportation of Household Goods shall prepare a Standard Form 1, Printing and Binding Requisition, and send it to: Superintendent of Documents, Departmental Account Representative Division, U.S. Government Printing Office (GPO), Washington, DC 20401.

19. Section 101–40.204 is revised to read as follows:

§ 101–40.204 Carrier selection and distribution of shipments.

Agencies authorizing the GBL method shall select the eligible carrier that meets the agency's service requirements and offers the lowest cost consistent therewith. Deviations from this methodology shall be documented in the requesting agency's records. (See § 101–40.302.)

20. Section 101–40.205 is revised to read as follows:

§ 101–40.205 Quality control.

Agencies should monitor the performance and quality of household goods carriers' service, including the extent of its and its relocating employees' satisfaction with the carriers' service. Relocating employees should monitor the direct performance of carrier service, including but not limited to such factors as quality of packing, personal courtesy, communication of services, problem responsiveness, delivery without damage, delivery on time, and overall quality. Traffic managers should monitor the carriers' management of the move and how that management affects carrier service, including but not limited to such factors as courtesy at tracing, communicating changes, flexibility, timeliness of pickup and delivery, and overall quality.

21. Section 101–40.206 is amended by revising the introductory text and paragraph (a) to read as follows:

§ 101–40.206 Household goods carriers' liability.

Carriers' Government rate tenders and their applicable tariffs establish the carriers' minimum liability for the loss of or damage to Government employees' household goods transported in conjunction with this subpart. A value exceeding the tender or tariff minimum may be declared on the bill of lading, but the carrier will charge a valuation fee for each $100, or fraction thereof, of such higher declared valuation. Employees should be fully informed as to the extent the Government will be monetarily responsible for the transportation of household goods, the differences in standard liability under Government and commercial bills of lading, the steps necessary to increase or decrease the carriers' liability, and the relative advantage the employee would have under the Military Personnel and Civilian Employees' Claims Act of 1964 (see § 101–40.207(b)) when the employee chooses to declare a valuation that either exceeds (in which case, the employee is liable for an excess valuation charge) or does not exceed the tender or tariff minimum.

(a) Carriers' Government tenders or their tariffs establish the carriers' minimum liability for loss or damage, and carriers' tenders or tariffs prescribe any additional charges for which the Government may be responsible relative to that liability. In the absence of an employee's written request for a valuation that exceeds the minimum liability specified in the tender or tariff, all GBLs should be annotated to show the minimum, liability specified in the tender or tariff. If an employee requests the agency to declare a valuation that exceeds the tender or tariff minimum, the agency will enter the declaration on the GBL, pay the carrier the valuation fee (if applicable), and collect the fee from the employee; alternatively, the agency will enter the declaration on the GBL and direct the carrier to collect the valuation fee (if applicable) directly from the employee. Should the employee's request for increased valuation be made after the GBL has been tendered to the carrier but before the shipment has been picked up, the employee should not make a separate arrangement with the carrier for increased valuation. Instead, the employee should notify the GBL issuing officer of the valuation desired, and request that the original GBL be amended on Standard Form 1200, Government Bill of Lading Correction Notice. (See § 101–41.4901–1200.)

* * * * *

22. Section 101–40.207 is amended by revising paragraphs (a), (c), and (d) and by removing paragraph (e) to read as follows:

§ 101–40.207 Household goods loss and damage claims.

(a) Claims for loss and damage to household goods will normally be filed and processed with the line-haul carrier; i.e., the carrier to which the household goods were tendered and which is shown on the bill of lading as having received the shipment. Depending on agency policy, claims for the repair, replacement, or loss of household goods may be filed by either the agency or the employee (as owner of the goods). When the employee files the claim, the agency will furnish the employee necessary assistance in claim procedures.

* * * * *

(c) When settling a claim for loss or damage to a shipment of household goods, carriers may settle either for the full value declared by the shipper or arrive at the current actual value of the lost or damaged item by using the criterion of replacement cost of the lost or damaged item, less depreciation. The basis upon which carriers will settle a claim is contained in carriers' tariffs or tenders offered the Government under section 13712 of the ICC Termination Act of 1995.

(d) Regulations governing household goods carriers subject to the ICC Termination Act of 1995 are contained in 49 CFR part 1056.

23. Section 101–40.208 is revised to read as follows:

§ 101–40.208 Temporary nonuse, debarment, or suspension of household goods carriers.

Based on information obtained as provided in § 101–40.205 or documented instances of other service complaints or deficiencies, agencies may place household goods carriers in temporary nonuse, debarred, or suspended status in accordance with the procedures specified in subpart 101–40.4.

Subpart 101–40.3—Rates, Routes, and Services

§ 101–40.301 [Removed and Reserved]

24. Section 101–40.301 is removed and reserved.

25. Section 101–40.302 is revised to read as follows:

§ 101–40.302 Standard routing principle.

Shipments shall be routed using the mode of transportation, or individual carrier or carriers within the mode, that can provide the required service at the lowest overall delivered cost to the Government. Executive agency shippers will comply with all Federal, State, and local laws and regulations relating to vehicular size and weight limitations.

26. Section 101–40.303 is revised to read as follows:

§ 101–40.303 Application of the standard routing principle.

In the application of the standard routing principle, the principal factors for consideration, in their relative order of importance, are: Satisfactory service, aggregate delivered cost, equitable distribution of traffic, and least fuel-consumptive carrier/mode.

27. Section 101–40.303–1 is amended by revising the introductory paragraph to read as follows:

§ 101–40.303–1 Service requirements.

The following factors should be considered in determining whether a carrier or mode of transportation can meet an agency's transportation service requirements for each individual shipment:

* * * * *

28. Section 101–40.303–2 is revised to read as follows:

§ 101–40.303–2 Aggregate delivered costs.

When comparing aggregate delivered costs to determine the most economical routing of shipments consistent with service requirements, consideration should be given to all factors which increase costs to the shipping or receiving activity. In addition to the actual transportation rates and charges, other cost factors, such as packing, blocking, bracing, dunnage, drayage,

loading, and unloading, should be considered where these items affect overall costs.

29. Section 101–40.303–3 is revised to read as follows:

§ 101–40.303–3 Equitable distribution of traffic among carriers.

When more than one mode of transportation or more than one carrier within a mode can provide equally satisfactory service at the same aggregate cost and all modes are equally fuel efficient, the traffic should be distributed as equally as practicable among the modes and among the carriers within the modes. When socially or economically disadvantaged carriers and women-owned carriers are among the eligible competing carriers, positive action will be taken to include such carriers in the equitable distribution of traffic.

30. Section 101–40.303–4 is revised to read as follows:

§ 101–40.303–4 Most fuel efficient mode.

When more than one mode can satisfy the service requirements of a specific shipment at the same lowest aggregate delivered cost, the mode determined to be the most fuel efficient should be selected. In determining the most fuel efficient mode, consideration should be given to such factors as use of the carrier's equipment in ''turn around'' service, proximity of carrier equipment to the shipping activity, and ability of carrier to provide the most direct service to the destination points.

31. Section 101–40.304 is amended by revising paragraph (a) and by removing paragraph (d) to read as follows:

§ 101–40.304 Description of property for shipment.

(a) Each shipment shall be described on the bill of lading or other shipping document as provided in the applicable tender offered to the Government by the carrier or as provided in the agreement negotiated with the carrier by the Government or in accordance with the carrier's tariff. Trade names such as ''Foamite'' or ''Formica'' or general terms such as ''vehicles,'' ''furniture,'' or ''Government supplies,'' shall not, unless specifically negotiated with the carrier by the Government, be used as bill of lading descriptions.

* * * * *

§ 101–40.305–1 [Removed and Reserved]

§ 101–40.305–2 [Removed and Reserved]

32. Sections 101–40.305–1 and 101–40.305–2 are removed and reserved.

33. Section 101–40.305–3 is revised to read as follows:

§ 101–40.305–3 Negotiations by executive agencies.

Executive agencies are authorized to negotiate with carriers in establishing or modifying rates, charges, classification ratings, services, and rules or regulations for freight transportation.

34. Section 101–40.306 is revised to read as follows:

§ 101–40.306 Rate tenders to the Government.

Under the provisions of sections 10721 (rail) and 13712 (motor) of the ICC Termination Act of 1995 (49 U.S.C. 10721 and 13712), common carriers are permitted to submit tenders to the Government which contain transportation rates and/or charges for accessorial services that are lower than those published in tariffs applicable to the general public; and the Government may solicit from carriers offers to provide transportation and accessorial services at rates and/or charges lower than those published in tariffs applicable to the general public. Rate tenders may be applied to shipments made by the Government on behalf of foreign governments. In addition, rate tenders may be applied to shipments other than those made by the Government provided the total benefits accrue to the Government; that is, provided the Government pays the charges or directly and completely reimburses the party that initially pays the freight charges. (Interpretation of Government Rate Tariff for Eastern Central Motor Carriers Association, Inc., 332 I.C.C. 161 (1968).)

35. Section 101–40.306–2 is amended by revising the introductory text of paragraph (a) to read as follows:

§101–40.306–2 Required shipping documents and annotations.

(a) To qualify for transportation under section 10721 or 13712, property must be shipped by or for the Government on:

* * * * *

36. Section 101–40.306–3 is revised to read as follows:

§101–40.306–3 Distribution.

Each agency receiving rate tenders shall promptly submit two copies (including at least one signed copy) to the General Services Administration, Office of Transportation Audits (FW), Washington, DC 20405.

37. Section 101–40.306–4 is revised to read as follows:

§101–40.306–4 Bill of lading endorsements.

To ensure application of Government rate tenders to all shipments qualifying for their use, bills of lading covering the shipments shall be endorsed with the applicable tender or quotation number and carrier identification; e.g., ''Section 13712 quotation, ABC Transportation Company, Tender No. 143.'' In addition, where commercial bills of lading are used rather than Government bills of lading, the commercial bills of lading shall be endorsed in conformance with the provisions set forth in § 101–40.306–2(a). (For specific regulations covering transportation generated under cost-reimbursement type contracts, see 48 CFR 47.104–3.)

Dated: December 17, 1996.

G. Martin Wagner,

Associate Administrator, Office of Governmentwide Policy.

[FR Doc. 97–10514 Filed 4–22–97; 8:45 am]

BILLING CODE 6820–34–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 600

[Docket No. 961030300–7090–03; I.D. 120996A]

RIN 0648–AJ30

Magnuson Act Provisions; Essential Fish Habitat (EFH)

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to issue regulations containing guidelines for the description and identification of essential fish habitat (EFH) in fishery management plans (FMPs), adverse impacts on EFH, and actions to conserve and enhance EFH. The regulations would also provide a process for NMFS to coordinate and consult with Federal and state agencies on activities that may adversely affect EFH. The guidelines are required by the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The purpose of the rule is to assist Fishery Management Councils (Councils) in fulfilling the requirements set forth by the Magnuson-Stevens Act to amend their FMPs to describe and identify EFH, minimize adverse effects on EFH, and identify other actions to conserve and enhance EFH. The coordination and consultation provisions would specify procedures for adequate consultation with NMFS on activities that may adversely affect EFH.

DATES: Written comments on the proposed rule must be received on or before May 23, 1997.

ADDRESSES: Comments should be sent to the Director, Office of Habitat Conservation, Attention: EFH, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3282. Copies of the Technical Assistance Manual, previous advance notices of proposed rulemaking (ANPR), draft environmental assessment (EA) and finding of no significant impact (FONSI), and ''Framework for the Description, Identification, Conservation, and Enhancement of Essential Fish Habitat'' (Framework) are available. (see **SUPPLEMENTARY INFORMATION**).

FOR FURTHER INFORMATION CONTACT: Lee Crockett, NMFS, 301/713–2325.

SUPPLEMENTARY INFORMATION: A copy of the ANPRs, Framework, proposed regulation, draft EA and FONSI, and Technical Assistance Manual are available via the NMFS Office of Habitat Conservation Internet website at: http://kingfish.ssp.nmfs.gov/rschreib/habitat.html or by contacting one of the following NMFS Offices:

Office of Habitat Conservation, Attention: EFH, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3282; 301/713–2325.

Northeast Regional Office, Attention: Habitat and Protected Resources Division, One Blackburn Drive, Gloucester, MA 01930; 508/281–9328.

Southeast Regional Office, Attention: Habitat Conservation Division, 9721 Executive Center Drive North, St. Petersburg, FL 33702; 813/570–5317.

Southwest Regional Office, Attention: Habitat Conservation Division, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802; 310/980–4041.

Northwest Regional Office, Attention: Habitat Conservation Branch, 525 N.E. Oregon St., suite 500, Portland, OR 97232; 503/230–5421.

Alaska Regional Office, Attention: Protected Resources Management Division, 709 West 9th Street, Federal Bldg., room 461, P.O. Box 21668, Juneau, AK 99802–1668; 907/586–7235.

Related Documents

Concurrent with publication of this proposed rule, NMFS will make available ''Technical Guidance to Implement the Essential Fish Habitat Requirements for the Magnuson-Stevens Act.'' This manual provides supplemental information for developing EFH recommendations and FMP amendments. The document is intended to be updated regularly as new and innovative methods are available in habitat identification and mapping. The Technical Guidance Manual is based on and will contain similar detail to that included in the Framework. The draft manual is available for comment and may be obtained from any NMFS office listed in the **SUPPLEMENTARY INFORMATION** section.

Background

This rulemaking is required by the Magnuson-Stevens Act (16 U.S.C. 1801 *et seq*) as reauthorized by the Sustainable Fisheries Act, signed into law on October 11, 1996. It mandates that the Secretary of Commerce (Secretary) shall, within 6 months of the date of enactment, establish guidelines by regulation to assist the Councils to describe and identify EFH in FMPs (including adverse impacts on such habitat) and to consider actions to conserve and enhance such habitat. These proposed regulations would establish a process for Councils to identify and describe EFH, including adverse impacts to that habitat, per the requirements of the Magnuson-Stevens Act. The Magnuson-Stevens Act also requires that the Secretary, in consultation with fishing participants, provide each Council with recommendations and information regarding each fishery under that Council's authority to assist it to identify EFH, the adverse impacts on that habitat, and actions that should be considered to conserve and enhance that habitat. The proposed regulation would establish procedures to carry out this mandate. Councils must submit FMP amendments containing these new provisions by October 11, 1998.

In addition, the Magnuson-Stevens Act requires that Federal agencies consult with the Secretary on any activity authorized, funded, or undertaken, or proposed to be authorized, funded, or undertaken, that may adversely affect EFH. The Secretary must respond with recommendations for measures to conserve EFH. The Secretary must provide recommendations to states as well. The regulation would also establish procedures to implement these consultative requirements.

This regulation proposes to address ecosystem considerations in fishery management. Through the 1996 Magnuson-Stevens Act reauthorization, FMPs are now required to describe and identify EFH used by managed fishery resources. In addition, FMPs are required to identify actions to ensure conservation and enhancement of EFH.

In developing this rule, NMFS published two ANPRs. The first, published in the **Federal Register** on November 8, 1996 (61 FR 57843), solicited comments to assist NMFS in developing a framework for the proposed guidelines. The second ANPR was published on January 9, 1997 (62 FR 1306). That ANPR announced the availability of the Framework. The Framework was developed to provide a detailed outline for the regulations and to serve as an instrument to solicit public comments. The document was made available to the public for comment from January 9, 1997, through February 12, 1997. During that time, NMFS held fifteen public meetings, briefings, and workshops across the nation. Eighty-eight comments were received via mail or fax, and numerous comments were received during the public meetings. NMFS considered those comments in developing the proposed regulations. In addition to the regulations, a Technical Guidance Manual is available (see **SUPPLEMENTARY INFORMATION**) to provide further details on how the Councils will identify EFH for managed species and develop amendments to their FMPs.

Relation to Other Laws

The Magnuson-Stevens Act establishes expanded requirements for habitat sections of FMPs and requires consultation between the Secretary and Federal and state agencies on activities that may adversely impact EFH for those species managed under the Act. It also requires the Federal action agency to respond to comments and recommendations made by the Secretary and Councils. For the purpose of consultation on activities that may adversely affect EFH, the description of EFH included in the FMP would be determinative of the limits of EFH. Mapping of EFH would be required in the proposed regulations to assist the public and affected parties to learn where EFH is generally located. However, due to anticipated data gaps and the dynamic nature of physical and biological habitat characteristics, maps would be used as supplementary information during the consultation process.

The Fish and Wildlife Coordination Act (FWCA) provides a mechanism for the Secretary to comment to other Federal agencies on activities affecting any living marine resources. Under the FWCA, Federal agencies are required to consult with the Secretary on habitat impacts from water development projects. The Secretary is not, however, required to consult with Federal agencies on all activities that may adversely affect habitat of managed species, nor are agencies required to

respond to Secretarial comments under the FWCA. The FWCA will continue to allow the Secretary to comment and make recommendations on Federal activities that may adversely affect living marine resources and their habitat, even if such habitat is not identified as EFH.

The Endangered Species Act (ESA) definition of ''critical habitat'' to describe habitats under its authority includes areas occupied by the species at the time of listing, as well as those unoccupied areas that are deemed ''essential for the conservation of a species.'' The EFH regulations would specify that, for species listed under ESA, EFH will always include critical habitat. EFH may be broader than critical habitat if restoration of historic habitat areas is feasible, and more habitat is necessary to support a sustainable fishery. Because the statutory definition of EFH includes the full life cycle of species, including growth to maturity, EFH will also be broader than critical habitat where marine habitats have not been included in the identification of critical habitat (e.g., for anadromous salmonids listed under the ESA).

Coordination with Interested Parties

NMFS would closely coordinate the development of EFH recommendations with the appropriate Councils, fishing participants, interstate fisheries commissions, Federal agencies, state agencies, and other interested parties.

Relation Between EFH and State-Managed Waters

Many species managed under the Magnuson-Stevens Act spend some part of their life cycle in state waters (in most states 0–3 miles offshore) as well as Federal waters (generally 3–200 miles offshore). Because the statutory definition of EFH covers the entire life cycle of a species, EFH may be identified within both Federal and state waters. Therefore, the consultation provisions for activities that may adversely affect EFH may require the Secretary to consult on activities in both Federal and state waters. Councils may also comment on activities in both Federal and state waters. The requirement for Councils to institute management measures to minimize adverse effects of fishing, however, would only address those fishing activities that occur in Federal waters.

Summary of Principal Comments

The public comments focused on eight issues. A summary of these issues and the NMFS response follows.

Issue 1: Species of fish for which the Councils must describe and identify EFH. NMFS received comments suggesting that EFH should be described and identified for only those species managed by a Council in a FMP. Other interpretations suggested that ''fish'' includes all species inhabiting the geographic jurisdiction of a Council. The latter interpretation could include species not currently managed, but considered important by the Council. NMFS concludes that Councils should describe and identify EFH for only those species managed under an FMP. According to the Magnuson-Stevens Act, EFH can only be designated through an amendment to an FMP. The Council would not be precluded from identifying the habitat required by other species not covered in an FMP and taking steps to protect it. To the extent that such habitat requirements enhance the ecosystem approach to FMPs, the Councils would be encouraged to identify such habitat. However, those habitats of currently non-managed species would not be considered EFH.

Issue 2: Timing of the development of EFH recommendations by NMFS. Some commentors suggested that EFH for all species within a fishery management unit must be completed simultaneously. Other commentors suggested that EFH be described for only those species whose catch is a significant component of the fishery. NMFS has concluded that the law requires the Councils to identify EFH for all managed species within its jurisdiction within the Act's EFH amendment period. The Technical Guidance Manual suggests several ways that Councils may perform this task more efficiently.

Issue 3: Identification of EFH for prey species. Some comments suggested that EFH be identified for all prey species, as opposed to just the predominant prey species. Other comments suggested that identification of EFH for prey species was unnecessary because their habitat requirements are covered by the range of EFH for the managed species. NMFS has concluded that the habitat of prey species would not be included as EFH for managed species. Rather, Councils would identify the major prey species for the species managed under the FMP, and would describe the habitat of significant prey species to help in determining if there are activities that would adversely affect their habitat. This analysis would be included in the ''adverse effects'' section of the EFH FMP amendment, rather than the description and identification of EFH section. The Councils should consider loss of prey habitat as an adverse effect on a managed species.

Issue 4: Interpretation of what habitat is ''necessary'' for spawning, breeding, feeding, and growth to maturity. In the Framework, NMFS interpreted ''necessary'' to mean the amount of habitat needed to support a target production level which included, at a minimum, maximum sustainable yield of the fishery plus other ecological benefits such as being prey for other living marine resources. Many commentors were concerned that this connection was too narrow and suggested that either it not be included in the guidelines, thereby coupling EFH only to feeding, breeding, and growth to maturity, or expanding the definition. NMFS has concluded that the goal of linking ''necessary'' to production is appropriate, however, this objective has now been defined as the production necessary to support a sustainable fishery and a healthy ecosystem.

Issue 5: Intent of the EFH amendments in relation to fishing. NMFS received comments that clarification is needed regarding fishing in areas identified as EFH. NMFS has now clarified that the intent is not to preclude fishing in areas identified as EFH. Rather, the intent is to refine the Council's and NMFS' abilities to manage fishing activities by taking into account the increasing knowledge and understanding of the importance of habitat, and taking actions to minimize adverse impacts from fishing, to the extent practicable.

Many comments requested guidance on how the Councils would determine when a fishing activity has an adverse impact requiring action. NMFS has provided additional guidance on this concern by proposing to require an assessment of the impacts of all gear types used in the EFH. The assessment would consider closure areas for research to evaluate impacts. The Councils would act to prevent, mitigate, or minimize any adverse impacts from fishing, to the extent practicable, if there is evidence that a fishing practice is having a substantial adverse impact on EFH based on the assessment.

Issue 6: Interpretation of ''to the extent practicable''. No guidance was provided in the Framework on the exact meaning of the phrase. Some commentors expressed concern that a lack of guidance risked no additional actions being taken by Councils. Others expressed the opinion that the impacts of fishing were already known, and suggested closure areas to protect sensitive habitats. Cost-benefit analysis was also suggested. NMFS has provided additional guidance within the proposed rule. The regulation states that in determining whether minimizing an

adverse impact from fishing is practicable, Councils should consider: (1) Whether, and to what extent, the fishing activity is adversely impacting the marine ecosystem, including the managed species; (2) the nature and extent of the adverse effect on EFH; and (3) whether the cost to the fishery is reasonable.

Issue 7: NMFS' interpretation of ''substrate.'' Commentors suggested it be modified to include artificial reefs and shipwrecks as EFH. NMFS agrees with this modification and clarifies that artificial reefs and shipwrecks could be identified as EFH.

Issue 8: Notification of projects under general concurrence. Several comments were received on general concurrences, suggesting that if no notification is required for projects that fall within a general concurrence category, NMFS would be unable to track the cumulative effects of these categories of activities. NMFS continues to state in the regulation that no notice of those actions covered by a general concurrence would be required, but only if a process is in place by the action agency to adequately assess cumulative impacts.

Comments were also received concerning opportunities for public review of general concurrences prior to final approval and implementation. Commentors were concerned that general concurrences could be established that would exempt specific activities from the consultation process without an opportunity for public review. NMFS has provided in the regulations that it would use public Council meetings, or other means, to provide opportunities for public comment on general concurrences prior to formalization. If Council review is not available, NMFS would provide other reasonable means for public review.

Compliance Requirements

While the Magnuson-Stevens Act requires Federal agencies to consult with NMFS on activities that may adversely affect EFH and respond to NMFS' recommendations, the Act did not place direct requirements for compliance with conservation and enhancement recommendations provided by NMFS. The procedures identified in the regulations however, outline a method for cooperation and coordination between agencies, and options for dispute resolution should this become necessary.

Classification

NMFS has prepared a draft environmental assessment that discusses the impact on the environment as a result of this rule. A copy of the environmental assessment is available from NMFS (see **SUPPLEMENTARY INFORMATION**).

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The proposed rule would establish guidelines for Councils to identify and describe EFH, including adverse impacts, and conservation and enhancement measures. The proposed regulation requires that the Councils conduct assessments of the effects of fishing on EFH within their jurisdiction. Should Councils establish regulations on fishing as a result of the guidelines and assessments of fishing gear, that action may affect small entities and could be subject to the requirement to prepare a regulatory flexibility analysis at that time. Finally, the consultation procedures establish a process for NMFS to provide conservation recommendations to Federal and state action agencies. However, because compliance with NMFS' recommendations are not mandatory, any effects on small businesses would be speculative. As a result, a regulatory flexibility analysis for this proposed rule was not prepared. This proposed rule has been determined to be not significant for the purposes of E.O. 12866.

For purposes of Executive Order 12612, the Assistant Administrator for Fisheries has determined that this proposed rule does not include policies that have federalism implications sufficient to warrant preparation of a Federalism Assessment. This proposed rule establishes circumstances and procedures for consultations between the states and NMFS or the Councils in situations where state action may adversely impact EFH in state waters. The proposed rule states that, in such circumstances, NMFS or the Councils would furnish the state with EFH conservation recommendations. NMFS' recommendations are not mandatory, and the states are not required to expend funds in a way not of their own choosing.

List of Subjects in 50 CFR Part 600

Fisheries, Fishing.

Dated: April 17, 1997.

Charles Karnella,

Acting Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

For the reasons stated in the preamble, 50 CFR part 600 is proposed to be amended as follows:

PART 600—MAGNUSON ACT PROVISIONS

1. The authority citation for part 600 continues to read as follows:

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

2. Section 600.10 is amended by adding the definition for ''Essential fish habitat'', in alphabetical order, to read as follows:

§ 600.10 Definitions.

* * * * *

Essential fish habitat means those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity. For the purpose of interpreting the definition of essential fish habitat: ''waters'' includes aquatic areas and their associated physical, chemical, and biological properties that are used by fish, and may include areas historically used by fish where appropriate; ''substrate'' includes sediment, hard bottom, structures underlying the waters, and associated biological communities; ''necessary'' means the habitat required to support a sustainable fishery and a healthy ecosystem; and ''spawning, breeding, feeding, or growth to maturity'' covers a species' full life cycle.

* * * * *

3. A new subpart is added to part 600 to read as follows:

Subpart I—Essential Fish Habitat (EFH)

Sec.

§ 600.805 Purpose and scope.

(a) *Purpose.* This subpart provides guidelines for the description, identification, conservation, and enhancement of, and adverse impacts to, EFH. These guidelines provide the basis for Councils and the Secretary to use in adding the required provision on EFH to an FMP, i.e., description and identification of EFH, adverse impacts on EFH (including minimizing, to the extent practicable, adverse impacts from fishing), and other actions to conserve and enhance EFH. This subpart also

includes procedures to implement the consultation requirements for all Federal and state actions that may adversely affect EFH.

(b) *Scope.* An EFH provision in an FMP must include all fish species in the FMU. An FMP may describe, identify, and protect the habitat of species not in an FMU; however, such habitat may not be considered EFH for the purposes of sections 303(a)(7) and 305(b) of the Magnuson Act.

§ 600.810 Contents of Fishery Management Plans.

(a) *Mandatory contents*—(1) *Habitat requirements by life history stage.* FMPs must describe EFH in text and with tables that provide information on the biological requirements for each life history stage of the species. These tables should summarize all available information on environmental and habitat variables that control or limit distribution, abundance, reproduction, growth, survival, and productivity of the managed species. Information in the tables should be supported with citations.

(2) *Description and identification of EFH*—(i) *Information requirements.* (A) An initial inventory of available environmental and fisheries data sources relevant to the managed species should be useful in describing and identifying EFH. This inventory should also help to identify major species-specific habitat data gaps. Deficits in data availability (i.e., accessibility and application of the data) and in data quality (including considerations of scale and resolution; relevance; and potential biases in collection and interpretation) should be identified.

(B) To identify EFH, basic information is needed on current and historic stock size and on the geographic range of the managed species. Information is also required on the temporal and spatial distribution of each major life history stages (defined by developmental and functional shifts). Since EFH should be identified for each major life history stage, data should be collected on the distribution, density, growth, mortality, and production of each stage within all habitats occupied by the species. These data should be obtained from the best available information, including peer-reviewed literature, data reports and ''gray'' literature, data files of government resource agencies, and any other sources of quality information.

(C) The following approach should be used to gather and organize the data necessary for identifying EFH. Information from all levels will be useful in identifying EFH, and the goal of this procedure should be to include as many levels of analysis as possible within the constraints of the available data. Councils should strive to obtain data sufficient to describe habitat at the highest level of detail (i.e., Level 4).

(1) *Level 1: Presence/absence distribution data are available for some or all portions of the geographic range of the species.* At this level, only presence/absence data are available to describe the distribution of a species (or life history stage) in relation to existing and potential habitats. Care should be taken to ensure that all habitats have been sampled adequately. In the event that distribution data are available for only portions of the geographic area occupied by a particular life history stage of a species, EFH can be inferred on the basis of distributions among habitats where the species has been found and on information about its habitat requirements and behavior.

(2) *Level 2: Habitat-related densities of the species are available.* At this level, quantitative data (i.e., relative densities) are available for the habitats occupied by a species or life history stage. Because the efficiency of sampling gear is often affected by habitat characteristics, strict quality assurance criteria are required to ensure that density estimates are comparable among habitats. Density data should reflect habitat utilization, and the degree that a habitat is utilized is assumed to be indicative of habitat value. When assessing habitat value on the basis of fish densities in this manner, temporal changes in habitat availability and utilization should be considered.

(3) *Level 3: Growth, reproduction, or survival rates within habitats are available.* At this level, data are available on habitat-related growth, reproduction, and/or survival by life history stage. The habitats contributing the most to productivity should be those that support the highest growth, reproduction, and survival of the species (or life history stage).

(4) *Level 4: Production rates by habitat are available.* At this level, data are available that directly relate the production rates of a species or life history stage to habitat type, quantity, quality, and location. Essential habitats are those necessary to maintain fish production consistent with a sustainable fishery and a healthy ecosystem.

(ii) *EFH determination.* (A) The information obtained through the analysis in paragraph (a)(2)(i) of this section will allow Councils to assess the relative value of habitats. Councils should apply this information in a risk-averse fashion, erring on the side of inclusiveness to ensure adequate protection for EFH of managed species. If only Level 1 information is available, EFH is everywhere a species is found. If Levels 2 through 4 information is available, habitats valued most highly through this analysis should be considered essential for the species. However, habitats of intermediate and low value may also be essential, depending on the health of the fish population and the ecosystem.

(B) If a species is overfished or recovering from a population decline, all habitats used by the species should be considered essential in addition to certain historic habitats that are necessary to support the recovery of the population and for which restoration is feasible.

(C) EFH will always be greater than or equal to the ''critical habitat'' for any managed species listed as threatened or endangered under the Endangered Species Act.

(D) Where a stock of a species is considered to be healthy and sufficient information exists to determine the necessary habitat to support the target production goal, then EFH for a species should be a subset of all existing habitat for the species.

(E) Ecological relationships among species, and between the species and their habitat, require, where possible, that an ecosystem approach be used in determining the EFH of a managed species or species assemblage. The extent of the EFH should be based on the judgment of the Secretary and the appropriate Council(s) regarding the quantity and quality of habitat that is necessary to maintain a managed species or species assemblage at a target production goal that supports a sustainable fishery and a healthy ecosystem. Councils must establish target production goals for the fish species in the FMU of an FMP as a goal of the FMP. In determining a target production goal that supports a sustainable fishery and a healthy ecosystem, the Secretary and the appropriate Council(s) should consider: the prey requirements of the managed species; the extent to which the managed species is prey for other managed species or marine mammals; the production necessary to support a sustainable fishery; and other ecological functions provided by the managed species. If degraded or inaccessible habitat has contributed to the reduced yields of a species or assemblage, and in the judgment of the Secretary and the appropriate Council(s), the degraded conditions can be reversed through such actions as improved fish passage techniques (for fish blockages), improved water quality or quantity measures (removal of contaminants or

increasing flows), and similar measures that are feasible, then EFH should include those habitats that would be essential to the species to obtain increased yields.

(iii) *EFH Mapping Requirements.* The general distribution and geographic limits of EFH for each life history stage should be presented in FMPs in the form of maps. Ultimately, these data should be incorporated into a geographic information system (GIS) to facilitate analysis and presentation. These maps may be presented as fixed in time and space but they should encompass all appropriate temporal and spatial variability in the distribution of EFH. If the geographic boundaries of EFH change seasonally, annually, or decadally, these changing distributions should be represented in the maps. Different types of EFH should be identified on maps along with areas used by different life history stages of the species. The type of information used to identify EFH should be included in map legends, and more detailed and informative maps should be produced as more complete information about population responses (e.g., growth, survival, or reproductive rates) to habitat characteristics becomes available. Where the present distribution or stock size of a species or life history stage is different from the historical distribution or stock size, then maps of historical habitat boundaries should be included in the FMP, if known. The EFH maps are a means to visually present the EFH described in the FMP. If the maps and information in the description of EFH varies, the description is ultimately determinative of the limits of EFH.

(3) *Non-fishing related activities that may adversely affect EFH*—(i) *Identification of adverse effects.* FMPs must identify activities that have potential adverse effects on EFH quantity and quality. Broad categories of activities may include, but are not limited to: dredging, fill, excavation, mining, impoundment, discharge, water diversions, thermal additions, runoff, placement of contaminated material, introduction of exotic species, and the conversion of aquatic habitat that may eliminate, diminish, or disrupt the functions of EFH. If known, an FMP should describe the EFH most likely to be affected by these activities. For each activity, the FMP should describe the known or potential impacts to EFH. These descriptions should explain the mechanisms or processes that cause expected deleterious effects and explain the known or potential impacts on the habitat function.

(ii) *Cumulative impacts analysis.* To the extent practicable, FMPs should identify and describe those activities that can influence habitat function on an ecosystem or watershed scale. This analysis should include a description of the ecosystem or watershed, the role of the managed species in the ecosystem or watershed, and the impact on the ecosystem or watershed of removal of the managed species. An assessment of the cumulative and synergistic effects of multiple threats, including natural adverse effects (such as storm damage or climate-based environmental shifts), and an ecological risk assessment of the managed species' habitat should also be included. For the purposes of this analysis, cumulative impacts are impacts on the environment that result from the incremental impact of an action when added to other past, present, and reasonably foreseeable future actions, regardless of who undertakes such actions. Cumulative impacts can result from individually minor, but collectively significant actions taking place over a period of time.

(iii) *Mapping adverse impacts.* The use of a GIS or other mapping system to analyze and present these data in an FMP is suggested for documenting impacts identified under paragraph (a)(3)(i) of this section and required when the analysis in paragraph (a)(3)(ii) of this section is conducted.

(iv) *Conservation and enhancement.* FMPs should include options to minimize the adverse effects identified pursuant to paragraphs (a)(3)(i) and (ii) of this section and identify conservation and enhancement measures. Generally, non-water dependent actions should not be located in EFH. Actions not in EFH but that may result in significant adverse affects on EFH should be avoided if less environmentally harmful alternatives are available. If there is no alternative, these actions should be minimized. If avoidance and minimization will not adequately protect EFH, mitigation to conserve and enhance EFH will be recommended. These recommendations may include, but are not limited to:

(A) *Avoidance and minimization of adverse impacts on EFH.* Environmentally sound engineering and management practices (e.g., seasonal restrictions, dredging methods, and disposal options) should be employed for all dredging and construction projects. Disposal of contaminated dredged material, sewage sludge, industrial waste or other materials in EFH should be avoided. Oil and gas exploration, production, transportation, and refining activities in EFH should be avoided, where possible, and minimized and mitigated if unavoidable.

(B) *Restoration of riparian and shallow coastal areas.* Restoration measures may include: Restoration of functions of riparian vegetation by reestablishing endemic trees or other appropriate native vegetation; restoration of natural bottom characteristics; removal of unsuitable material from areas affected by human activities; and replacement of suitable gravel or substrate to stream areas for spawning.

(C) *Upland habitat restoration.* This may include measures to control erosion, stabilize roads, upgrade culverts or remove dikes or levees to allow for fish passage, and the management of watersheds.

(D) *Water quality.* This includes use of best land management practices for ensuring compliance with water quality standards at state and Federal levels, improved treatment of sewage, and proper disposal of waste materials .

(E) *Watershed analysis and subsequent watershed planning.* This should be encouraged at the local and state levels. This effort should minimize depletion/diversion of freshwater flows into rivers and estuaries, destruction/degradation of wetlands, and restoration of native species, and should consider climate changes.

(F) *Habitat creation.* Under appropriate conditions, habitat creation may be considered as a means of replacing lost EFH. However, habitat creation at the expense of other naturally functioning systems must be justified (e.g., marsh creation with dredge material placed in shallow water habitat).

(4) *Fishing activities that may adversely affect EFH.*—(i) Adverse effects from fishing may include physical disturbance of the substrate, and loss of and injury to, benthic organisms, prey species and their habitat, and other components of the ecosystem.

(ii) FMPs must include management measures that minimize adverse effects on EFH from fishing, to the extent practicable, and identify conservation and enhancement measures. The FMP must contain an assessment of the potential adverse effects of all fishing gear types used in waters described as EFH. Included in this assessment should be consideration of the establishment of research closure areas and other measures to evaluate the impact of any fishing activity that physically alters EFH.

(iii) Councils must act to prevent, mitigate, or minimize any adverse effects from fishing, to the extent

practicable, if there is evidence that a fishing practice is having a substantial adverse effect on EFH, based on the assessment conducted pursuant to paragraph (a)(4)(ii).

(iv) In determining whether it is practicable to minimize an adverse effect from fishing, Councils should consider whether, and to what extent, the fishing activity is adversely impacting the marine ecosystem, including the fishery; the nature and extent of the adverse effect on EFH; and whether the benefit to the EFH achieved by minimizing the adverse effect justifies the cost to the fishery.

(5) *Options for managing adverse effects from fishing.* Fishing management options may include, but are not limited to:

(i) *Fishing gear restrictions.* These options may include, but are not limited to: limit seasonal and areal uses of trawl gear and bottom longlines; restrict net mesh sizes, traps, and entanglement gear to allow escapement of juveniles and non-target species; reduce fish and shellfish traps set near coral reefs and other hard bottoms; limit seasonal and areal uses of dredge gear in sensitive habitats; prohibit use of explosives and chemicals; restrict diving activities that have potential adverse effects; prohibit anchoring of fishing vessels in coral reef areas and other sensitive areas; and prohibit fishing activities that cause significant physical damage in EFH.

(ii) *Time/area closures.* These actions may include, but are not limited to: closing areas to all fishing or specific gear types during spawning, migration, foraging and nursery activities; and designating zones to limit effects of fishing practices on certain vulnerable or rare areas/species/life history stages.

(iii) *Harvest limits.* These actions may include, but are not limited to, limits on the take of species that provide structural habitat for other species assemblages or communities and limits on the take of prey species.

(6) *Prey species.* Loss of prey is an adverse effect on a managed species and its EFH; therefore, FMPs should identify the major prey species for the species in the FMU and generally describe the location of prey species' habitat and the threats to that habitat. Adverse effects on prey species may result from fishing and non-fishing activities.

(7) *Identification of vulnerable habitat.* FMPs should identify vulnerable EFH. In determining whether a type of EFH is vulnerable, Councils should consider:

(i) The extent to which the habitat is sensitive to human-induced environmental degradation.

(ii) Whether, and to what extent, development activities are, or will be, stressing the habitat type.

(iii) The rarity of the habitat type.

(8) *Research and information needs.* Each FMP should contain recommendations, preferably in priority order, for research efforts that the Councils and NMFS view as necessary for carrying out their EFH management mandate. The need for additional research is to make available sufficient information to support a higher level of description and identification of EFH under paragraph (a)(2)(i) of this section. Additional research may also be necessary to identify and evaluate actual and potential adverse effects on EFH, including, but not limited to direct physical alteration; impaired habitat quality/functions; or indirect adverse effects such as sea level rise, global warming and climate shifts; and non-gear fishery impacts. The Magnuson-Stevens Act specifically identifies the effects of fishing as a concern. The need for additional research on the effects of fishing gear on EFH should be included in this section of the FMP. If an adverse effect is identified and determined to be an impediment to reaching target long-term production levels, then the research needed to quantify and mitigate that effect should be identified in this section.

(9) *Review and revision of EFH components of FMPs.* Each Council and NMFS are expected to periodically review the EFH components of FMPs. Each EFH FMP amendment should include a provision requiring review and update of EFH information and preparation of a revised FMP amendment if new information becomes available. The schedule for this review should be based on an assessment of both the existing data and expectations when new data will become available. Such a review of information should be conducted as recommended by the Secretary, but at least once every five years.

(b) *Optional components.* An FMP may include a description and identification of, and contain management measures to protect, the habitat of species under the authority of the Council, but not contained in the FMU. However, such habitat may not be considered EFH.

(c) *Development of EFH recommendations.* After reviewing the best available scientific information, and in cooperation with the Councils, participants in the fishery, interstate commissions, Federal agencies, state agencies, and other interested parties, NMFS will develop written recommendations for the identification of EFH for each FMP. Prior to submitting a written EFH identification recommendation to a Council for an FMP, the draft recommendation will be made available for public review and at least one public meeting will be held. NMFS will work with the affected Council(s) to conduct this review in association with scheduled public Council meetings whenever possible. The review may be conducted at a meeting of the Council committee responsible for habitat issues or as a part of a full Council meeting. After receiving public comment, NMFS will revise its draft recommendations, as appropriate, and forward written recommendation and comments to the Council(s).

§ 600.815 Coordination and consultation on actions that may adversely affect EFH.

(a) *General*—(1) *Scope.* One of the greatest long-term threats to the viability of the Nation's fisheries is the decline in the quantity and quality of marine, estuarine, and other riparian habitats. These procedures address the coordination and consultation requirements of sections 305(b)(1)(D) and 305(b)(2–4) of the Magnuson-Stevens Act. The consultation requirements of the Magnuson-Stevens Act provide that: Federal agencies must consult with the Secretary on all actions, or proposed actions, authorized, funded, or undertaken by the agency, that may adversely affect EFH; and the Secretary and the Councils provide recommendations to conserve EFH to Federal or state agencies. EFH conservation recommendations are measures recommended by the Councils or NMFS to a Federal or state agency to conserve EFH. Such recommendations may include measures to avoid, minimize, mitigate, or otherwise offset adverse effects on EFH resulting from actions or proposed actions authorized, funded, or undertaken by that agency. The coordination section requires the Secretary to coordinate with, and provide information to, other Federal agencies regarding EFH. These procedures for coordination and consultation allow all parties involved to understand and implement the consultation requirements of the Magnuson-Stevens Act.

(2) *Coordination with other environmental reviews.* Consultation and coordination under sections 305(b)(2) and 305(b)(4) of the Magnuson-Stevens Act may be consolidated, where appropriate, with interagency coordination procedures required by other statutes, such as the National Environmental Policy Act, the Fish and Wildlife Coordination Act, the

Clean Water Act, Endangered Species Act, and the Federal Power Act, to reduce duplication and improve efficiency. For example, a Federal agency preparing an environmental impact statement (EIS) need not duplicate sections of that document in a separate EFH assessment, provided the EIS specifically and fully evaluates the effects of the proposed action on EFH, notes that it is intended to function as an EFH assessment, is provided to NMFS for review, and meets the other requirements for an EFH assessment contained in this section. NMFS comments on these documents will also function as its response required under section 305(b)(4) of the Magnuson-Stevens Act.

(3) *Designation of Lead Agency.* If more than one Federal or state agency is involved in an action (e.g., authorization is needed from more than one agency), the consultation requirements of sections 305(b)(2–4) of the Magnuson-Stevens Act may be fulfilled through a lead agency. The lead agency must notify NMFS in writing that it is representing one or more additional agencies.

(4) *Conservation and enhancement of EFH.* To further the conservation and enhancement of EFH, in accordance with section 305(b)(1)(D) of the Magnuson-Stevens Act, NMFS will compile and make available to other Federal and state agencies information on the locations of EFH, including maps and/or narrative descriptions. Federal and state agencies empowered to authorize, fund, or undertake actions that could adversely affect EFH should contact NMFS and the Councils to become familiar with the designated EFH, and potential threats to EFH, as well as opportunities to promote the conservation and enhancement of such habitat.

(b) *Council comments and recommendations to Federal and state agencies*—(1) *Establishment of procedures.* Each Council should establish procedures for reviewing activities, or proposed activities, authorized, funded, or undertaken by state or Federal agencies that may affect the habitat, including EFH, of a species under its authority. Each Council may identify activities of concern by: directing Council staff to track proposed actions; recommending that the Council's habitat committee identify activities of concern; entering into an agreement with NMFS to have the appropriate Regional Director notify the Council of activities that may adversely impact EFH; or by similar procedures. Federal and state actions often follow specific timetables which may not coincide with Council meetings. Councils should consider establishing abbreviated procedures for the development of Council recommendations.

(2) *Early involvement.* Councils should provide comments and recommendations on proposed state and Federal activities of interest as early as practicable in project planning to ensure thorough consideration of Council concerns by the action agency.

(3) *Coordination with NMFS.* The Secretary will develop agreements with each Council to facilitate sharing information on actions that may adversely affect EFH and in coordinating Council and NMFS responses to those actions.

(4) *Anadromous fishery resources.* For the purposes of the consultation requirement of section 305(b)(3)(B) of the Magnuson-Stevens Act, an anadromous fishery resource under a Council's authority is an anadromous species where some life stage inhabits waters under the Council's authority.

(c) *Federal agency consultation*—(1) *Interagency coordination.* Both Federal and state agencies are encouraged to coordinate their actions with NMFS to facilitate the early identification of potential adverse effects on EFH. This will allow consideration of measures to conserve and enhance EFH early in the project design. The consultation requirements of sections 305(b)(2) and 305(b)(4) of the Magnuson-Stevens Act differ for Federal and state agencies. Only Federal agencies have a mandatory statutory requirement to consult with NMFS regarding actions that may adversely affect EFH, pursuant to section 305(b)(2) of the Magnuson-Stevens Act. NMFS is required under section 305(b)(4) to provide EFH recommendations regarding both state and Federal agency actions that could adversely affect EFH (see § 600.810(a)(3) for further guidance on actions that could adversely affect EFH). Both Federal and state agencies are encouraged to develop agreements (or modify existing agreements) with NMFS to meet the consultation requirements in a manner to increase efficiency and to fully meet the requirements of the EFH provisions.

(2) *Designation of non-Federal representative.* A Federal agency may designate a non-Federal representative to conduct an abbreviated consultation or prepare an EFH assessment by giving written notice of such designation to NMFS. If a non-Federal representative is used, the Federal action agency remains ultimately responsible for compliance with sections 305(b)(2) and 305(b)(4) of the Magnuson-Stevens Act.

(3) *General Concurrence*—(i) *Purpose.* The General Concurrence process identifies specific types of Federal actions that may adversely affect EFH, but for which no further consultation is generally required because NMFS has determined, through an analysis of that type of action, that it will likely to result in minimal adverse effects individually and cumulatively. General Concurrences may be national or regional in scope.

(ii) *Criteria.* (A) For Federal actions to qualify for General Concurrence, NMFS must determine, after consultation with the appropriate Council(s), that the actions meet all of the following criteria:

(*1*) The actions must be similar in nature and similar in their impact on EFH.

(*2*) The actions must not cause greater than minimal adverse effects on EFH when implemented individually.

(*3*) The actions must not cause greater than minimal cumulative adverse effects on EFH.

(B) Categories of Federal actions may also qualify for General Concurrence if they are modified by appropriate conditions that ensure the actions will meet the criteria in paragraph (c)(3)(ii)(A) of this section. For example, NMFS may provide General Concurrence for additional actions contingent upon project size limitations, seasonal restrictions, or other conditions.

(iii) *General Concurrence development.* A Federal agency may request a General Concurrence for a category of its actions by providing NMFS with a written description of the nature and approximate number of the proposed actions, an analysis of the effects of the actions on EFH and associated species and their life history stages, including cumulative effects, and the Federal agency's conclusions regarding the magnitude of such effects. If NMFS agrees that the actions fit the criteria in paragraph (c)(3)(ii) of this section, NMFS, in consultation with the Council(s), will provide the Federal agency with a written statement of General Concurrence that further consultation is not required, and that preparation of EFH assessments for individual actions subject to the General Concurrence is not necessary. If NMFS determines that individual actions that fall within the General Concurrence would adversely affect EFH, NMFS will notify the Federal agency that abbreviated or expanded consultation is required. If NMFS identifies specific types of Federal actions that may meet the requirements for a General Concurrence, NMFS may initiate and complete a General Concurrence.

(iv) *Notification and further consultation.* NMFS may request notification for activities covered under a General Concurrence if NMFS concludes there are circumstances under which such activities could result in more than a minimal impact on EFH, or if it determines that there is not a process in place to adequately assess the cumulative impacts of activities covered under the General Concurrence. NMFS may require further consultation for these activities on an individual action. Each General Concurrence should establish specific procedures for further consultation.

(v) *Public review.* Prior to providing a Federal agency with a written statement of General Concurrence for a category of Federal actions, NMFS will provide an opportunity for public review through the appropriate Council(s), or other reasonable opportunity for public review.

(vi) *Revisions to General Concurrences.* NMFS will periodically review and revise its findings of General Concurrence, as appropriate.

(4) *EFH Assessments*—(i) *Preparation requirement.* Federal agencies (or designated non-Federal representatives) must complete an EFH assessment for any action that may adversely affect EFH, except for those activities covered by a General Concurrence. Where appropriate, Federal agencies may combine requirements for environmental documents such as Endangered Species Act Biological Assessments pursuant to 50 CFR part 402 or National Environmental Policy Act documents and public notices pursuant to 40 CFR part 1500, with their EFH Assessment. This document must include all of the information required in paragraph (c)(4)(ii) of this section and the requirements for other applicable environmental documents to be considered a complete assessment.

(ii) *Mandatory contents.* The assessment must contain:

(A) A description of the proposed action.

(B) An analysis of the effects, including cumulative effects, of the proposed action on EFH and the managed and associated species, including their life history stages.

(C) The Federal agency's conclusions regarding the effects of the action on EFH.

(iii) *Additional information.* If appropriate, the assessment should also include:

(A) The results of an on-site inspection to evaluate the habitat and the site-specific effects of the project.

(B) The views of recognized experts on the habitat or species that may be affected.

(C) A review of pertinent literature and related information.

(D) An analysis of alternatives to the proposed action, including alternatives that could avoid or minimize adverse effects on EFH.

(E) Proposed mitigation.

(F) Other relevant information.

(iv) *Incorporation by reference.* The assessment may incorporate by reference a completed EFH Assessment prepared for a similar action, supplemented with any relevant new project specific information, provided the proposed action involves similar impacts to EFH in the same geographic area or a similar ecological setting. It may also incorporate by reference other relevant environmental assessment documents. These documents must be provided to NMFS.

(5) *Abbreviated consultation procedures*—(i) *Purpose.* Abbreviated consultation allows NMFS to quickly determine whether, and to what degree, a Federal agency action may adversely affect EFH. The abbreviated consultation process is appropriate for Federal actions that would adversely affect EFH when, in NMFS' judgment, the adverse effect(s) of such actions could be alleviated through minor modifications to the proposed action.

(ii) *Notification by agency.* The Federal agency must notify NMFS and the appropriate Council in writing as early as practicable regarding proposed actions that may adversely affect EFH. Notification will facilitate discussion of measures to conserve the habitat. Such early consultation must normally occur during pre-application planning for projects subject to a Federal permit or license, and during preliminary planning for projects to be funded or undertaken directly by a Federal agency.

(iii) *Submittal of EFH Assessment.* The Federal agency must submit a completed EFH assessment to NMFS for review in accordance with paragraph (c)(4) of this section. If either the Federal agency or NMFS believes expanded consultation will be necessary, the Federal agency must initiate expanded consultation concurrently with submission of the EFH Assessment. Federal agencies will not have fulfilled their consultation requirement under paragraph (a)(1) of this section until timely notification and submittal of a complete EFH Assessment.

(iv) *NMFS response.* NMFS must respond in writing as to whether it concurs with the findings of the assessment. NMFS' response shall indicate whether expanded consultation is required. If additional consultation is not necessary, NMFS' response must include any necessary EFH conservation recommendations to be used by the Federal action agency. NMFS will send a copy of its response to the appropriate Council.

(v) *Timing.* The Federal action agency must submit its complete EFH Assessment to NMFS as soon as practicable, but at least 60 days prior to a final decision on the action, and NMFS must respond in writing within 30 days. If notification and the EFH Assessment are combined with other environmental reviews required by statute, then the statutory deadline for those reviews apply to the submittal and response. If NMFS and the Federal action agencies agree, a compressed schedule will be used in cases where regulatory approvals cannot accommodate 30 days for consultation, or to conduct consultation earlier in the planning cycle for proposed actions with lengthy approval processes.

(6) *Expanded consultation procedures*—(i) *Purpose.* Expanded consultation is appropriate for Federal actions that would result in substantial adverse effects to EFH and/or require more detailed analysis to enable NMFS to develop EFH conservation recommendations.

(ii) *Initiation.* Expanded consultation begins when NMFS receives a written request from a Federal action agency to initiate expanded consultation. The Federal action agency's written request must include a completed EFH Assessment in accordance with paragraph (c)(4) of this section. Because expanded consultation is required for activities that may potentially have substantial adverse impacts on EFH, Federal action agencies are encouraged to provide the additional information identified under paragraph (c)(4)(iii) of this section. Subject to NMFS's approval, any request for expanded consultation may encompass a number of similar individual actions within a given geographic area.

(iii) *NMFS response.* NMFS will:

(A) Review the EFH Assessment, any additional information furnished by the Federal agency, and other relevant information.

(B) Conduct a site visit, if appropriate, to assess the quality of the habitat and to clarify the impacts of the Federal agency action.

(C) Evaluate the effects of the action on EFH, including cumulative effects.

(D) Coordinate its review of the proposed action with the appropriate Council.

(E) Formulate EFH conservation recommendations and provide the recommendations to the Federal action agency and the appropriate Council.

(iv) *Timing.* The Federal action agency must submit its complete EFH Assessment to NMFS as soon as practicable, but at least 120 days prior to a final decision on the action, and NMFS must conclude expanded consultation within 90 days of submittal of a complete Assessment unless extended by NMFS with notification to the Federal action agency. If notification and the EFH Assessment are combined with other statutorily required environmental reviews, then the statutory deadlines for those reviews apply to the submittal and response. NMFS and Federal action agencies may agree to use a compressed schedule in cases where regulatory approvals cannot accommodate a 60 day consultation period.

(v) *Best scientific information.* The Federal action agency must provide NMFS with the best scientific information available, or reasonably accessible during the consultation, regarding the effects of the proposed action on EFH.

(vi) *Extension of consultation.* If NMFS determines that additional data or analysis would provide better information for development of EFH conservation recommendations, NMFS may request additional time for its expanded consultation. If NMFS and the Federal action agency agree to an extension, the Federal action agency must provide the additional information to NMFS, to the extent practicable. If NMFS and the Federal action agency do not agree to extend consultation, NMFS must provide EFH conservation recommendations to the Federal action agency using the best scientific data available to NMFS.

(7) *Responsibilities of Federal action agency following receipt of EFH conservation recommendations*—(i) *Federal action agency response.* Within 30 days after receiving an EFH conservation recommendation (or at least 10 days prior to final approval of the action, if a decision by the Federal agency is required in less than 30 days), the Federal action agency must provide a detailed response in writing to NMFS and the appropriate Council. The response must include a description of measures proposed by the agency for avoiding, mitigating, or offsetting the impact of the activity on EFH. In the case of a response that is inconsistent with the recommendations of NMFS, the Federal action agency must explain its reasons for not following the recommendations, including the scientific justification for any disagreements with NMFS over the anticipated effects of the proposed action and the measures needed to avoid, minimize, mitigate, or offset such effects.

(ii) *Dispute resolution.* After receiving a Federal action agency response that is inconsistent with the recommendations of NMFS, the Assistant Administrator may request a meeting with the head of the Federal action agency, as well as any other agencies involved, to discuss the proposed action and opportunities for resolving any disagreements. Memoranda of agreement with Federal action agencies will be sought to further define such dispute resolution processes.

(8) *Supplemental consultation.* A Federal action agency must resume consultation with NMFS following either abbreviated or expanded consultation if the agency substantially revises its plans for the action in a manner that may adversely affect EFH or if new information becomes available that affects the basis for NMFS' EFH conservation recommendations. Additionally, where Federal oversight, involvement, or control over the action has been retained or is authorized by law, the Federal action agency must resume consultation if new EFH is designated that may be adversely affected by the agency's exercise of its authority.

(d) *NMFS recommendations to state agencies*—(1) *Establishment of Procedures.* Each Region should establish procedures for identifying actions or proposed actions authorized, funded, or undertaken by state agencies that may adversely affect EFH, and for identifying the most appropriate method for providing EFH conservation recommendations to the state agency.

(2) *Coordination with Federal consultation procedures.* When an activity that may adversely affect EFH requires authorization or funding by both Federal and state agencies, NMFS will provide the appropriate state agencies with copies of EFH conservation recommendations developed as part of the Federal consultation procedures in paragraph (c) of this section.

[FR Doc. 97–10540 Filed 4–22–97; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 970415091–7091–01; I.D. 033197D]

RIN 0648–AJ88

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper Grouper Fishery Off the Southern Atlantic States; Black Sea Bass Pot Fishery; Control Date

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

ACTION: Advance notice of proposed rulemaking; consideration of a control date.

SUMMARY: This notice announces that the South Atlantic Fishery Management Council (Council) is considering whether there is a need to impose additional management measures limiting entry into the commercial pot fishery for black sea bass in the exclusive economic zone (EEZ) off the southern Atlantic states, and, if there is a need, what management measures should be imposed. If the Council determines that there is a need to impose additional management measures, it may initiate a rulemaking to do so. Possible measures include the establishment of a limited entry program to control participation or effort in the commercial pot fishery for black sea bass. If a limited entry program is established, the Council is considering [*insert date of publication in the Federal Register*], as a possible control date. Consideration of a control date is intended to discourage new entry into the fishery based on economic speculation during the Council's deliberation on the issues.

DATES: Comments must be submitted by May 23, 1997.

ADDRESSES: Comments should be directed to the South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC 29407–4699; Fax: 803–769–4520.

FOR FURTHER INFORMATION CONTACT: Peter Eldridge, 813–570–5305.

SUPPLEMENTARY INFORMATION: The black sea bass fishery in the EEZ off the southern Atlantic states is managed under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP). The FMP was prepared by the Council and is implemented through regulations at 50

CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act. The FMP covers black sea bass off the southern Atlantic states south of 35°15.3' N. lat. (due east of Cape Hatteras Light, NC). Pots may not be used south of 28°35.1' N. lat. (due east of the NASA Vehicle Assembly Building, Cape Canaveral, FL). Current regulations on black sea bass pots (1) require a permit for their use, (2) require vessel and gear identification, (3) prohibit their use in special management zones and the Oculina Bank habitat area of particular concern, and (4) specify construction requirements.

The black sea bass fishery is prosecuted mainly in the EEZ off North and South Carolina. Although most black sea bass are caught by pots, some are taken by hook and line. Action to control entry into the hook-and-line fishery for black sea bass is not contemplated at this time.

Implementation of an effort limitation program for the black sea bass pot fishery in the EEZ would require preparation of an amendment to the FMP by the Council and publication of a proposed implementing rule with a public comment period. NMFS' approval of the amendment and issuance of a final rule would also be required.

As the Council considers management options, including limited entry or access-controlled regimes, some fishermen who do not currently harvest black sea bass by pots, and have never done so, may decide to enter the fishery for the sole purpose of establishing a record of commercial landings. When management authorities begin to consider use of a limited access management regime, this kind of speculative entry often is responsible for a rapid increase in fishing effort in fisheries that are already fully developed or overdeveloped. The original fishery problems, such as overcapitalization or overfishing, may be exacerbated by the entry of new participants.

In order to avoid this problem, if management measures to limit participation or effort in the fishery are determined to be necessary, the Councils are considering [*insert date of publication in the Federal Register*], as the control date. After that date, anyone entering the commercial black sea bass pot fishery may not be assured of future participation in the fishery if a management regime is developed and implemented limiting the number of fishery participants.

Consideration of a control date does not commit the Council or NMFS to any particular management regime or criteria for entry into the black sea bass pot fishery. Fishermen are not guaranteed future participation in this fishery, regardless of their entry date or intensity of participation in the fishery before or after the control date under consideration. The Council may subsequently choose a different control date or they may choose a management regime that does not make use of such a date. The Council may choose to give variably weighted consideration to fishermen active in the fishery before and after the control date. Other qualifying criteria, such as documentation of commercial landings and sales, may be applied for entry. The Council also may choose to take no further action to control entry or access to the fishery, in which case the control date may be rescinded.

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

Dated: April 17, 1997.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 97–10539 Filed 4–22–97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[I.D. 041597C]

RIN 0648–AG25

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Amendment 8

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

ACTION: Notice of availability of an amendment to a fishery management plan; request for comments.

SUMMARY: NMFS announces that the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils) have submitted Amendment 8 to the Fishery Management Plan for Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP) for review, approval, and implementation by NMFS. Written comments are requested from the public.

DATES: Written comments must be received on or before June 23, 1997.

ADDRESSES: Comments must be mailed to the Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702.

Requests for copies of Amendment 8, which includes an environmental assessment, a regulatory impact review, and an initial regulatory flexibility analysis, should be sent to the South Atlantic Fishery Management Council, 1 Southpark Circle, Suite 306, Charleston, SC 29407–4699; Phone: (803) 571–4366; Fax: (803) 769–4520 or to the Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, FL 33619–2266; Phone: 813–228–2815; Fax: 813-225-7015.

FOR FURTHER INFORMATION CONTACT: Mark Godcharles, 813–570–5305.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires each Regional Fishery Management Council to submit any fishery management plan or amendment to the Secretary of Commerce for review and approval, disapproval, or partial approval. The Magnuson-Stevens Act also requires that NMFS, upon receiving an amendment, immediately publish a document in the **Federal Register** stating that the amendment is available for public review and comment.

Amendment 8 would: (1) Add two new fishery problems to be addressed by the FMP (i.e., localized reduction of fish abundance due to high fishing pressure and disruption of markets); (2) establish a moratorium on the issuance of commercial vessel permits for king or Spanish mackerel; (3) specify allowable gear in the fisheries for coastal migratory pelagic resources; (4) revise the FMP's definition of optimum yield (OY); (5) revise the earned income requirement for a commercial vessel permit for king or Spanish mackerel; (6) extend the management area for cobia to include the exclusive economic zone off the coastal states from, and inclusive of, Virginia through New York; (7) allow the retention of up to five cut-off (e.g., barracuda-damaged) king mackerel in excess of an applicable commercial trip limit; (8) establish commercial trip limits for Atlantic group king mackerel; and (9) revise the FMP framework procedure for adjusting management measures to: (a) Remove from the framework procedure a provision for subdividing Gulf migratory group king mackerel into eastern and western subgroups when sufficient stock assessment information is available; (b) require that the Council's stock

assessment panel provide additional information on spawning potential ratios (SPRs), recruitment trends, and other biological information on the managed stocks as well as current estimates of the mix of Atlantic and Gulf migratory groups of king mackerel in the mixing zone for use in tracking quotas; (c) revise the FMP's definition of ''overfishing'' and ''overfished'' and provide for rebuilding overfished stocks to OY target levels; (d) clarify the type and timing aspects of the stock assessment panel's preparation of stock assessments and reports, which serve as the scientific basis for panel recommendations and Council fishery management decisions; (e) add management measures that may be established or modified by the framework procedure; (f) allow setting zero bag limits; (g) clarify the authority of the NMFS Regional Administrator to close fisheries for which a seasonal quota has been established; and (h) add or revise other provisions.

A proposed rule to implement Amendment 8 has been received from the Councils. In accordance with the Magnuson-Stevens Act, NMFS is evaluating the proposed rule and may publish it in the **Federal Register** for public review and comment.

Comments received by June 23, 1997, whether specifically directed to the amendment or the proposed rule, will be considered in the approval/disapproval decision on Amendment 8. Comments received after that date will not be considered in the approval/disapproval decision. All comments received on Amendment 8 or on the proposed rule during their respective comment periods will be addressed in the final rule.

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

Dated: April 18, 1997.

Bruce Morehead,

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

[FR Doc. 97–10555 Filed 4–18–97; 4:31 pm]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 62, No. 78
Wednesday, April 23, 1997

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

Posting of Stockyards

Pursuant to the authority provided under Section 302 of the Packers and Stockyards Act (7 U.S.C. 202), it was ascertained that the livestock markets named below were stockyards as defined by Section 302(a). Notice was given to the stockyard owners and to the public as required by Section 302(b), by posting notices at the stockyards on the dates specified below, that the stockyards were subject to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*).

	Facility No., name, and location of stockyard	Date of posting
IN–165	Dinky's, Inc., Montgomery, Indiana	March 18, 1997.
MS–168	S & S Sales, Mantachie, Mississippi	January 8, 1996.
NC–170	Asheville Horse Sale, Asheville, North Carolina	January 29, 1997.
WY–115	Buffalo Livestock Auction L.L.C., Buffalo, Wyoming	February 25, 1997.

Done at Washington, D.C. this 14th day of April 1997.

Daniel L. Van Ackeren,

Director, Livestock Marketing Division, Packers and Stockyards Programs.

[FR Doc. 97–10390 Filed 4–22–97; 8:45 am]

BILLING CODE 3410–EN–P

DEPARTMENT OF COMMERCE

Submission For OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.

Title: 1997 National Census Test.

Form Number(s): DV–1A, –1B, –1C, –1D, –1E, –2A, –2B, –2C, –5(L), –9.

Agency Approval Number: none.

Type of Request: New collection.

Burden: 14,232 hours.

Number of Respondents: 40,000.

Avg. Hours Per Response: 9 minutes (short forms), 38 minutes (long forms).

Needs and Uses: The 1997 National Census Test is part of the Census Bureau's continuing effort to design Census 2000 mailing packages that are respondent friendly, machine imageable, and cost efficient.

As a result of time constraints, major features of the Census 2000 Dress Rehearsal short and long form mailing packages have been identified and decided upon. The dress rehearsal short form will be a one-page ''rollfold'' with icons and messages in reverse print (white text on black background). The long form will be a 32-page booklet with a household roster, along with icons and messages in reverse print. The accompanying envelope will have a reverse-print logo in the upper left-hand corner and the mandatory message with a Department of Commerce seal outlined in gold to the left of the address window. Although these mailing packages have been identified as best given the latest research, it is also true that research is lacking and that important, unanswered questions remain about these designs.

The objectives of the 1997 National Census Test are to test the response rate and potential biasing effects, if any, of icons on the mailing package components, to test the response rate effects of the newly designed one sheet ''rollfold'' forms, and to test the efficiency of design changes intended to produce improvements in performance of the critical household size item.

Affected Public: Individuals or households.

Frequency: One time.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13, United States Code, Sections 141 and 193.

OMB Desk Officer: Jerry Coffey, (202) 395–7314.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, room 5312, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Jerry Coffey, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: April 16, 1997.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 97–10416 Filed 4–22–97; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.

Title: 1997 Economic Censuses Classification Report.

Form Number(s): NC–9926.

Agency Approval Number: None.

Type of Request: New collection.

Burden: 8,750 hours (in FY 1998).

Number of Respondents: 105,000.

Avg Hours Per Response: 5 minutes.

Needs and Uses: The 1997 Economic Census will cover virtually every sector of the U.S. economy. The Census Bureau will implement the new North American Industry Classification System (NAICS) in the 1997 Economic Census. The implementation of the NAICS as a replacement for the 1987 Standard Industrial Classification (SIC) system will require contacting businesses to collect classification information to update the 1997 Economic Census mailing lists.

Accurate and reliable industry and geographic codes are critical to the Bureau of the Census statistical programs. New businesses are assigned industry classification by the Social Security Administration (SSA). However, approximately 22 percent of these businesses cannot be assigned industry codes because insufficient information is provided on Internal Revenue Service (IRS) Form SS–4. Since the 1992 Economic Censuses, the number of unclassified businesses has grown to almost 500,000.

In order to provide detailed manufacturing and mining industry data reflecting NAICS for the 1997 Economic Censuses and the Standard Statistical Establishment List (SSEL), these partially coded manufacturing and mining businesses must be assigned detailed classification codes. This data collection, Form NC–9926, is designed to obtain detailed classification information for the partially coded single-unit manufacturing and mining businesses including changes from the SIC to NAICS and provide current information on their physical locations.

Affected Public: Businesses or other for-profit, Not-for-profit institutions.

Frequency: Every five years.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13 USC, Sections 131 and 224.

OMB Desk Officer: Jerry Coffey, (202) 395–7314.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, room 5312, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Jerry Coffey, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: April 16, 1997.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 97–10417 Filed 4–22–97; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Regulations and Procedures Technical Advisory Committee; Notice of Partially Closed Meeting

A meeting of the Regulations and Procedures Technical Advisory Committee will be held May 13, 1997, 9 am, in the Herbert C. Hoover Building, Room 3884, 14th Street between Constitution and Pennsylvania Avenues, NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration on implementation of the Export Administration Regulations (EAR) and provides for continuing review to update the EAR as needed.

Agenda

Open Session

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the public.
3. Update on Bureau of Export Administration initiatives.
4. Discussion on ''deemed export'' rule and case processing.
5. Discussion on the Automated Export System.
6. Discussion on information sharing and end-use controls.

Closed Session

7. Discussion of matters properly classified under Executive Order 12958, dealing with the U.S. export control program and strategic criteria related thereto.

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent that time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, to facilitate the distribution of public presentation materials to the Committee members, the Committee suggests that presenters forward the public presentation materials two weeks prior to the meeting date to the following address: Ms. Lee Ann Carpenter, TAC Unit/OAS/EA MS: 3886C, Bureau of Export Administration, U.S. Department of Commerce, Washington, DC 20230.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on December 2, 1996, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings or portions of meetings of the Committee and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C. 552b(c)(1) Shall be exempt from the provisions relating to public meetings found in section 10 (a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6020, Department of Commerce, Washington, DC. For further information, call Lee Ann Carpenter at (202) 482–2583.

Dated: April 18, 1997.

Lee Ann Carpenter,

Director, Technical Advisory Committee Unit.

[FR Doc. 97–10532 Filed 4–22–97; 8:45 am]

BILLING CODE 3510–DT–M

DEPARTMENT OF COMMERCE

International Trade Administration

North American Free-Trade Agreement (NAFTA), Article 1904 Binational Panel Reviews; Notice of Completion of Panel Review

AGENCY: NAFTA Secretariat, United States Section. International Trade Administration, Department of Commerce.

ACTION: Notice of Completion of Panel Review.

SUMMARY: On April 14, 1997 the Binational Panel completed its review in the matter of Fresh Cut Flowers from Mexico, Secretariat File No. USA–95–1904–05.

FOR FURTHER INFORMATION CONTACT: James R. Holbein, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, D.C. 20230, (202) 482–5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of the North American Free-Trade Agreement (''Agreement'') establishes a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from a NAFTA 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, 1994, the Government of the United States, the Government of Canada and the Government of Mexico established *Rules of Procedure for Article 1904 Binational Panel Reviews* (''Rules''). These Rules were published in the **Federal Register** on February 23, 1994 (59 FR 8686). The panel review in this matter was conducted in accordance with these Rules.

BACKGROUND INFORMATION: On October 26, 1995, Rancho El Aguaje, Rancho El Toro and Rancho Guacatay filed a First Request for Panel Review with the U.S. Section of the NAFTA Secretariat pursuant to Article 1904 of the North American Free Trade Agreement. Panel review was requested of the Final Results of Antidumping Duty Administrative Review made by the International Trade Administration respecting Fresh Cut Flowers from Mexico. This determination was published in the **Federal Register** on September 26, 1995 (60 FR 49569). The request was assigned File No. USA–95–1904–05.

On December 16, 1996 the Binational Panel issued its decision in the matter of Fresh Cut Flowers from Mexico, Secretariat File No. USA–95–1904–05. The Panel decided that the Department properly determined that the Complainants provided misleading and evasive statements concerning their respective tax statutes and that the Department properly invoked Best Information Available given the substantial evidence on the record in this action. However, the first-tier Best Information Available rate imposed by the Department was not justified by substantial evidence on the record and was not otherwise in accordance with law. Based upon the substantial evidence on the record, the Panel remanded the action with instructions to assign a second-tier rate of 18.20 percent, which is taken from the Department's original investigation and takes into account the substantial cooperation provided by the Ranches.

The Panel ordered the Department to issue a determination on remand consistent with the instructions and findings set forth in the Panel's decision within forty five (45) days of the date of the Order (not later than January 30, 1997).

The determination on remand was filed on January 29, 1997, No challenges were filed by the participants within the time provided in the *NAFTA Article 1904 Panel Rules.* On March 3, 1997, the Panel issued an order under Rule 73(5) affirming the Determination on Remand and instructed the Secretariat to issue a Notice of Final Panel Action Under Rule 77. The Notice of Final Panel Action was issued on March 14, 1997. No Request for an Extraordinary Challenge was filed within 30 days of the issuance of the Notice of Final Panel Action. Therefore, on the basis of the Panel decision and Rule 80 of the *NAFTA Article 1904 Panel Rules,* the Panel Review was completed and the panelists were discharged from their duties effective April 14, 1997.

Dated: April 17, 1997.

James. R. Holbein,

U.S. Secretary, NAFTA Secretariat.

[FR Doc. 97–10443 Filed 4–22–97; 8:45 am]

BILLING CODE 3510–GT–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 041697A]

Incidental Take of Marine Mammals; Bottlenose Dolphins and Spotted Dolphins

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

ACTION: Notice of issuance of letters of authorization.

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA) as amended, and implementing regulations, notification is hereby given that 1-year letters of authorization to take bottlenose and spotted dolphins incidental to oil and gas structure removal activities were issued on January 14, 1997, to Seneca Resources Corporation, Houston, TX; February 10, 1997, to Chevron U.S.A., New Orleans, LA; March 7, 1997, to Phillips Petroleum Company, Lafayette, LA, and, on April 16, 1997 to CNG Producing Company, New Orleans, LA.

ADDRESSES: The applications and letters are available for review in the following offices: Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910 and the Southeast Region, NMFS, 9721 Executive Center Drive N, St. Petersburg, FL 33702.

FOR FURTHER INFORMATION CONTACT: Kenneth R. Hollingshead, Office of Protected Resources, NMFS, (301) 713–2055 or Charles Oravetz, Southeast Region (813) 570–5312.

SUPPLEMENTARY INFORMATION: Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1361 *et seq.*) directs NMFS to allow, on request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region, if certain findings are made and regulations are issued. Under the MMPA, the term ''taking'' means to harass, hunt, capture, or kill or to attempt to harass, hunt, capture or kill marine mammals.

Permission may be granted for periods up to 5 years if NMFS finds, after notification and opportunity for public comment, that the taking will have a negligible impact on the species or stock(s) of marine mammals and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses. In addition, NMFS must prescribe regulations that include permissible methods of taking and other means effecting the least practicable adverse impact on the species and its habitat, and on the availability of the species for subsistence uses, paying particular attention to rookeries, mating grounds, and areas of similar significance. The regulations must include requirements pertaining to the monitoring and reporting of such taking. Regulations governing the taking of bottlenose and spotted dolphins incidental to oil and gas structure removal activities in the Gulf of Mexico were published on October 12, 1995 (60 FR 53139), and remain in effect until November 13, 2000.

Summary of Request

NMFS received requests for letters of authorization on January 8, 1997, from Seneca Resources Corporation; February 5, 1997, from Chevron, U.S.A.; March 6, 1997, from Phillips Petroleum Company; and March 26, 1997, from

CNG Producing Company. These letters requested a take by harassment of a small number of bottlenose and spotted dolphins incidental to the described activity. Issuance of these letters of authorization are based on a finding that the total takings will have a negligible impact on the bottlenose and spotted dolphin stocks of the Gulf of Mexico.

Dated: April 17, 1997.

Hilda Diaz-Soltero,

Acting Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 97–10538 Filed 4–22–97; 8:45 am]

BILLING CODE 3510–22–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Increases in Guaranteed Access Levels for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in the Dominican Republic

April 16, 1997.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing guaranteed access levels.

EFFECTIVE DATE: April 23, 1997.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these levels, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Uruguay Round Agreements Act.

Upon the request of the Government of the Dominican Republic, the U.S. Government has agreed to increase the current Guaranteed Access Levels (GALS) for certain categories.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 62 FR 66263, published on December 17, 1996). Also see 61 FR 65375, published on December 12, 1996.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing, but are designed to assist only in the implementation of certain of their provisions.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

April 16, 1997.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 6, 1996, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in the Dominican Republic and exported during the twelve-month period which began on January 1, 1997 and extends through December 31, 1997.

Effective on April 23, 1997, you are directed to increase the Guaranteed Access Levels (GALS) for the following categories, as provided for under the Uruguay Agreements Act and the Uruguay Round Agreement on Textiles and Clothing:

Category	Guaranteed Access Level
338/638	2,150,000 dozen.
339/639	2,150,000 dozen.
433	61,000 dozen.
443	110,000 numbers.
633	120,000 dozen

The limits for the foregoing categories remain unchanged.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 97–10419 Filed 4–22–97; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Import Charges for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in Korea

April 16, 1997.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs charging imports to Group II.

EFFECTIVE DATE: April 23, 1997.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Uruguay Round Agreements Act.

A Memorandum of Understanding (MOU) between the Governments of the United States and the Republic of Korea was signed on March 21, 1997. As part of that MOU, the two governments agreed that charges in the amount of 58,558,418 square meters equivalent would be made to the Group II limit for textile products, produced or manufactured in Korea and exported during the period January 1, 1997 through December 31, 1997.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to charge the aforementioned amount to the 1997 Group II limit.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 61 FR 66263, published on December 17, 1996). Also see 610 FR 59087, published on November 20, 1996.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act, the Uruguay Round Agreement on Textiles and Clothing and the March 21, 1997 MOU, but are designed to assist only in the

implementation of certain of their provisions.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

April 16, 1997.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: To facilitate implementation of the Uruguay Round Agreements Act, the Uruguay Round Agreement on Textiles and Clothing and the Memorandum of Understanding dated March 21, 1997, between the Governments of the United States and the Republic of Korea, I request that, effective on April 23, 1997, you charge 58,558,418 square meters equivalent to the limit established in the directive dated November 14, 1996 for textile products in Group II, produced or manufactured in Korea and exported during the period which began on January 1, 1997 and extends through December 31, 1997.

This letter will be published in the Federal Register.

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 97–10420 Filed 4–22–97; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Products Produced or Manufactured in Sri Lanka

April 16, 1997.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing limits.

EFFECTIVE DATE: April 23, 1997.

FOR FURTHER INFORMATION CONTACT: Helen L. LeGrande, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Uruguay Round Agreements Act.

The current limits for certain categories are being increased, variously, for swing, special shift, carryforward, special carryforward, and recrediting of unused special carryforward and allowance for handloomed products. Reductions to account for swing and special shift are being made in a separate directive.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 61 FR 66263, published on December 17, 1996). Also see 61 FR 68246, published on December 27, 1996.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing, but are designed to assist only in the implementation of certain of their provisions.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

April 16, 1997.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 20, 1996, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Sri Lanka and exported during the period which began on January 1, 1997 and extends through December 31, 1997.

Effective on April 23, 1997, you are directed to increase the limits for the following categories, as provided for under the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
336/636/836	368,220 dozen.
347/348/847	1,673,553 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1996.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C.553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 97–10421 Filed 4–22–97; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Request for Public Comments on U.S. Proposal to Consult With Mexico and Canada Concerning Short Supply of Rayon Filament Yarn

April 16, 1997.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Request for public comments concerning consultations on rayon filament yarn.

FOR FURTHER INFORMATION CONTACT: Lori Mennitt, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–3400.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The purpose of this notice is to advise the public that the U.S. Government intends to request consultations with Mexico and Canada under Section 7 (2) of Annex 300–B of the North America Free Trade Agreement (NAFTA) for the purpose of amending the rules of origin for Harmonized Tariff Schedule (HTS) subheading 5801.35 to allow non-North American imports classified in Harmonized Tariff Schedule subheadings 5403.31 and 5403.32. The consultations will focus on a short supply request under NAFTA for rayon filament yarn in HTS subheadings 5403.31 and 5403.32

There will be a 30-day comment period beginning on April 23, 1997 and extending through May 23, 1997. Anyone wishing to comment or provide data or information regarding domestic production or availability of products included in HTS subheadings 5403.31 and 5403.32 is invited to submit 10 copies of such comments or information to Troy H. Cribb, Chairman, Committee for the Implementation of Textile Agreements, U.S. Department of Commerce, Washington, DC 20230; ATTN: Helen L. LeGrande.

Comments or information submitted in response to this notice will be available for public inspection in the

Office of Textiles and Apparel, room H3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Further comments may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute ''a foreign affairs function of the United States.''

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 61 FR 66263, published on December 17, 1996).

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 97–10422 Filed 4–22–97; 8:45 am]

BILLING CODE 3510–DR–F

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Submission for OMB Review; Comment Request

April 17, 1997.

SUMMARY: The Corporation for National and Community Service (CNCS), has submitted the following public information requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paper Reduction Act of 1995, Pub. L. 104–13, (44 USC Chapter 35). Copies of these individual ICRs, with applicable supporting documentation, may be obtained by calling the Corporation for National Service, Lance Potter, (202) 606–5000, Extension 448. Individuals who use a telecommunications device for the deaf (TTY/TDD) may call (202) 565–2799 between the hours of 9:00 a.m. and 5:00 p.m. Eastern time, Monday through Friday.

Comments should be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Corporation for National Community Service, Office of Management and Budget, Room 10235, Washington, DC 20503, (202) 395–7316, within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, including whether the information will have practical utility;

Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

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

Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Type of Review: Revision.

Agency: Corporation for National and Community Service.

Title: Participant Enrollment Form and National Service Trust Enrollment Form.

OMB Number: 3200–0018/3045–0006.

Agency Number: NA.

Affected Public: Persons enrolling in AmeriCorps and their supervisors.

Total Respondents: 21,000.

Frequency: Once.

Average Time Per Response: 7 minutes.

Estimated Total Burden Hours: 2,450 hours.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $0.

Description: The Corporation for National and Community Service proposes the revision of the Participant Enrollment Form (OMB 3200–0018) which is being revised to incorporate elements from the National Service Trust Enrollment form OMB 3045–0006) in an effort to reduce burden and facilitate data collection. After its revision, the form will be called the National Service Enrollment Form, and it will eliminate the need to distribute the National Service Trust Enrollment Form. The Participant Enrollment Form is one of the only two direct sources of information that the Corporation collects from its members. The purpose of the National Trust Enrollment Form is to function as a legal certification that a Member has satisfied the requirements to qualify for an educational award, and the form reserves an educational award in the National Service Trust.

Type of Review: Revision.

Agency: Corporation for National and Community Service.

Title: Member Exit Form and the National Service Trust End of Term Form.

OMB Number: 3045–0015/3045–0009.

Agency Number: NA.

Affected Public: Persons exiting AmeriCorps and their supervisors.

Total Respondents: 21,000.

Frequency: Once.

Average Time Per Response: 12 minutes.

Estimated Total Burden Hours: 4,200 hours.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $0.

Description: The Corporation for National and Community Service proposes the revision of the Member Exit Form (OMB 3045–0015) which is being revised to incorporate elements from the National Service Trust End of Term Form (OMB 3045–0009) in an effort to reduce burden and facilitate data collection. After its revision, the form will be called the National Service Member Exit Form and it will eliminate the need to distribute the National Service Trust End of Term Form. The Member Exit Form is one of the only two direct sources of information that the Corporation collects from its members. The purpose of the National Service Member Exit Form is to function as a legal certification that a Member has satisfied the requirements to qualify for an educational award. The National Service Member Exit Form certifies that the Member has qualified for the educational award.

Dated: April 17, 1997.

Lance Potter,

Director, Office of Evaluation.

[FR Doc. 97–10475 Filed 4–22–97; 8:45 am]

BILLING CODE 6050–28–M

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

National Civilian Community Corps (NCCC) Campus Locations

AGENCY: Corporation for National and Community Service.

ACTION: Request for Proposals.

SUMMARY: The NCCC, a program of the Corporation for National and Community Service (Corporation), is searching for future Campus locations to house Corps Members and provide working space for related staff. Organizations interested in improving their community and assisting others by providing facilities for this volunteer national service corps, are encouraged to submit proposals.

DATES: Proposals for future NCCC Campus sites must be received no later than 3:00 p.m. Eastern Standard Time on May 15, 1997.

ADDRESSES: All proposals must be addressed to Lew Heffner, National Civilian Community Corps, Corporation for National and Community Service, 1201 New York Avenue NW, 9th Floor, Washington, DC 20525.

FOR FURTHER INFORMATION CONTACT: Lew Heffner by phone at (202) 606–5000 ext.151 or by facsimile at (202) 565–2791.

SUPPLEMENTARY INFORMATION: NCCC is part of AmeriCorps, the network of national service programs that provide opportunities for full-time service in exchange for education awards. In AmeriCorps*NCCC, a ten month residential program, Corps Members serve on teams consisting of ten to fifteen members to meet the critical unmet needs of urban and rural communities. Corps Members live in dormitory-style residences at one of five campuses, currently located in Charleston, SC; San Diego, CA; Denver, CO; Perry Point, MD; and Washington, DC.

Main Campus Requirements—Successful proposals will have the following criteria:

(1) Facilities—(a) adequate housing for up to 300 Corps Members, (b) office space for 35, (c) dedicated or shared classrooms, (d) preferably use of dining facility as a tenant and share cost, (e) periodic use of a lecture hall large enough to accommodate Corps Members and staff.

(2) Location—(a) be within an hour of a metropolis of 200,000 people or more, and (b) preferably be close to sources of transportation (rail, air).

(3) Costs—(a) the Corporation will pay reasonable utility fees.

Smaller Campus Requirements—Successful proposals will have the following criteria:

(1) Facilities—(a) sufficient housing for 80 to 100 Corps Members, (b) office space for a staff of 7, (c) dedicated or shared classrooms, (d) preferably use of dining facility as a tenant and share cost, (e) periodic use of a lecture hall large enough to accommodate Corps Members and staff.

(2) Location—(a) be within an hour of a metropolis of 200,000 people or more, and (b) preferably be close to sources of transportation (rail, air).

(3) Costs—(a) the Corporation will pay reasonable utility fees.

Dated: April 14, 1997.

Fred Peters,

Acting Director, National Civilian Community Corps.

[FR Doc. 97–10434 Filed 4–22–97; 8:45 am]

BILLING CODE 6050–28–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Task Force Advanced Modeling and Simulation for Analyzing Combat Concepts in the 21st Century

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Defense Science Board Task Force on Advanced Modeling and Simulation for Analyzing Combat Concepts in the 21st Century will meet in closed session on May 5–6, 1997 at Boeing Defense Space Group, Kent, Washington.

The mission of the Defense Science Board is to advise the Secretary of Defense through the Under Secretary of Defense for Acquisition and Technology on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will address modeling and simulation capabilities required for analyzing concepts for 21st century military combat operations. These capabilities should encompass the breadth of warfare from strategic to individuals fighting afoot for all phases of military operations (Air, Land, Sea, Information, Communications).

In accordance with Section 10(d) of the Federal Advisory Committee Act, P.L. No. 92–463, as amended (5 U.S.C. App. II, (1994)), it has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. § 552b(c)(1) (1994), and that accordingly this meeting will be closed to the public.

Dated: April 17, 1997.

L.M. Bynum,

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

[FR Doc. 97–10486 Filed 4–22–97; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Department of the Army

Final Environmental Impact Statement (FEIS) on the Disposal and Reuse of Vint Hill Farms Station, Warrenton, VA

AGENCY: Department of the Army, DoD.

ACTION: Notice of availability.

SUMMARY: The proposed action evaluated by this FEIS is the disposal of Vint Hill Farms Station, Warrenton, VA, in accordance with the Defense Base Closure and Realignment Act of 1990, Pub. L. 101–510, as amended. The FEIS addresses the environmental consequences of the disposal and subsequent reuse of the 701 acres. Three alternative methods of disposal are analyzed: Encumbered Disposal, Unencumbered Disposal and retention of the property in a caretaker status (i.e., the No Action Alternative). The Encumbered Disposal Alternative addresses transfer of property with certain constraints on future use as a condition of disposal. The Unencumbered Disposal Alternative involves removing existing constraints to allow for property disposal with fewer or no constraints to allow for property disposal with fewer or no Army imposed restrictions on future use. The impacts of reuse are evaluated in terms of land use intensities.

DATES: The public review period for this document ends 30 days after the date of publication of the Environmental Protection Agency's Notice of Availability in the **Federal Register**.

ADDRESSES: Copies of the FEIS will be available for review at Fauquier County Public Library in Warrenton, Bealeton Branch Library in Bealeton, and Prince William County Center Library in Manassas. Copies of the FEIS may also be obtained by writing to Dr. Susan Rees, U.S. Army Corps of Engineers, Mobile District, Attn: CESAM–PD–EC, 109 St. Joseph Street, P.O. Box 2288, Mobile, AL 36628–0001 or by telephone at (334) 694–4141 or telefax (334) 690–2424.

Dated: April 1, 1997.

Raymond J. Fatz,

Deputy Assistant Secretary of the Army, (Environment, Safety and Occupational Health), OASA (I, L&E).

[FR Doc. 97–10533 Filed 4–22–97; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

[CFDA No. 84.163B]

Library Services for Indian Tribes and Hawaiian Natives Program—Special Projects Grants; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1997

Purpose of Program: The Library Services for Indian Tribes and Hawaiian Natives Program (Special Projects Grants) provides federal financial

assistance to eligible Indian tribes to establish or improve public library services. For FY 1997 the competition for new awards focuses on projects designed to meet the invitational priorities in the ''Priorities'' section of this notice.

Eligible Applicants: Indian Tribes and Alaska Native villages or regional or village corporations that have met eligibility requirements for the Library Services for Indian Tribes Program (Basic Grants (CFDA 84.163A)) and received a Basic Grant in the same fiscal year as the year of application.

Deadline for Transmittal of Applications: June 9, 1997.

Applications Available: April 24, 1997.

Estimated Available Funds: $966,518.

All available funds for library services for Hawaiian natives are awarded through the Library Services for Indian Tribes and Hawaiian Natives Program (Basic Grants (CFDA 84.163A)).

Estimated Average Range of Awards: $38,000–$100,000.

Estimated Average Size of Awards: $80,000.

Estimated Number of Awards: 12.

Note: The Department is not bound by any estimates in this notice.

Maximum Award: In no case does the Secretary make an award greater than $100,000 for a single budget period of 12 months. The Secretary does not consider an application that proposes a budget exceeding this maximum amount.

Project Period: 12 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 75, 77, 80, 81, 82 and 85; and (b) The regulations in 34 CFR Part 700.

Selection Criteria: The Secretary selects from the criteria in 34 CFR 700.30(e) to evaluate applications for new grants under this competition. Under 34 CFR 700.30(a), the Secretary announces in the application package the evaluation criteria selected for this competition and the maximum weight assigned to each criterion.

Priorities: The Secretary is particularly interested in applications that meet one or more of the invitational priorities in the next four paragraphs. However, an application that meets one or more of these invitational priorities does not receive competitive or absolute preference over other applications (34 CFR 75.105(c)(1)).

Invitational Priority 1—To assess and plan for tribal library needs.

Invitational Priority 2—To train or retrain Indians as library personnel.

Invitational Priority 3—To utilize new information technologies to expand services to Indians in geographically isolated areas.

Invitational Priority 4—To conduct special library programs for Indians such as summer reading programs for children, outreach programs for elders, literacy tutoring, and training in computer use.

FOR APPLICATIONS OR INFORMATION CONTACT: Kathy Price, U.S. Department of Education, 555 New Jersey Ave. N.W., Room 300, Washington, DC 20208–5571. Telephone: (202) 219–1670. E-mail: kathy__price@ed.gov

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; on the Internet Gopher Server (at gopher://gcs.ed.gov); or on the World Wide Web (at http://gcs.ed.gov). However, the official application notice for a discretionary grant competition is the notice published in the **Federal Register**.

Authority: 20 U.S.C. 351c(c) (2), 361(d), 364.

Dated: April 18, 1997.

Ramon C. Cortines,

Acting Assistant Secretary for Educational Research and Improvement.

[FR Doc. 97–10528 Filed 4–22–97; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

[Case No. DH–011]

Energy Conservation Program for Consumer Products: Granting of the Application for Interim Waiver and Publishing of the Petition for Waiver of Fireplace Manufacturers Incorporated From the Department of Energy Vented Home Heating Equipment Test Procedure

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice.

SUMMARY: Today's notice grants an Interim Waiver to Fireplace Manufacturers Incorporated from the Department of Energy (Department) test procedure for vented home heating equipment. The Interim Waiver concerns pilot light energy consumption for Fireplace Manufacturers Incorporated's (Fireplace) models DVF30, DVF36, DVF42, DVF36PNL, GW30, and GW30P vented heaters.

Today's notice also publishes a ''Petition for Waiver'' from Fireplace. Fireplace's Petition for Waiver requests the Department to grant relief from the Department of Energy vented home heating equipment test procedure relating to the use of pilot light energy consumption in calculating the Annual Fuel Utilization Efficiency (AFUE). Specifically, Fireplace seeks to delete the required pilot light measurement (Q_P) in the calculation of AFUE when the pilot is off. The Department solicits comments, data, and information respecting the Petition for Waiver.

DATES: The Department will accept comments, data, and information not later than May 23, 1997.

ADDRESSES: Written comments and statements shall be sent to: Department of Energy, Office of Energy Efficiency and Renewable Energy, Case No. DH–011, Mail Stop EE–43, Room 1J–018, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585–0121. Telephone: (202) 586–7140, Fax: (202) 586–4617.

FOR FURTHER INFORMATION CONTACT: Mr. Bill Hui, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Mail Stop EE–43, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC, 20585–0121. Telephone: (202) 586–9145, Fax: (202) 586–4617, E-Mail: WILLIAM.HUI@HQ.DOE.GOV or;

Mr. Eugene Margolis, U.S. Department of Energy, Office of General Counsel, Mail Stop GC–72, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC, 20585–0103. Telephone: (202) 586–9507, Fax: (202) 586–4116, E-Mail: EUGENE.MARGOLIS@HQ.DOE.GOV.

SUPPLEMENTARY INFORMATION: The Energy Conservation Program for Consumer Products (other than automobiles) was established pursuant to the Energy Policy and Conservation Act, as amended, (EPCA) which requires the Department to prescribe standardized test procedures to measure the energy consumption of certain consumer products, including vented home heating equipment. The intent of the test procedures is to provide a comparable measure of energy consumption that will assist consumers in making informed purchasing decisions, and will determine whether a product complies with the applicable energy conservation standard. These test procedures appear at Title 10 CFR Part 430, Subpart B.

The Department amended the test procedure rules to provide for a waiver process by adding § 430.27 to Title 10 CFR Part 430. 45 FR 64108, September 26, 1980. Subsequently, the Department amended the waiver process to allow the Assistant Secretary for Energy Efficiency and Renewable Energy (Assistant Secretary) to grant an Interim Waiver from test procedure requirements to manufacturers that have petitioned the Department for a waiver of such prescribed test procedures. Title 10 CFR Part 430, § 430.27(a)(2).

The waiver process allows the Assistant Secretary to waive temporarily test procedures for a particular basic model when a petitioner shows that the basic model contains one or more design characteristics which prevent testing according to the prescribed test procedures, or when the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption as to provide materially inaccurate comparative data. Waivers generally remain in effect until final test procedure amendments become effective, resolving the problem that is the subject of the waiver.

An Interim Waiver will be granted if it is determined that the applicant will experience economic hardship if the Application for Interim Waiver is denied, if it appears likely that the Petition for Waiver will be granted, and/or the Assistant Secretary determines that it would be desirable for public policy reasons to grant immediate relief pending a determination on the Petition for Waiver. Title 10 CFR Part 430, § 430.27(g). An Interim Waiver remains in effect for a period of 180 days, or until the Department issues a determination on the Petition for Waiver, whichever is sooner, and may be extended for an additional 180 days, if necessary.

On December 31, 1996, Fireplace filed an Application for Interim Waiver and a Petition for Waiver regarding pilot light energy consumption.

Fireplace seeks an Interim Waiver from the Department test provisions in section 3.5 of Title 10 CFR Part 430, Subpart B, Appendix O, which requires measurement of energy input rate of the pilot light (Q_P), and in section 4.2.6, which requires the use of this data for the calculation of AFUE, where:

$$AFUE=[4400\eta_{SS}\eta_u Q_{in\text{-}max}] / [4400\eta_{SS}Q_{in\text{-}max}+2.5(4600)\eta_u Q_p]$$

Instead, Fireplace requests that it be allowed to delete Q_P and accordingly, the $[2.5(4600)\eta_u Q_P]$ term in the calculation of AFUE. Fireplace states that instructions to turn off the transient pilot by the user when the heater is not in use are in the User Instruction Manual and on a label adjacent to the gas control valve. Since the current Department of Energy test procedure does not address pilot light energy savings, and since others have received the same waiver under the same circumstances, Fireplace asks that the Interim Waiver be granted.

Previous Petitions for Waiver to exclude the pilot light energy input term in the calculation of AFUE for vented heaters with a manual transient pilot control have been granted by the Department to Appalachian Stove and Fabricators, Inc., 56 FR 51711, October 15, 1991; Valor Incorporated, 56 FR 51714, October 15, 1991; CFM International Inc., 61 FR 17287, April 19, 1996; Vermont Castings, Inc., 61 FR 17290, April 19, 1996; Superior Fireplace Company, 61 FR 17885, April 23, 1996; Vermont Castings, Inc., 61 FR 57857, November 8, 1996; HEAT–N–GLO Fireplace Products, Inc., 61 FR 64519, December 5, 1996; CFM Majestic Inc., 62 FR 10547, March 7, 1997; Hunter Energy and Technology Inc., 62 FR 14408, March 26, 1997; and Wolf Steel Ltd., 62 FR 14409, March 26, 1997.

Thus, it appears likely that Fireplace's Petition for Waiver concerning pilot light energy consumption for vented heaters will be granted. In those instances where the likely success of the Petition for Waiver has been demonstrated based upon the Department having granted a waiver for a similar product design, it is in the public interest to have similar products tested and rated for energy consumption on a comparable basis.

Therefore, based on the above, the Department is granting Fireplace an Interim Waiver for its models DVF30, DVF36, DVF42, DVF36PNL, GW30, and GW30P vented heaters. Fireplace shall be permitted to test these models of its vented heaters on the basis of the test procedures specified in Title 10 CFR Part 430, Subpart B, Appendix O, with the following modifications:

(i) Delete paragraph 3.5 of Appendix O.

(ii) Delete paragraph 4.2.6 of Appendix O and replace with the following paragraph:

4.2.6 Annual Fuel Utilization Efficiency. For manually controlled vented heaters, calculate the Annual Fuel Utilization Efficiency (AFUE) as a percent and defined as:

$$AFUE=\eta_u$$

where η_u is defined in section 4.2.5 of this appendix.

(iii) With the exception of the modification set forth above, Fireplace Manufacturers Incorporated shall comply in all respects with the procedures specified in Appendix O of Title 10 CFR Part 430, Subpart B.

This Interim Waiver is based upon the presumed validity of all statements and allegations submitted by the company. This Interim Waiver may be revoked or modified at any time upon a determination that the factual basis underlying the Application is incorrect.

This Interim Waiver is effective on the date of issuance by the Assistant Secretary for the Office of Energy Efficiency and Renewable Energy. The Interim Waiver shall remain in effect for a period of 180 days or until the Department acts on the Petition for Waiver, whichever is sooner, and may be extended for an additional 180-day period, if necessary.

Fireplace's Petition for Waiver requests the Department to grant relief from the portion of the Department of Energy test procedure for vented home heating equipment that relates to measurement of energy consumption by the pilot light. Specifically, Fireplace seeks to exclude the pilot light energy consumption from the calculation of AFUE. Pursuant to paragraph (b) of Title 10 CFR Part 430.27, the Department is hereby publishing the ''Petition for Waiver.'' in its entirety. The petition contains no confidential information. The Department solicits comments, data, and information respecting the Petition.

Issued in Washington, DC, on April 17, 1997.

Christine A. Ervin,

Assistant Secretary, Energy Efficiency and Renewable Energy.

Fireplace Manufacturers Incorporated

2701 South Harbor Blvd., Santa Ana, California 92704, (714) 549–7782, Fax No. (714) 549–4723

December 31, 1996.

The Honorable Christine Ervin,
Assistant Secretary for Conservation and Renewable Energy, United States Department of Energy, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585

Subject: Petition for Waiver to Title 10 Code of Federal Regulations § 430.27

Dear Secretary Ervin: This Petition for Waiver from test procedures appearing in 10 CFR § 430.27 subpart B, Appendix O—Uniform Test Method for Measuring the Energy Consumption of Vented Home Heating Equipment. The sections for which this waiver is requested are detailed in section 3.5—Pilot Light Measurement; and section 4.2.6—Annual Fuel Utilization Efficiency (AFUE). The sections require the measurement of energy input to the pilot light and the inclusion of this data in the calculation of the AFUE for the appliance even when the pilot light is turned off and not consuming any energy.

We are requesting this Waiver for our appliance models: DVF30, DVF36, DVF42; DVF36PNL; GW30 and GW30P room heater models respectively, using a millivolt controlled ignition system.

The above mentioned room heaters, are certified to use either natural, or liquefied propane gases, respectively.

The combination of gas control valves used on these appliances can be manually turned off when the heater is not in use. In the ''OFF'' position, both the main burner and the pilot burner are extinguished. When the gas control knob is set to the ''ON'' position, the main burner and the pilot light are operating. The Instruction Manual and a label adjacent to the gas control valve will require the user to turn the gas control valve to the ''OFF'' position when the heater is not in use.

Requiring the inclusion of pilot energy input in the AFUE calculations does not allow for the additional energy savings realized when the pilot light is turned off. We request that the requirement of including the term involving the pilot energy consumption be waived from the AFUE calculations for our heaters noted above. These models meet the conditions described in the previous paragraph.

Waivers for deleting pilot energy consumption in AFUE calculations have previously been granted by U.S.D.O.E. to other manufacturers. We are petitioning the U.S.D.O.E. to grant Fireplace Manufacturers, Incorporated, this same waiver.

Please contact Fireplace Manufacturers, Incorporated, with any questions, comments, and or requirements for additional information we can provide. Thank you for your help in this matter.

Sincerely,

Garrick D. Augustus,

Manufacturing Engineer.

[FR Doc. 97–10494 Filed 4–22–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP96–265–000, et al., and CP97–276–000]

PECO Energy Company v. Texas Eastern Transmission Corporation, and Texas Eastern Transmission Corporation; Notice Joint Stipulation and Agreement

April 17, 1997.

Take notice that on March 4, 1997, as supplemented on April 2 and 15, 1997, Texas Eastern Transmission Corporation (Texas Eastern), 5400 Westheimer Court, Houston, Texas 77056–5310, PECO Energy Company (PECO) and Mobil Oil Corporation (Mobil), collectively referred to as (Parties), filed a Joint Stipulation and Agreement (Settlement) in the captioned proceedings, all as more fully set forth in the Settlement, which is on file with the Commission and open to public inspection.

The Parties states that the Settlement resolves all issues related to PECO's complaint proceeding filed against Texas Eastern in Docket No. CP96–265–000, wherein PECO requested that the Commission require Texas Eastern to provide certain additional lateral capacity to PECO on Texas Eastern's Line No. 1–A. The parties state that they have reached a mutually beneficial, negotiated agreement which will satisfy PECO's needs for additional firm delivery service in a timely manner and will satisfy Mobil's 1996 Flex-X request for firm service.

Texas Eastern requests authorization to perform pipe replacements, as required, on Line No. 1–A, and perform a hydrostatic test of Line 1–A between Eagle and the proposed Brookhaven M&R, located between approximate mile posts 0.00 and 22.7 in Chester and Delaware Counties, Pennsylvania. After such replacements. Texas Eastern proposes to install regulation facilities at Eagle, new launcher facilities at Eagle, if necessary, and receiver facilities at the Brookhaven M&R, install three mainline valves on Line No. 1–A between Eagle and Brookhaven, and reactivate and operate Line No. 1–A at a MAOP of 400 psig.

Texas Eastern requests authorization to construct, own, operate and maintain Texas Eastern's Brookhaven M&R; the pipeline taps for the Hershey Mills M&R; the pipeline taps for the Hershey Mills M&R and associated appurtenant facilities; the pipeline tap and associated piping for tapping the existing Planebrook M&R in the line No. 1–A; and two additional pipeline taps to be reserved for PECO's future use. It is stated that PECO will directly reimburse Texas Eastern for 100 percent of the costs and expenses Texas Eastern will incur to install such taps. In addition, Texas Eastern states that it will tap Line No. 1–H, which is parallel to and on common rights-of way with Line No. 1–A., at the proposed Hershey Mills M&R, and tap Line No. 1–A at the existing Planebrook M&R.

Pursuant to the Settlement, PECO will construct and maintain the measurement and regulation facilities, EGM, and connecting pipe at the Hershey Mills M&R.

Commission authorization is requested for PECO to shift 15,000 Dth/d of its firm entitlements on Texas Eastern from M&R 70035 to the Hershey Mills M&R and/or Brookhaven M&R.

Pursuant to the construction of facilities and the terms of the Settlement, Texas Eastern would deliver on a firm basis up to 120,000 Dth/d for PECO and 8,000 Dth/d for Mobil. Texas Eastern states that it will deliver PECO's gas quantities from the interconnection of Texas Eastern's mainline system with Line No. 1–A at Eagle to PECO at the proposed Brookhaven M&R and/or Hershey Mills M&R, and/or Texas Eastern's existing Planebrook M&R. Texas Eastern states that it will transport and deliver Mobil's gas quantities from the interconnection of Texas Eastern's mainline with the Philadelphia lateral at Eagle to a point of interconnection with Mobil's pipeline facilities. Service will be rendered under Texas Eastern's open-access Rate Schedule FT–1, included as part of Texas Eastern's FERC Gas Tariff, Sixth Revised Volume No. 1, subject to the Settlement Rate. With respect to any temporarily available capacity from November 1, 1997 through October 31, 2001, Texas Eastern states that it will utilize such available capacity to provide limited-term transportation service, at the incremental Settlement Rate, to interested customers under the terms and conditions of Texas Eastern's blanket transportation certificate and its FERC Gas Tariff.

Texas Eastern estimates the cost of the proposed facilities in 1996 dollars at $12,800,000. To recover the incremental cost-of-service associated with Texas Eastern's Settlement Facilities, Texas Eastern requests authorization to charge

PECO and Mobil a NGA Section 7(c) initial rate, as a separately stated market area lateral charge consisting of an incremental reservation charge under Texas Eastern's Rate Schedule FT–1. It is stated that the Settlement Rate will be reservation charge of $1.651 per Dth per month, $0.0543 on a 100 percent load factor basis. It is stated that the Settlement Rate is designed on an incremental basis, using Texas Eastern's cost-of-service factors approved in Docket Nos. RP90–119, *et al.*, and does not include the incremental Non-Spot Fuel component, as approved in Texas Eastern's Global Settlement in Docket Nos. RP85–177, *et al.*, and the incremental PCB component as approved in Texas Eastern's settlement in Docket Nos. RP88–67, *et al.* (Phase II/ PCBs) as the lateral capacity to be made available under this Settlement will be utilized for delivery services only, as opposed to providing mainline transportation service.

Pursuant to the settlement, Texas Eastern states that it would construct its facilities in 1997 and commence firm service November 1, 1997.

Texas Eastern states that PECO and Mobil require the services provided for in this settlement. Accordingly, the parties request that the Commission expeditiously review and approve the Settlement and issue an order approving the Settlement without modification, including final environmental approval of the Settlement facilities, by June 1, 1997.

Any person desiring to be heard or to make any protest with reference to said Settlement and related application should on or before May 8, 1997, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the National Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held with further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, or if the Commission on its own review of the matter finds that permission and approval for the proposed certificate are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Texas Eastern to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 97–10456 Filed 4–22–97; 8:45 am]

BILLING CODE 6217–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER96–2973–000, ER96–2974–000, and ER97–295–000]

Soyland Power Cooperative, Inc.; Notice of Filing

April 17, 1997.

Take notice that on March 13, 1997, Soyland Power Cooperative, Inc. tendered for filing a Notice of Cancellation of service to Southwestern Electric Cooperative, Inc.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure, (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before April 28, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–10457 Filed 4–22–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–2347–000]

Wisconsin Electric Power Company; Notice of Filing

April 17, 1997.

Take notice that Wisconsin Electric Power company (Wisconsin Electric) on March 31, 1997, tendered for filing a Transmission Service Agreement between itself and CMS Marketing, Services and Trading Company (CMS MST). The Transmission Service Agreement allows CMS MST to receive transmission service under Wisconsin Electric's FERC Electric Tariff, Original Volume No. 7, accepted for filing under Docket No. OA96–196.

Wisconsin Electric requests an effective date coincident with filing and waiver of the Commission's notice requirements to allow for economic transactions as they appear. Copies of the filing have been served on CMS MST, the Public Service Commission of Wisconsin and the Michigan Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before April 28, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–10458 Filed 4–22–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 6162–002]

Hisanori Morimoto; Notice of Availability of Environmental Assessment

April 17, 1997.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR part 380 (Order 486, 52 F.R. 47897), the Commission's Office of Hydropower Licensing has reviewed an exemption surrender application for the Tourin Musica Project, No. 6162–002. The Tourin Musica Project is located on the Crossett Brook in Washington County, Vermont. The exemptee is applying for a surrender of the exemption due to a generator cable fire that rendered the project inoperable. An Environmental Assessment (EA) was prepared for the application. The EA finds that approving the application would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Commission's Reference and Information Center, Room 1C–1, 888 First Street, N.E., Washington, D.C. 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 97–10460 Filed 4–22–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2000–010]

Power Authority of the State of New York; Notice of Revised Cooperative Consultation Process Team Meetings Associated With Relicensing the St. Lawrence-FDR Power Project

April 17, 1997.

The establishment of the Cooperative Consultation Process (CCP) Team and the Scoping Process for the relicensing of the St. Lawrence-FDR Power Project were identified in the Notice of Memorandum of Understanding, Formation of Cooperative Consultation Process Team, and Initiation of Scoping Process Associated With Relicensing the St. Lawrence-FDR Power Project issued May 2, 1996, and found in the **Federal Register** dated May 8, 1996, Volume 61, No. 90, on page 20813. The Scoping Process will assist the Federal Energy Regulatory Commission and the New York Department of Environmental Conservation in satisfying the agencies' requirements under the National Environmental Policy Act of 1969 and Section 401(a)(1) of the Clean Water Act.

The following is a list of the future CCP Team meetings that are presently scheduled for discussing the framework for a Settlement Agreement, viewing the shoreline resources, and conducting public scoping meetings.

1. The CCP Team will continue discussions of a Settlement Agreement. The meeting will be held at Power Authority of the State of New York's Robert Moses Powerhouse in Massena, New York.	May 1–2, 1997.
2. The CCP Team will meet to tour the St. Lawrence-FDR Power Project's impoundment and view the shoreline resources.	June 10, 1997.
3. The CCP Team will conduct Public Scoping Meetings. Meetings will be held in Massena, Waddington, and Hogansburg, New York.	June 24–26, 1997.
4. The CCP Team will meet at Power Authority of the State of New York's Robert Moses Powerhouse in Massena, New York.	July 1997.
5. The CCP Team will meet at Power Authority of the State of New York's Robert Moses Powerhouse in Massena, New York.	Aug. 1997.

The specific dates for the July and August meetings will be published in the **Federal Register**.

If you would like to participate in the meeting or need general information on the CCP Team and process, as well as the relicensing process contact any one of the following three individuals:

Mr. Thomas R. Tatham, New York Power Authority, (212) 468–6747, (212) 468–6272 (fax), EMAIL: Ytathat@IP3GATE.USA.COM

Mr. Keith Silliman, New York Dept. of Environmental Conservation, (518) 457–0986, (518) 457–3978 (fax), EMAIL: Silliman@ALBANY.NET

Mr. Thomas Russo, Federal Energy Regulatory Commission, (202) 219–2792, (202) 219–2634 (fax), EMAIL: Thomas.Russo@FERC.FED.US

Lois D. Cashell,

Secretary.

[FR Doc. 97–10459 Filed 4–22–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project Nos. 10865–001 and 11495–000]

Warm Creek Hydro Inc.; Nooksack River Hydro Inc.; Correction to Notice Applications are Ready for Environmental Analysis

April 17, 1997.

In the notice issued February 28, 1997 (62 FR 10844, March 10, 1997), the note on page 10846, at the top of the first column, should read ''The Commission is preparing a Multilpe-Project Environmental Impact Statement. . . .'' in lieu of ''The Commission is preparing a Multiple Environmental Assessment. . . .''

Lois D. Cashell,

Secretary.

[FR Doc. 97–10461 Filed 4–22–97; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5814–9]

Effluent Guidelines Task Force Open Meeting

AGENCY: Environmental Protection Agency.

ACTION: Notice of meeting.

SUMMARY: The Effluent Guidelines Task Force, an EPA advisory committee, will hold a meeting to discuss the Agency's Effluent Guidelines Program. The meeting is open to the public.

DATES: The meeting will be held on Tuesday, May 20, 1997 from 9:00 a.m. to 5:00 p.m., and Wednesday, May 21, 1997 from 9:00 a.m. to 3:00 p.m.

ADDRESSES: The meeting will take place at the Madison Hotel, 15th & M Streets, NW, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Beverly Randolph, Office of Water (4303), 401 M Street, SW, Washington, DC 20460; telephone (202) 260–5373; fax (202) 260–7185.

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), the Environmental Protection Agency gives notice of a meeting of the Effluent Guidelines Task Force (EGTF). The EGTF is a subcommittee of the National Advisory Council for Environmental Policy and Technology (NACEPT), the external policy advisory board to the Administrator of EPA.

The EGTF was established in July of 1992 to advise EPA on the Effluent Guidelines Program, which develops regulations for dischargers of industrial wastewater pursuant to Title III of the Clean Water Act (33 USC 1251 *et seq.*). The Task Force consists of members appointed by EPA from industry, citizen groups, state and local government, the academic and scientific communities, and EPA regional offices. The Task Force was created to offer advice to the Administrator on the long-term strategy for the effluent guidelines program, and particularly to provide recommendations on a process for expediting the promulgation of effluent guidelines. The Task Force generally does not discuss specific effluent guideline regulations currently under development.

At the May meeting, the Task Force will continue drafting of recommendations streamlining the effluent guidelines development process, including enhancement of stakeholder participation and data collection, and improvement of contracting and laboratory procedures.

The meeting is open to the public, and limited seating for the public is available on a first-come, first-served basis. The public may submit written comments to the Task Force regarding improvements to the Effluent Guidelines program. Comments should be sent to Beverly Randolph at the above address. Comments submitted by May 15, 1997 will be considered by the Task Force at or subsequent to the meeting.

Dated: April 7, 1997.

Beverly Randolph,

Designated Federal Official.

[FR Doc. 97–10511 Filed 4–22–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00477; FRL5600–3]

Notice of Availability of Pesticide Data Submitters List

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of an updated version of the Pesticide Data Submitters List which supersedes and replaces all previous versions.

FOR FURTHER INFORMATION CONTACT: By mail: John Jamula, Office of Pesticide Programs (7502C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location for commercial courier, delivery, telephone number and e-mail: Room 226, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–6426; e-mail: jamula.john@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Pesticide Data Submitters List is a compilation of names and addresses of registrants who wish to be notified and offered compensation for use of their data. It was developed to assist pesticide applicants in fulfilling their obligation as required by sections 3(c)(1)(f) and 3(c)(2)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and 40 CFR part 152 subpart E regarding ownership of data used to support registration. This notice announces the availability of an updated version of the Pesticide Data Submitters List which supersedes and replaces all previous versions.

II. Ordering Information

Microfiche copies of the document are available from the National Technical Information Service (NTIS) ATTN: Order Desk 5285 Port Royal Road Springfield, VA 22161; Telephone: (703) 487–4650. When requesting a document from NTIS, please provide its name and NTIS Publication Number (PB). The NTIS Publication for this version of the Pesticide Data Submitters List is PB97–144836.

III. Electronic Access

The Pesticide Data Submitters List is available on EPA's World Wide Web (WWW) site on the Internet. The Internet address of EPA's web site is www.epa.gov.

To Access the Data Submitters List from the EPA Home Page, select ''Offices, Regions, and Laboratories''. From the next page, select ''Office of Prevention, Pesticides, and Toxic Substances''. From the next page, select ''Databases and Tools''.

The Pesticide Data Submitters List may also be accessed directly on the EPA web site, by going directly to: http://www.epa.gov/opppmsd1/datasubmitterslist/index.html

List of Subjects

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

Dated: April 9, 1997.

Linda A. Travers,

Director, Program Management and Support Division, Office of Pesticide Programs.

[FR Doc. 97–10537 Filed 4–22–97; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–66239; FRL 5599–4]

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 October 20, 1997, orders will be issued cancelling all of these registrations.

FOR FURTHER INFORMATION CONTACT: By mail: James A. Hollins, Office of Pesticide Programs (7502C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location for commercial courier, delivery, telephone number and e-mail: Room 216, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–5761; e-mail: hollins.james@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, provides that a pesticide registrant may, at any time, request that any of its pesticide registrations be 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 39 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
000016–00015	Super Blue Dragon Garden Dust 5% Sevin	1-Naphthyl-*N*-methylcarbamate
000016–00028	Dragon 1–3/4% Sevin Dust	1-Naphthyl-*N*-methylcarbamate
000016–00152	Dragon Fruit Tree Spray Wettable	Methoxychlor (2,2-bis(*p*-methoxyphenyl)-1,1,1-trichloroethane)
		O,O-Dimethyl phosphorodithioate of diethylmercaptosuccinate
		cis-*N*-Trichloromethylthio-4-cyclohexene-1,2-dicarboximide
000016–00156	Dragon Copper Sulfate Granular Crystals	Copper sulfate
000016–00162	Triple Dragon Dust	1-Naphthyl-*N*-methylcarbamate
		Sulfur
		Tetrachloroisophthalonitrile
000100–00782	Basus Outdoor Flea Treatment	Ethyl 2-(*p*-phenoxyphenoxy)ethyl carbamate
000100–00809	Fenoxycarb MG2E	Ethyl 2-(*p*-phenoxyphenoxy)ethyl carbamate
000211–00026	Cen O Phen Detergent Germicide	2-Benzyl-4-chlorophenol
		4-tert-Amylphenol
		o-Phenylphenol
000241–00347	Gypchek	Polyhedral inclusion bodies of gypsy moth nucleopolyhedrosis virus
000241 ID–83–0023	Cythion Insecticide the Premium Grade Malathion	*O,O*-Dimethyl phosphorodithioate of diethylmercaptosuccinate
000241 ID–83–0024	Malathion ULV Concentrate Insecticide	*O,O*-Dimethyl phosphorodithioate of diethylmercaptosuccinate
000303–00026	San Pheno X Disinfectant and Deodorant	2-Benzyl-4-chlorophenol
000334–00025	G-822 Mintene Disinfectant	2-Benzyl-4-chlorophenol
000538–00048	Spot Weeder Weed Control	Dimethylamine 3,6-dichloro-*o*-anisate
		Alkanol* amine 2,4-dichlorophenoxyacetate *(salts of the ethanol and
000675–00016	Premeasured Tergisyl Disinfectant Detergent	Potassium 2-benzyl-4-chlorophenate
000675–00024	New-*O*-Syl Disinfectant Detergent	2-Benzyl-4-chlorophenol
		4-tert-Amylphenol
		o-Phenylphenol
000675–00027	Con-*O*-Syl Disinfectant Detergent	2-Benzyl-4-chlorophenol
		o-Phenylphenol
000777–00010	Lysol Brand Disinfectant	2-Benzyl-4-chlorophenol
		o-Phenylphenol
000777–00015	Pine Scent Lysol Brand Disinfectant	2-Benzyl-4-chlorophenol
		Pine oil
000875–00124	Dubois GSC	Sodium 2-benzyl-4-chlorophenate
		Sodium *o*-phenylphenate
		p-tert-Amylphenol, sodium salt
000875–00131	BGC–3 Germicidal Synthetic Cleaner	Sodium 2-benzyl-4-chlorophenate
		Sodium *o*-phenylphenate
		p-tert-Amylphenol, sodium salt
000875–00163	Oxford Bryte-Foam Concentrated, Santizer, Rug and Uphol	Sodium 2-benzyl-4-chlorophenate
		Sodium dodecylbenzenesulfonate
		Sodium lauryl sulfate
001043–00014	Environ-D Phenolic Disinfectant	2-Benzyl-4-chlorophenol
		4-tert-Amylphenol
		o-Phenylphenol
001270–00188	Zepopine-8	Potassium 2-benzyl-4-chlorophenate
		Pine oil
001270–00193	ZEP Formula 165-A	Potassium 2-benzyl-4-chlorophenate
		o-Phenylphenol, potassium salt

TABLE 1. — REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration No.	Product Name	Chemical Name
		p-tert-Amylphenol, potassium salt
001270–00238	ZEP Formula 3387	2-Benzyl-4-chlorophenol
		o-Phenylphenol
001677–00135	KX-5050	2-Benzyl-4-chlorophenol
		o-Phenylphenol
002155–00068	Mint Disinfectant	2-Benzyl-4-chlorophenol
002155–00071	Lemonene	Sodium 2-benzyl-4-chlorophenate
		Sodium *o*-phenylphenate
		p-tert-Amylphenol, sodium salt
002749–00268	2,4-DB Ester Selective Herbicide	Isooctyl 4-(2,4-dichlorophenoxy)butyrate
003125–00035	Nitrox 80 for Manufacturing Use Only	*O,O*-Dimethyl *O*-*p*-nitrophenyl phosphorothioate
004313–00066	Single Phenolic Hospital Disinfectant	2-Benzyl-4-chlorophenol
010807–00090	Super Pine Odor Disinfectant	2-Benzyl-4-chlorophenol
		Pine oil
019713–00234	Methyl Parathion 6E	*O,O*-Dimethyl *O*-*p*-nitrophenyl phosphorothioate
019713–00256	Drexel 7 1/2lbs. Methyl Parathion	*O,O*-Dimethyl *O*-*p*-nitrophenyl phosphorothioate
032802–00006	All Season Crabgrass Preventer Plus 22–3–11 Fertilizer	Dimethyl tetrachloroterephthalate
063281–00001	RTU Phenolic Germicidal Detergent	2-Benzyl-4-chlorophenol
		4-tert-Amylphenol
		o-Phenylphenol
067517–00008	Starlicide Complete	3-Chloro-*p*-toluidine hydrochloride
067517–00022	Lice & Fly Killer-CR	*O,O*-Diethyl*O*-(3-chloro-4-methyl-2-oxo-2*H*-1-benzopyran-7-yl) phosphorothioate

Unless a request is withdrawn by the registrant within 180 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
000016	Dragon Corp., Box 7311, Roanoke, VA 24019.
000100	Novartis Crop Protection, Inc., Box 18300, Greensboro, NC 27419.
000211	Central Solutions, Inc., 3130 Brinkerhoff Rd., Box 15276, Kansas City, KS 66115.
000241	American Cyanamid Co., Agri Research Div - U.S. Regulatory Affair, Box 400, Princeton, NJ 08543.
000303	Huntington Laboratories, Inc., 968–970 E. Tipton St., Huntington, IN 46750.
000334	Hysan Corp., 3000 W. 139th St., Blue Island, IL 60406.
000538	The Scotts Co., 14111 Scottslawn Rd., Marysville, OH 43041.
000675	Reckitt & Colman Inc., 225 Summit Ave, Montvale, NJ 07645.
000777	Household Products Division, Reckitt & Colman Inc., Attn: EPA Regulatory Dept, 225 Summitt Ave, Montvale, NJ 07645.
000875	Diversey Corp., 46701 Commerce Center Dr., Plymouth, MI 48170.
001043	Convatec, A Division of E.R. Squibb & Sons Inc., Box 147, St. Louis, MO 63166.
001270	ZEP Mfg. Co., Box 2015, Atlanta, GA 30301.
001677	Ecolab Inc., 370 Wabasha St., Ecolab Center, St. Paul, MN 55102.
002155	I. Schneid, 1429 Fairmont Ave., N.W., Atlanta, GA 30318.
002749	Aceto Agriculture Chemicals Corp., One Hollow Lane, Lake Success, NY 11042.
003125	Bayer Corp., Agriculture Division, 8400 Hawthorn Rd., Box 4913, Kansas City, MO 64120.
004313	Carroll Co., 2900 W. Kingsley Rd., Garland, TX 75041.
010807	Amrep, Inc., 990 Industrial Dr., Marietta, GA 30062.
019713	Drexel Chemical Co., Box 13327, Memphis, TN 38113.
032802	Howard Johnson's Enterprises Inc., 700 W. Virginia St., Ste 222, Milwaukee, WI 53204.

TABLE 2. — REGISTRANTS REQUESTING VOLUNTARY CANCELLATION—Continued

EPA Company No.	Company Name and Address
063281	RSP Private Label Packaging, 969 E. Tipton St., Huntington, IN 46750.
067517	R. E. Broyles, Agent For: PM Resources Inc., 1401 Hanley Rd., St. Louis, MO 63144.

III. Loss of Active Ingredients

Unless the requests for cancellation are withdrawn, one pesticide active ingredient will no longer appear in any registered products. Those who are concerned about the potential loss of this active ingredient for pesticidal use are encouraged to work directly with the registrant(s) to explore the possibility of withdrawing their request for cancellation. The active ingredient is listed in the following Table 3, with the EPA Company and CAS Number.

TABLE 3. — ACTIVE INGREDIENTS WHICH WOULD DISAPPEAR AS A RESULT OF REGISTRANTS' REQUESTS TO CANCEL

CAS No.	Chemical Name	EPA Company No.
1320–15–6	2,4-DB isooctyl ester	002749

IV. Procedures for Withdrawal of Request

Registrants who choose to withdraw a request for cancellation must submit such withdrawal in writing to James A. Hollins, at the address given above, postmarked before October 20, 1997. This written withdrawal of the request for cancellation will apply only to the applicable 6(f)(1) request listed in this notice. If the product(s) have been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling. The withdrawal request must also include a commitment to pay any reregistration fees due, and to fulfill any applicable unsatisfied data requirements.

V. Provisions for Disposition of Existing Stocks

The effective date of cancellation will be the date of the cancellation order. The orders effecting these requested cancellations will generally permit a registrant to sell or distribute existing stocks for 1 year after the date the cancellation request was received. This policy is in accordance with the Agency's statement of policy as prescribed in **Federal Register** (56 FR 29362) June 26, 1991; [FRL 3846–4]. Exceptions to this general rule will be made if a product poses a risk concern, or is in noncompliance with reregistration requirements, or is subject to a data call-in. In all cases, product-specific disposition dates will be given in the cancellation orders.

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which have been packaged, labeled, and released for shipment prior to the effective date of the cancellation action. Unless the provisions of an earlier order apply, existing stocks already in the hands of dealers or users can be distributed, sold or used legally until they are exhausted, provided that such further sale and use comply with the EPA-approved label and labeling of the affected product(s). Exceptions to these general rules will be made in specific cases when more stringent restrictions on sale, distribution, or use of the products or their ingredients have already been imposed, as in Special Review actions, or where the Agency has identified significant potential risk concerns associated with a particular chemical.

List of Subjects

Environmental protection, Pesticides and pests, Product registrations.

Dated: April 4, 1997.

Linda A. Travers,

Director, Program Management and Support Division, Office of Pesticide Programs.

[FR Doc. 97–10233 Filed 4-22-97; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5815–1]

Proposed Administrative Settlement Under Section 122(h)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act; in Re Wells Metal Finishing Superfund Site; Lowell, Massachusetts

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed agreement for recovery of past response costs.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to enter into a cost recovery settlement agreement to address claims under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 as amended (CERCLA), 42 U.S.C. § 9601 *et seq.* Notice is being published to inform the public of the proposed settlement and of the opportunity to comment. The settlement is intended to resolve the liability under CERCLA of Charles McNamara for costs incurred or to be incurred by EPA in response to the release or threatened release of hazardous substances at the Wells Metal Finishing Site in Lowell, Massachusetts.

DATES: Comments must be provided on or before May 23, 1997.

ADDRESSES: Comments should be addressed to the Docket Clerk, U.S. Environmental Protection Agency, Region I, JFK Federal Building, Mailcode RCH, Boston, Massachusetts, 02203, and should refer to: Agreement for Recovery of Past Response Costs Re: Wells Metal Finishing Superfund Site, Lowell, Massachusetts, US. EPA Docket No. CERCLA I–91–1069.

FOR FURTHER INFORMATION CONTACT: Gregory M. Kennan, U.S. Environmental Protection Agency, JFK Federal Building, Mailcode SEE, Boston, Massachusetts, 02203, (617) 565–3446.

SUPPLEMENTARY INFORMATION: In accordance with the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (CERCLA) 42 U.S.C. § 9601 *et seq.*, notice is hereby given of a proposed cost recovery settlement agreement under Section 122(h)(1) of CERCLA concerning the Wells Metal Finishing Superfund Site in Lowell, MA. The settlement was approved by EPA Region I, subject to review by the public pursuant to this Notice. Charles McNamara (Settling Party) has executed a signature page committing him to participate in the settlement. Under the proposed settlement, the Settling Party shall convey the Site to a good faith purchaser in an arms length transaction no later than one year after the effective date of this Agreement. After the Settling Party has paid the realtor's commission and real estate attorney's fee from the proceeds of the sale of the Site property, the Settling Party shall pay the City of Lowell Massachusetts all

past real property taxes not to exceed $55,160 plus interest; and to pay 100% of the remaining proceeds of the sale to the EPA Hazardous Substance Superfund for the reimbursement of response costs. EPA believes the settlement is fair and in the public interest.

EPA is entering into this agreement under the authority of CERCLA Section 122(h)(1) which provides EPA with authority to consider, compromise, and settle a claim under Section 107 of CERCLA for costs incurred by the United States if the claim has not been referred to the U.S. Department of Justice for further action. The U.S. Department of Justice has given written approval of this settlement. EPA will receive written comments relating to this settlement for thirty (30) days from the date of publication of this Notice.

A copy of the proposed administrative settlement may be obtained in person or by mail from Gregory M. Kennan, U.S. Environmental Protection Agency, JFK Federal Building, Mailcode SEE, Boston, Massachusetts, 02203 (617) 565–3446.

The Agency's response to any comments received will be available for public inspection with the Docket Clerk, U.S. Environmental Protection Agency, Region I JFK Federal Building, Mailcode RCH, Boston, Massachusetts, (U.S. EPA Docket No. CERCLA I–91–1069).

Dated: April 15, 1997.

Richard Cavagnero,

Acting Director, Office of Site Remediation and Restoration.

[FR Doc. 97–10505 Filed 4–22–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–47006; FRL–5712–9]

Conditional Exemptions From TSCA Section 4 Test Rules

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is granting conditional exemptions from Toxic Substances Control Act (TSCA) section 4 Test Rule requirements to certain manufacturers of chemical substances subject to these rules.

DATES: These conditional exemptions are effective on April 23, 1997.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–543B, 401 M St., SW., Washington, DC 20460, (202) 554–1404, TDD (202) 554–0551, e-mail:TSCA-Hotline@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: This notice grants conditional exemptions from TSCA section 4 test rule requirements to all manufacturers of the chemical substances identified below that submitted exemption applications in accordance with 40 CFR 790.80. In each case, EPA has received a letter of intent to conduct the testing from which exemption is sought. Accordingly, the Agency has conditionally approved these exemption applications because the conditions set out in 40 CFR 790.87 have been met. All conditional exemptions thus granted are contingent upon successful completion of testing and submission of data by the test sponsors according to the requirements of the applicable test rule.

If the test requirements are not met and EPA terminates a conditional exemption under 40 CFR 790.93, the Agency will notify each holder of an affected conditional exemption by certified mail or **Federal Register** notice. This conditional approval applies to all manufacturers that submitted exemption applications for testing of the chemical substances named in the final test rules listed below from January 1, 1996 through December 31, 1996. Any application received after December 31, 1996 will be addressed separately.

Testing reimbursement periods have terminated (sunset) for certain chemicals and exemption notices are no longer required for these chemicals. In accordance with 40 CFR 790.80, before the end of the reimbursement period, manufacturers or processors of the test substance who are subject to the requirement, must submit either a letter of intent to test or an exemption application. Reimbursement period as defined in 40 CFR 791.3, refers to a period that begins when the data from the last non-duplicative test to be completed under a test rule is submitted to EPA, and ends after an amount of time equal to that which had been required to develop that data or after 5 years, whichever is later.

Exemption applications that were received by EPA for diethylene glycol butyl ether (CAS No. 112–34–5) were not required at the time they were submitted because the chemical has a completed testing program, the reimbursement period has sunset, and it is no longer subject to TSCA section 4 reporting requirements in accordance with 40 CFR 790.80. Exemption applications received by EPA after the chemical's sunset date would not appear in this notice.

Chemicals	CAS No.	40 CFR Citation	Company
Tributyl phosphate	126–73–8	799.4360	Zeneca Specialities
Isopropanol	67–63–0	799.2325	Spectra Merchandising International, Inc.

As provided in 40 CFR 790.80, processors are not required to apply for an exemption or conduct testing unless EPA so specifies in a test rule or in a special **Federal Register** notice.

Authority: 15 U.S.C. 2601 and 2603.

Dated: April 15, 1997.

Charles M. Auer,

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

[FR Doc. 97–10535 Filed 4–22–97; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collections Being Reviewed by the Federal Communications Commission

April 17, 1997.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this

opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarify of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Persons wishing to comment on this information collection should submit comments on or before June 23, 1997.

ADDRESSES: Direct all comments to Dorothy Conway, Federal Communications Commission, Room 234, 1919 M St., N.W., Washington, DC 20554 or via internet to dconway@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Dorothy Conway at 202–418–0217 or via internet at dconway@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval No.: None-(3060–XXXX).

Title: Second Report and Order, Toll Free Service Access Codes, CC Docket No. 95–155.

Type of Review: New Collection.

Respondents: Business or other for-profit.

Number of Respondents: 168.

Estimate Hour Per Response: 1 hour.

Frequency of Response: Approximately 15 requests per year per respondent.

Total Annual Burden: 2,250 hours.

Needs and Uses: RespOrgs requesting that specific toll free numbers be placed in unavailable status will be required to submit written requests, with appropriate documentation, to the toll free database administrator, Database Services Management, Inc. (DSMI). This requirement will hold those RespOrgs more accountable and will decrease abuses of the lag time process. It will prevent numbers from being held in unavailable status without demonstrated reasons, and will make more numbers available for subscribers who need and want them. DSMI (and, if necessary, the Common Carrier Bureau) will continue to use the information collected to determine if a particular toll free number appropriately can be placed in ''unavailable'' status. This will prevent the fraudulent use of toll free numbers.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–10493 Filed 4–22–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collections Submitted to OMB for Review and Approval

April 16, 1997.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commissions burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before May 23, 1997. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Dorothy Conway, Federal Communications Commission, Room 234, 1919 M St., N.W., Washington, DC 20554 or via internet to dconway@fcc.gov and Timothy Fain, OMB Desk Officer, 10236 NEOB 725 17th Street, N.W., Washington, DC 20503 or fain__t@a1.eop.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Dorothy Conway at 202–418–0217 or via internet at dconway@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval Number: 3060–0049.

Title: Restricted Radiotelephone Operator Permit.

Form No.: FCC Form 753.

Type of Review: Revision of a currently approved information collection.

Respondents: Individuals or households.

Number of Respondents: 19,000.

Estimated Time Per Response: 20 minutes.

Total Annual Burden: 6,270 hours.

Total Costs to all Respondents: $540,000. $45 filing for each new or replacement license for commercial use.

Needs and Uses: The data collected on the FCC form 753 is used to determine the qualifications of a Restricted Radiotelephone Operator applicant. The form is required by FCC Rules 47 CFR Part 13 and 1.83. The data will be used to identify the individuals to whom the license is issued. The form is being revised to include a space for the applicant to provide an internet address, as well as a Social Security Number. The Commission is required to collect an SSN to comply with the Debt Collection Improvement Act of 1996.

OMB Approval Number: 3060–0141.

Title: Application for Renewal of Private Operational Fixed Microwave Radio Station License.

Form No.: FCC Form 402R.

Type of Review: Revision of a currently approved information collection.

Respondents: Individuals or households; Business or other for-profit; Not-for-profit institutions; State, Local or Tribal Government.

Number of Respondents: 4,000.

Estimated Time Per Response: 20 minutes.

Total Annual Burden: 1,320 hours.

Total Costs to all Respondents: $900,000. $225 filing for each applicant.

Needs and Uses: In accordance with FCC Rules Microwave radio station licensees are required to apply for renewal of their radio station

authorization every 5 years. The data is being used to determine eligibility for a renewed authorization and by Compliance personnel in conjunction for field enforcement purposes. The form is being revised to include a space for the applicant to provide an internet address, as well as a Social Security Number. The Commission is required to collect an SSN to comply with the Debt Collection Improvement Act of 1996.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–10492 Filed 4–22–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collections Submitted to OMB for Emergency Review and Approval by the Federal Communications Commission

April 16, 1997.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden, invites the general public and other Federal agencies to take this opportunity to comment on the following emergency information collection, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; and ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. The Commission is seeking emergency approval for this information collection by May 4, 1997, under the provisions of 5 CFR 1320.13.

DATES: Persons wishing to comment on this information collection should submit comments by May 4, 1997.

ADDRESSES: Direct all comments to Dorothy Conway, Federal Communications Commission, Room 234, 1919 M St., NW., Washington, DC 20554 or via Internet to dconway@fcc.gov and Timothy Fain, OMB Desk Officer, 10236 NEOB 725 17th Street, N.W., Washington, DC 20503 or fain—t@a1.eop.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Dorothy Conway at 202–418–0217 or via Internet at dconway@ fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval Number: New Collection.

Title: Auction Forms and License Transfer Disclosures—Supplement for the Second Report and Order, Order on Reconsideration, and Fifth Notice of Proposed Rulemaking in CC Docket No. 92–297.

Type of Review: Emergency Collection.

Respondents: Businesses or other for-profit entities.

Category	Number of respondents	Estimated time for response
Ownership and Gross Revenues Information.	4,000	4 hours.
Disclosure of Terms of Joint Bidding Agreements.	4,000	.5 hours.
Maintaining Ownership and Gross Revenues Information.	3,000	4 hours/year.
Transfer Disclosures.	4,000	.5 hours.

Total Annual Burden: 69,500 hours.

Total Cost to Respondents: $4,157,700.

Needs and Uses: The ownership, gross revenues and joint bidding agreement information portions of this collection will be used by the Commission to determine whether the applicant is legally, technically and financially qualified to be a licensee. Without such information, the Commission could not determine whether to issue the licenses to the applicants that provide telecommunications, multi-channel video programming distribution and other communications services to the public and therefore fulfill its statutory responsibilities in accordance with the Communications Act of 1934, as amended. The information will also be used to ensure the market integrity of future auctions. Likewise, the information collected in connection with Section 1.2111 (a) of the Commission's rules, 47 C.F.R. 1.2111(a) (transfer disclosures), will be used to maintain the market integrity of future auctions and prevent unjust enrichment.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–10496 Filed 4–22–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Hearing Designation Order, Order To Show Cause and Notice of Opportunity for Hearing

The Commission has before it for consideration the following matter:

Licensee	City/State	MM docket No.
Gerard A. Turro Monticello Mountaintop Broadcasting, Inc..	Fort Lee, NJ, Pomona, NY Monticello, NY	97–122

(Regarding the renewal applications for W276AQ and W232AL)

Pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications of Gerard A. Turro for renewal of licenses of Radio Stations W276AQ and W232AL have been designated for hearing upon the following issues:

1. To determine whether Gerard A. Turro's operation of translator stations W276AQ(FM), Fort Lee, New Jersey, and W232AL(FM), Pomona, New York, violated Sections 74.531(c) and 74.1231(b) of the Commission's Rules with respect to the operation of translator stations.

2. To determine whether Gerard A. Turro engaged in an unauthorized transfer of control, or otherwise exercised and/or continues to exercise de facto control over WJUX(FM), Monticello, New York, in violation of Section 310(d) of the Communications Act of 1934, as amended, and Section 73.3540(a) of the Commission's Rules.

3. To determine whether Gerard A. Turro misrepresented and/or lacked candor to the Commission concerning the operation of translator stations W276AQ(FM), Fort Lee, New Jersey, and W232AL(FM), Pomona, New York.

4. To determine whether, in light of the evidence adduced under the foregoing issues, the public interest will

be served by the grant of the above-captioned renewal applications filed by Gerard A. Turro.

(Regarding the construction permit for WJUX(FM))

Pursuant to Section 312(a)(2) of the Communications Act of 1934, as amended, Monticello Mountaintop Broadcasting, Inc. IS DIRECTED TO SHOW CAUSE why the construction permit for Radio Station WJUX(FM) should not be REVOKED, at a hearing to be held at a time and location specified in a subsequent Order, upon the following issues:

5. To determine whether Monticello Mountaintop Broadcasting, Inc. has violated and/or continues to violate Sections 73.1120 and 73.1125(a) and (c) of the Commission's Rules with respect to the maintenance of a main studio for Station WJUX(FM), Monticello, New York.

6. To determine whether Monticello Mountaintop Broadcasting, Inc., engaged in an unauthorized transfer of control or otherwise abdicated control of Station WJUX(FM), Monticello, New York, to Gerard A. Turro or an affiliated entity in violation of Section 310(d) of the Communications Act of 1934, as amended, and Section 73.3540(a) of the Commission's Rules.

7. To determine whether Monticello Mountaintop Broadcasting, Inc. and/or its agents misrepresented and/or lacked candor to the Commission concerning the operation of Station WJUX(FM), Monticello, New York.

8. To determine whether, in light of the evidence adduced under the foregoing issues, Monticello Mountaintop Broadcasting, Inc. possesses the requisite qualifications to be or remain a Commission broadcast permittee.

A copy of the complete Hearing Designation Order, Order to Show Cause, and Notice of Opportunity for Hearing in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 320), 1919 M Street, N.W., Washington, D.C. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Service, 2100 M Street, N.W., Suite 140, Washington, D.C. 20037 (telephone number 202–857–3800).

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–10491 Filed 4–22–97; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1176–DR]

Arkansas; 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 Arkansas, (FEMA–1176–DR), dated April 14, 1997, and related determinations.

EFFECTIVE DATE: April 15, 1997.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Arkansas, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of April 14, 1997:

The counties of Bradley, Cleveland, Dallas, Drew, Greene, Izard, Jackson, Jefferson, Lafayette, Lincoln, Lonoke, Monroe, Montgomery, St. Francis, Stone, Union and Van Buren for Public Assistance and Hazard Mitigation.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Dennis H. Kwiatkowski,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 97–10518 Filed 4–22–97; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1176–DR]

Arkansas; 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 Arkansas (FEMA–1176–DR), dated April 14, 1997, and continuing and related determinations.

EFFECTIVE DATE: April 14, 1997.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated April 14, 1997, 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 Arkansas, resulting from severe storms and flooding on April 4, 1997, 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 Arkansas.

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, Public Assistance, and Hazard Mitigation in the designated areas. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance or Hazard Mitigation 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 Graham Nance 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 Arkansas to have been affected adversely by this declared major disaster:

Ouachita County for Individual Assistance.

The counties of Cleburne, Columbia, Grant, Ouachita and Sharp for Public Assistance and Hazard Mitigation.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

James L. Witt,

Director.

[FR Doc. 97–10519 Filed 4–22–97; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1165–DR]

Indiana; 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 Indiana, (FEMA–1165–DR), dated March 6 1997, and related determinations.

EFFECTIVE DATE: April 14, 1997.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Indiana, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of March 6, 1997:

Vanderburgh and Warrick Counties for Categories C through G under the Public Assistance program (already designated for Individual Assistance, Hazard Mitigation, and Categories A and B under the Public Assistance program).

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Dennis H. Kwiatkowski,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 97–10521 Filed 4–22–97; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1175–DR]

Minnesota; 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 Minnesota, (FEMA–1175–DR), dated April 8, 1997, and related determinations.

EFFECTIVE DATE: April 15, 1997.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Minnesota, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of April 8, 1997:

The counties of Aitkin, Anoka, Becker, Blue Earth, Carver, Dakota, Goodhue, Grant, Hennepin, Houston, Kandiyohi, Lake of the Woods, Le Sueur, Lincoln, Mahnomen, Morrison, Nicollet, Ramsey, Redwood, Renville, Scott, Sibley, Stevens, Wabasha, and Winona for Individual Assistance, Categories A and B under the Public Assistance program and Hazard Mitigation.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Dennis H. Kwiatkowski,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 97–10520 Filed 4–22–97; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

[Docket No. AS96–1]

Appraisal Subcommittee; Appraisal Policy; Temporary Practice and Reciprocity

AGENCY: Appraisal Subcommittee, Federal Financial Institutions Examination Council.

ACTION: Adoption of amended policy statements.

SUMMARY: The Appraisal Subcommittee (''ASC'') of the Federal Financial Institutions Examination Council is amending Statements 5 and 6 of the ASC's August 4, 1993*Policy Statements Regarding State Certification and Licensing of Real Estate Appraisers* which, respectively, discussed temporary practice and reciprocity. Amended Statements 5 and 6 implement section 315 of the Riegle Community Development and Regulatory Improvement Act of 1994 (''CDRIA'').

EFFECTIVE DATE: Immediately.

FOR FURTHER INFORMATION CONTACT: Ben Henson, Executive Director, or Marc L. Weinberg, General Counsel, at (202) 634–6520, via Internet e-mail at benh1@asc.gov and marcw1@asc.gov, respectively, or by U.S. Mail at Appraisal Subcommittee, 2100 Pennsylvania Avenue, N.W., Suite 200, Washington, D.C. 20037.

SUPPLEMENTARY INFORMATION:

I. Statutory basis

Since January 1, 1993, Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (''Title XI''), as amended,[1] has required all federally regulated financial institutions to use State licensed or certified real estate appraisers, as appropriate, to perform appraisals in federally related transactions.*See* § 1119(a) of Title XI, 12 U.S.C. 3348(a). In response to Title XI, each State, territory and the District of Columbia (''State'') has established a regulatory program for certifying, licensing and supervising real estate appraisers. In turn, the ASC has been monitoring State programs to ensure their compliance with Title XI.

While Title XI authorizes each State to certify, license and supervise real estate appraisers within its jurisdiction, the Title also provides a means for appraisers licensed or certified in one State to practice on a temporary basis in another State. Section 1122(a)(1) of Title XI, 12 U.S.C. 3351(a)(1), specifically requires ''[a] State appraiser certifying or licensing agency [(''State agency'') to] recognize on a temporary basis the certification or license of an appraiser issued by another State if—(A) the property to be appraised is part of a federally related transaction, (B) the appraiser's business is of a temporary nature, and (C) the appraiser registers with the appraiser certifying or licensing agency in the State of temporary practice.''

Reciprocity provides appraisers certified or licensed in one State with a means to practice in another State on a permanent basis. While Title XI, until recently, did not specifically mention reciprocity, the ASC encouraged States to enter into reciprocal appraiser licensing and certification agreements and arrangements.

In September 1994, Section 315 of CDRIA, Pub. L. 103–325, 108 Stat. 2160, 2222 (1994), amended Section 1122(a) of Title XI by adding new subparagraph (2) (12 U.S.C. 3351(a)(2)) pertaining to temporary practice and new paragraph (b) (12 U.S.C. 3351(b)) regarding reciprocity:

(2) *Fees for temporary practice.* A State appraiser certifying or licensing agency shall not impose excessive fees or burdensome requirements, as determined by the Appraisal Subcommittee, for temporary practice under this subsection.

* * * * *

(b) *Reciprocity.* The Appraisal Subcommittee shall encourage the States to develop reciprocity agreements that readily authorize appraisers who are licensed or certified in one State (and who are in good standing with their State appraiser certifying or licensing agency) to perform appraisals in other States.

The Senate Report to accompany S. 1275, issued on October 28, 1994, by the

[1] Pub. L. 101–73, 103 Stat. 183 (1989), as amended by Pub. L. 102–233, 105 Stat. 1792 (1991), Pub. L. 102–242, 105 Stat. 2386 (1991), Pub. L. 102–550, 106 Stat. 3672 (1992), Pub. L. 102–485, 106 Stat. 2771 (1992), Pub. L. 103–325, 108 Stat. 2222 (1994); and Pub. L. 104–208, 110 Stat. 2009 (1996).

Senate Committee on Banking, Housing, and Urban Affairs, said:

The Committee's intent is to enable qualified appraisers to practice in a number of States without anticompetitive restrictions. S. Rep. No. 103–169, 103d Cong., 2d Sess. 53 (1994), *reprinted in* 1994 U.S. Code Cong. & Admin. News 1937.

Using this statement and the wording of the amendments, we can define the ambiguous terms, ''excessive fees'' or ''burdensome requirements,'' in new § 1122(a)(2) and can interpret how they fit into the ASC's existing enforcement powers in Title XI. We also may determine the meaning and application of new paragraph (b) regarding reciprocity. The paragraph's language, however, limits the ASC's range of interpretation because it only requires us to ''encourage'' the States to develop reciprocity agreements.

II. Prior ASC Implementation Actions

A. The September 1995 Notice Soliciting Comment

On September 12, 1995, the ASC published a notice in the **Federal Register** soliciting public comments on how it should implement § 315 of CDRIA. *See* 60 FR 47365. This notice, among other things, described Statements 5 and 6 of the ASC's August 4, 1993 *Policy Statements Regarding State Certification and Licensing of Real Estate Appraisers* (''1993 Policies''), which respectively discussed temporary practice and reciprocity, described the then-current status of temporary practice and reciprocity and presented several alternatives for discussion and comment. Temporary practice and reciprocity alternatives included the ''universal drivers license.'' For details regarding the alternatives, *see* 60 FR 47365 (September 12, 1995). We additionally requested comments on all aspects of implementing the new legislation and welcomed variations or combinations of the discussed alternatives or other alternatives. Finally, we asked the following questions.

(1) In your view, what are the most serious impediments to temporary practice or reciprocity? Please provide your best estimates of their costs in time and money, if possible.

(2) Do you believe that these impediments warrant ASC action?

(3) Are any of the alternatives presented * * * especially well suited to removing the impediments, and what are your reasons for your choice?

(4) Do other alternatives exist? If so, please describe them.

We received 46 comment letters in response to the Notice: 24 from individual appraisers; eight from trade associations; six from State agencies; five from financial institutions; two from individual real estate professionals; and one from a Federal agency.

The commenters agreed that serious impediments to temporary practice and reciprocity exist, and that those impediments warrant our action. In connection with temporary practice, the comments noted that the most significant impediments were: the need for an out-of-State appraiser to obtain, and pay for, a ''letter of good standing''; the need for States to obtain from out-of-State appraisers signed consent to local service forms; short time limits on the length of permits; the inability to receive extensions of time on permits; the granting of permits on a per property or time basis, rather than on a per assignment basis; and a general ''protectionist'' attitude on the part of some State agencies. Respecting reciprocity, the commenters pointed to the widespread lack of uniformity in State agency-approved education courses for initial certification or licensing and for continuing education purposes and the significant length of time often needed by States to process applications for certification or licensing by reciprocity.

Most commenters supported adoption of the drivers license approach to temporary practice and reciprocity. Adopting this approach, however, would necessarily require us to pre-empt conflicting State statutes, regulations and practices. We concluded that pre-emption would be inappropriate.

B. The October 21, 1996 Proposed Policy Statement (''Proposal'')

The ASC published for public comment a proposed policy statement entitled, *Policy Statement Respecting Temporary Practice and Reciprocity*, in the October 21, 1996 edition of the **Federal Register** (61 FR 54645). In connection with temporary practice, the Proposal stated that we may consider the following fees, acts and practices of the State of temporary practice to be ''excessive fees'' or ''burdensome requirements'' under § 1122(b)(2) of Title XI (12 U.S.C. 3351(b)):

- Prohibiting temporary practice;
- Requiring temporary practitioners to obtain a permanent certification or license in the State of temporary practice;
- Taking more than five business days to issue a temporary practice permit (if issuance is required under State law) or to provide effective notice to the out-of-State appraiser regarding his or her temporary practice request;
- Requiring out-of-State appraisers requesting temporary practice to satisfy the host State's appraiser qualification requirements for certification which exceed the minimum required criteria for certification adopted by the Appraiser Qualifications Board (''AQB'');
- Imposing a time frame on out-of-State certified appraisers to complete an appraisal assignment in a federally related transaction;
- Limiting out-of-State certified appraisers to a single temporary practice permit per calendar year;
- Requiring temporary practitioners to affiliate with an in-State certified or licensed appraiser;
- Failing to take regulatory responsibility for a visiting appraiser's unethical, incompetent or fraudulent practices performed while within the State; and
- Charging temporary practice fees that impede temporary practice. The ASC will consider fees of $150 or less as reasonable. The ASC may ask State agencies to justify temporary practice fees.

We also stated that we may consider fees, acts and practices of the certified or licensed appraiser's home State to be ''excessive fees'' or ''burdensome requirements'' if the home State delays, or otherwise impedes, an appraiser from obtaining a temporary practice permit in another State. For example, the practice of delaying the issuance of a written ''letter of good standing'' or similar document for more than five business days after the home State agency's receipt of the related request could be a ''burdensome requirement.''

Finally, we indicated that the above listing would not be exclusive. The ASC may find other excessive fees or burdensome practices while performing its State agency monitoring functions.

To help avoid such an occurrence, we presented for discussion a ''post card'' temporary practice registration form which would: (1) identify the appraiser requesting temporary practice; (2) provide the starting date the appraiser will be ''in-State''; (3) obtain affirmations that the appraiser currently is not subject to any appraiser certification or licensure disciplinary proceeding in any State, and that his or her license or certificate is fully valid; and (4) obtain the appraiser's consent to service in the State of temporary practice. For details, *see* 61 FR at 54647.

Regarding reciprocity, we noted that, pursuant to § 1122(b) of Title XI, 12 U.S.C. 3347(b), each State should work expeditiously and conscientiously with

other States with a view toward satisfying the purposes of the statutory language. We stated our intention to monitor each State's progress and encourage States to work out issues and difficulties whenever appropriate. We also specifically encouraged States to enter into reciprocal agreements that, at a minimum, contain the following features:

- Accomplish reciprocity with at least all contiguous States. For States not sharing geographically contiguous borders with any other State, such as Alaska and Hawaii, those States should enter into reciprocity agreements with States that certify or license appraisers who perform a significant number of appraisals in the non-contiguous States;
- Eliminate the use of letters of good standing or similar documents;
- Readily accept other States' certifications and licenses without reexamining applicants' underlying education and experience, provided that the other State: (1) has appraiser qualification criteria that meet the minimum standards for certification and licensure as adopted by the AQB; and (2) uses appraiser certification or licensing examinations that are AQB endorsed;
- Eliminate retesting, provided that the applicant has passed the appropriate AQB-endorsed appraiser certification and licensing examinations in the appraiser's home State;
- Recognize and accept successfully completed continuing education courses taken to qualify for license or certification renewal in the appraiser's home State; and
- Establish reciprocal licensing or certification fees identical in amount to the corresponding fees for in-State appraisers.

We stated that, if adopted, the Proposal would amend and supersede our earlier guidance respecting temporary practice and reciprocity in ''Policy Statements 5 and 6 of the 1993 Policies.''

III. Analysis of Comments Received

Twenty-four comments were received from ten individual States agencies; an association of State agencies; two individual real estate appraisers; two appraiser professional associations; four individual financial institutions; one financial institutions trade association; one national accounting firm; and three individual appraisers from one Federal agency.

All commenters agreed in principle with the overall goals of Title XI to remove excessive temporary practice fees and burdensome requirements and to encourage reciprocity. Indeed, no one disagreed that the following were burdens on temporary practice: prohibiting temporary practice; requiring temporary practitioners to obtain a permanent certification or license in the State of temporary practice; requiring temporary practitioners to affiliate with an in-State certified or licensed appraiser; limiting out-of-State certified appraisers to a single temporary practice permit per calendar year; and failing to take regulatory responsibility for a visiting appraiser's unethical, incompetent or fraudulent practices performed while within the State. In addition, the commenters agreed with our proposals to encourage reciprocity, except with respect to the proposal to eliminate the use of letters of good standing or similar documents, as discussed below.

The commenters fell into two broad camps. The State agencies emphasized their duties to protect the public from illegal fraudulent and negligent professional practitioners and argued for more flexibility in administering their temporary practice and reciprocity programs. On the other hand, financial institutions, their trade associations, the appraisers and their professional organizations and the other commenters generally desired the removal of all State restrictions on temporary practice and reciprocity. Most stated their continuing support of the drivers license approach, even though we clearly rejected that alternative in the Proposal.

A. Proposal to Eliminate the Use of Letters of Good Standing

Commenters clearly stated their opinion that the use of letters of good standing or similar documents must be allowed for reciprocity purposes, at least until we provide State agencies, financial institutions and other interested members of the public with an easy, reliable method of verifying State certification and licensure, such as placing the ASC's National Registry of State Certified and Licensed Appraisers (''Registry'') on the Internet. The State agencies noted their responsibility to protect the public by insuring that appraisers with suspended or revoked licenses, or who have been disciplined in other States, are not permitted to cross State lines and continue to practice. Therefore, the proposal to eliminate letters of good standing for reciprocity purposes is being dropped from immediate consideration. The ASC currently is working towards placing the Registry on the Internet. Once that is accomplished, we will revisit this issue.

B. ''Postcard'' Temporary Practice Registration Procedure

State agency commenters unanimously opposed the suggested postcard temporary practice registration procedure. They noted that such a procedure will result in administrative difficulties and would be a major obstacle to taking regulatory responsibility for visiting certified or licensed appraisers. The self-affirmation aspect of the suggested procedure would be especially troublesome because appraisers who are currently the subject of disciplinary action would not be the best source of information concerning their certification or licensure status. Upon further consideration, we agree with the commenters and withdraw our suggestion.

C. Taking More Than Five Business Days to Issue a Temporary Practice Permit or to Provide Effective Notice to the Out-of-State Appraiser Regarding His or Her Temporary Practice Request

Most of the State agencies commented that five business days would seem to be an acceptable time frame for processing temporary practice requests. Many of those commenters noted, however, that the time frame should start running only after the requesting appraiser has completed the submission of his or her paperwork to the State agency. We agree with these comments and have modified the adopted policy accordingly.

One State agency noted that it probably could not meet such a short processing deadline in all cases because of limited staff resources and the State law requirement that it check every request for a license or permit against another in-State department's database of persons failing to make child support payments. The commenter suggested that we analyze each State's temporary practice processing times, determine medians and 95% probability intervals nationwide and target States whose response times fall outside of the 95% range.

We remind State agencies that the five-day processing time period is a policy, *i.e.*, a guideline for measuring compliance; it is not law. We will be applying this policy, as well as the others, in a flexible manner, taking into consideration all pertinent facts. For example, if a State agency receives a complete request for a temporary practice permit and makes a good faith effort to process the request within five business days, but cannot because of a delay resulting from the need to comply with other provisions of State law, then we would view the State agency in

substantial compliance with the five business day processing policy. The State agency also will need to take appropriate steps to inform the requesting appraiser about the delay and to provide the appraiser with a realistic estimate of when processing will be completed.

D. Imposing a Time Frame on Out-of-State Certified Appraisers to Complete an Appraisal Assignment in a Federally Related Transaction

Several commenters did not understand why setting a deadline for completing an appraisal assignment would be burdensome because most assignments are completed in less than a month. They indicated that, to regulate appraisers effectively, State agencies must have the flexibility to set their own policies concerning temporary practice either using realistic time limits or by the listing of appraisal assignments or properties.

We agree in part with this statement in that States must have the flexibility to set their own policies concerning temporary practice. And, we understand State agencies' concerns about administering and justifying to resident appraisers a temporary practice program which issues temporary practice permits for an indefinite duration. On the other hand, the need for State agency flexibility is offset by Title XI, which not only created the right to temporary practice, but also required the ASC to ensure that the right to temporary practice not be unreasonably hindered by excessive fees or burdensome requirements.

We have learned through our State agency oversight program that many State agencies limit the time frame of their temporary practice permits and provide temporary practitioners with a method of extending permit periods. We have not objected to these features, provided that the period limitation is not less than six-months and the method of extending a permit's time frame is easy. We, therefore, are adopting policy language consistent with these comments. The new policy prohibits State agencies from limiting temporary practice permits to less than six months. It also prohibits State agencies from failing to provide temporary practitioners with at least one extension of time, sufficient to complete the assignment, which will be effective upon receipt of a written request by the State agency, provided that the request includes the appraiser's reasons for the extension.

The new policy does not conflict with our previous policies regarding the meaning of the terms, ''temporary'' and ''assignment,'' as used in Title XI. In industry practice, an assignment means a contractual obligation to appraise one or more specific parcels of real estate. And, an assignment, by its very nature, is of finite duration and, therefore, ''temporary.'' Therefore, even if a temporary practice permit is valid for six months after issuance, its validity ends when the assignment is completed or at the end of the six month period (including any extension period), whichever occurs first.

We also recognize that, at some point, an appraiser may be abusing his or her right to temporary practice to the detriment of the State agency's ability to regulate its appraiser population effectively and fairly. For example, a State agency could determine that an assignment to appraise all commercial properties within a county or other significant political subdivision within the State could be an abusive practice and refuse to issue a temporary practice permit to the requesting appraiser. In this case, a State agency could determine that the proposed appraisal activity does not qualify as ''temporary,'' as that term is commonly understood and used in Title XI.

E. Requiring Out-of-State Appraisers Requesting Temporary Practice to Satisfy Host State Appraiser Qualification Requirements for Certification That Exceed AQB Qualification Criteria

Some commenters recommended that out-of-State appraisers seeking to exercise their temporary practice rights should be treated in exactly the same manner as resident appraisers, and, if the State has adopted higher minimum requirements for appraiser licensing or certification, then the out-of-State appraisers should meet the State's higher requirements. Any other result would be unfair to the State's resident appraisers.

While we understand the commenters' concerns, we disagree. Title XI's specific right to temporary practice for all certified or licensed appraisers when performing appraisals in connection with federally related transactions was intended by Congress to ensure that users of appraisal services have quick access to needed appraisal expertise, even if the expert is located out-of-State. Title XI's temporary practice provision struck a balance between the desirability of maintaining a free flow of appraisal expertise across State lines and the legitimate need for State appraiser regulators to oversee appraisal activity within their respective States. To require out-of-State appraisers requesting temporary practice to comply with unique State qualification requirements clearly would be inconsistent with the intent of Congress.

F. Failing To Take Regulatory Responsibility for A Visiting Appraiser's Unethical, Incompetent or Fraudulent Practices Performed While Within the State

Two comments were received regarding this proposal. The first commenter noted that it was not aware of any instance where a host State failed to take appropriate action and suggested that we initiate Federal legislation to provide for Federal investigation and prosecution. The commenter also stated that investigatory and disciplinary actions that can be taken in temporary practice situations are limited.

In exercising its oversight responsibility over State agencies, the ASC has become aware of instances where host States either failed to take regulatory responsibility for the actions of temporary practitioners or were confused about their regulatory obligations in those circumstances. In response, we issued Statement 10: Enforcement in our 1993 Policies. This policy, in part, stated that the State agency in the State of temporary practice needs to follow up on any complaints regarding the temporary practicing appraiser's appraisal activities within the State. If appropriate, the host State agency should begin a disciplinary proceeding against the appraiser for violations occurring in its jurisdiction and should not just forward the complaint for follow up to the State agency in the appraiser's home State. We also stated our expectations that the home State agency would honor the findings and judgment of the State agency in the State of temporary practice and would take appropriate disciplinary action against the appraiser.

We understand that the State of temporary practice is somewhat limited in responding to unlawful activity of temporary practitioners. We continue to expect that the appraiser's home State agency will grant full faith and credit to any findings and orders from disciplinary proceedings in the host State and will take appropriate action.

The second commenter suggested adding language to further clarify State agency regulatory obligations. The new language would require a host State agency to forward copies of available evidence and disciplinary actions against a visiting appraiser acting under a temporary practice permit to the appraiser's home State agency and would require the home State agency to

take appropriate disciplinary action when one of its certified or licensed appraisers are disciplined by another State for improper practice under a temporary practice permit. We agree that these clarifications will assist users of appraisal services, State agencies and appraisers by spelling out the roles of each State agency in cases of shared interests. Therefore, we are adopting them.

G. Charging Temporary Practice Fees That Impede Temporary Practice

The ASC will consider fees of $150 or less as reasonable. The ASC may ask State agencies to justify temporary practice fees.

We received three comments regarding temporary practice fees. The first commenter suggested that temporary practitioners should compensate the State agency on the same basis as the in-State appraisers. The commenter saw no reason why an appraiser should work from three months to a year within a State, cause the State to incur processing and monitoring costs, and possibly responding to complaints, without paying their fair share of fees. In sum, in-State appraisers should not subsidize out-of-State temporary appraisers. The second commenter noted that $150 is little enough to begin an investigation and falls far short of paying the investigator, let alone fees for an expert witness and prosecuting attorney. The commenter concluded that the temporary practice fee should be no less than the fee paid by resident appraisers. The final commenter suggested changes in the policy's wording which did not significantly affect the policy's substance.

We agree that temporary practitioners should be required to pay a fair fee to exercise their temporary practice rights, and that the fee generally should be based on costs. We believe, however, that, as discussed above, temporary practitioners have special status under Title XI which requires them to be treated somewhat differently than home State appraisers. Provided that an appraiser's certificate or license is in good standing in his or her home State and the appraiser pays the appropriate fee, a host State agency essentially is required by Title XI to issue the temporary practice permit. The State agency does not review the appraiser's appraisal education or experience, and no significant staff resources are expended.

In addition, we disagree with the commenter's statements regarding relative compliance costs. Temporary practitioners are within the State for a relatively short amount of time and are authorized to perform only a limited number of appraisal assignments. In addition, we understand that the number of appraisals performed by out-of-State certified and licensed appraisers under temporary practice permits is very small when compared to the number of appraisals performed by resident State certified and licensed appraisers. To force temporary practitioners to share a State agency's costs on the same basis as resident appraisers, in all likelihood, would cause temporary practice fees to jump to prohibitory levels, which would be unacceptable under Title XI. And, while a $150 or less temporary practice fee will do little to offset the costs of taking disciplinary action against a temporary practitioner, the same would be true, perhaps to a slightly lesser degree, with respect to application and renewal fees submitted by resident appraisers. In the end, because every State must provide the right to temporary practice and must comply with Title XI compliance requirements, temporary practice compliance costs should even out.

We note that the proposed policy essentially incorporated an existing ASC policy that has been applied consistently during the ASC's State agency on-site review program. In numerous field review letters to State agencies during the last three years, we have noted when States were charging $100 or more for a temporary practice permit and have requested them to justify the fee level. We are increasing this threshold to over $150, on the basis of empirical data gathered in our State agency oversight program.

We, therefore, are adopting the policy as proposed.

IV. Form of Policy Amendments

Rather than issuing a separate, new policy statement, both amending and superseding Policy Statements 5 and 6 of the 1993 Policies, we decided to restate and amend Statements 5 and 6. Retaining the original format and keeping all ASC guidance regarding temporary practice and reciprocity in one place should facilitate the readability and comprehension of the amended policies.

V. Effective Date

We are adopting amended Statements 5 and 6 effective immediately. We, however, recognize that a number of States and their State agencies may require additional time to comply with them. The ASC expects those States and State agencies to attain full compliance within one year from the date this document is published in the **Federal Register**. If a State or State agency believes that it cannot meet this deadline, it must notify the ASC immediately. The notification must be in writing and must include the specific reasons for the request, the period of time requested and a definitive plan to accomplish compliance within the requested extension period. We will consider each request on a case-by-case basis.

VI. Conclusion

On the basis of the foregoing, the ASC adopts the *Amended Policy Statements Respecting Temporary Practice and Reciprocity*, attached as Appendix A, to be effective immediately, subject to the conditions discussed above.

Dated: April 16, 1997.

By the Appraisal Subcommittee.

Herbert S. Yolles,

Chairman.

Appendix A—Amended Policy Statements Respecting Temporary Practice and Reciprocity

April 23, 1997.

This document amends Appraisal Subcommittee (''ASC'') Policy Statements 5 and 6, which the ASC adopted in August 1993. The changes to these Policy Statements implement amendments to Section 1122(a) of Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989. The amendments added subparagraph (2) (12 U.S.C. 3351(a)(2)) pertaining to temporary practice and paragraph (b) (12 U.S.C. 3351(b)) regrading reciprocity, which state:

(2) *Fees for temporary practice.* A State appraiser certifying or licensing agency shall not impose excessive fees or burdensome requirements, as determined by the Appraisal Subcommittee, for temporary practice under this subsection.

* * * * *

(b) *Reciprocity.* The Appraisal Subcommittee shall encourage the States to develop reciprocity agreements that readily authorize appraisers who are licensed or certified in one State (and who are in good standing with their State appraiser certifying or licensing agency) to perform appraisals in other States.

Policy Statements 5 and 6, as amended, follow:

Statement 5: Temporary Practice

Title XI requires a State agency to recognize on a temporary basis the certification or license of an appraiser from another State provided: (1) The property to be appraised is part of a

federally related transaction; (2) the appraiser's business is of a temporary nature; and (3) the appraiser registers with the State appraiser regulatory agency in the State of temporary practice. Thus, a certified or licensed appraiser from State A, who has an assignment concerning a federally related transaction in State B, has a statutory right to enter State B, register with the State agency in State B and perform the assignment. Title XI does not require State B to offer temporary practice to persons who are not certified or licensed appraisers, including appraiser assistants not under the direct supervision of an appraiser certified or licensed in State A. An out-of-State certified or licensed appraiser should register for temporary practice before beginning to perform an appraisal assignment in connection with a federally related transaction.

The ASC believes the ''temporary'' is best measured by one or more specific appraisal assignments. For temporary practice purposes, the ASC regards the term ''assignment'' as meaning one or more real estate appraisals and written appraisal reports which are covered by a contract to provide an appraisal.

Title XI also states that a State appraiser certifying or licensing agency shall not impose excessive fees or burdensome requirements, as determined by the ASC, for temporary practice. The ASC considers the following fees, acts and practices of the State of temporary practice to be ''excessive fees'' or ''burdensome requirements'':

- Prohibiting temporary practice;
- Requiring temporary practitioners to obtain a permanent certification or license in the State of temporary practice;
- Taking more than five business days (after receipt of a complete temporary practice registration request) to issue a temporary practice permit (if issuance is required under State law) or to provide effective notice to the out-of-State appraiser regarding the status of his or her temporary practice request;
- Requiring out-of-State appraisers requesting temporary practice to satisfy the host State's appraiser qualification requirements for certification which exceed the minimum required criteria for certification adopted by the Appraiser Qualifications Board (''AQB'');

Limiting the valid time period of a temporary practice permit to less than six months after its issuance date or not providing a temporary practitioner with an effortless method of obtaining an extension of the time period;

- Limiting out-of-State certified appraisers to a single temporary practice permit per calendar year;
- Requiring temporary practitioners to affiliate with an in-State certified or licensed appraiser;
- Failing to take regulatory responsibility for a visiting appraiser's unethical, incompetent or fraudulent practices performed while within the State;
- After taking disciplinary action against a visiting appraiser, failing to forward copies of available evidence and final disciplinary orders promptly to the appraiser's home State agency; and
- Charging a temporary practice fee exceeding $150.

In addition, the ASC will consider the following fees, acts and practices of the certified or licensed appraiser's home State to be excessive or burdensome:

- Delaying the issuance of a written ''letter of good standing'' or similar document for more than five business days after the home State agency's receipt of the related request; and
- Failing to take appropriate disciplinary action when one of its certified or licensed appraisers is disciplined by another State agency for unethical, incompetent or fraudulent practices under a temporary practice permit.

This listing is not exclusive. The ASC may find other excessive fees or burdensome practices while performing its State agency monitoring functions.

An out-of-State certified or licensed appraiser must comply with the host State's real estate appraisal statutes and regulations. Each appraiser who receives temporary practice registration is subject to the State's full regulatory jurisdiction and is governed by the State's statutes and regulations respecting appraiser certification or licensing. However, the out-of-State appraiser should be treated like any other appraiser within the State who wishes to perform an appraisal in a federally related transaction.

A State agency may establish by statute or regulation a policy that places reasonable limits on the number of times an out-of-State certified or licensed appraiser may exercise his or her temporary practice rights in a given year. If such an overall policy is not established, a State agency may choose not to honor an out-of-State certified or licensed appraiser's temporary practice rights if it has made a determination that the appraiser is abusing his or her temporary practice rights and is regularly engaging in real estate appraisal within the State.

Finally, some State agencies have sought to require that an appraiser register for temporary practice if the appraiser is certified or licensed in another State, performs a technical review of an appraisal in that other State and changes, or is authorized to change, a value in the appraisal. The ASC, however, has concluded that for federally related transactions the review appraiser need not register for temporary practice or otherwise be subjected to the regulatory jurisdiction of the State agency in which the appraisal was performed, so long as the review appraiser does not perform the technical review in the State within which the property is located.

* * * * *

Statement 6: Reciprocity

Many interested parties have commented that reciprocity is at least as critical as temporary practice. Under reciprocal arrangements, an appraiser who is certified or licensed in State A and is *also* reciprocally certified or licensed in State B must comply with both States' appraiser laws, including those requiring the payment of certification, licensing and Federal registry fees and continuing education. Indeed, the appraiser for all intents and purposes is treated as if he or she were separately certified or licensed in each of the States.

Methods for providing reciprocity vary from State to State. Some States may implement formal agreements with other States, whereby a certified or licensed appraiser in good standing from one State applies for, and is granted, certification or licensing in the other States upon submission to the other States of a copy of his or her credentials, a statement of good standing, a consent for service of suit and the payment of appropriate fees. Other States, without a formal agreement, but with similar documentation requirements, may grant the requested certificate or license upon the payment of the second State's fee. Still other States may accept the examination of other States, but require the remainder of the application to be completed by the applicant and reviewed by the State agency.

Reciprocity's main benefit is that appraisers who qualify for certification or licensing in one State may freely cross into another State without needing to ''register'' for each appraisal assignment in the other State. Therefore, a duly certified or licensed appraiser in one State can be recognized as such in each of the other States in which he or she is licensed or certified by reciprocity.

Section 1122(b) of Title XI, 12 U.S.C. 3347(b), states that the ASC shall encourage the States to develop reciprocity agreements that readily authorize appraisers who are licensed or certified in one State (and who are in good standing with their State appraiser certifying or licensing agency) to perform appraisals in other States. Each State should work expeditiously and conscientiously with other States with a view toward satisfying the purposes of the statutory language. The ASC monitors each State's progress and encourages States to work out issues and difficulties whenever appropriate.

The ASC encourages States to enter into reciprocal agreements that, at a minimum, contain the following features:

- Accomplish reciprocity with at least all contiguous States. For States not sharing geographically contiguous borders with any other State, such as Alaska and Puerto Rico, those States should enter into reciprocity agreements with States that certify or license appraisers who perform a significant number of appraisals in the non-contiguous States;
- Readily accept other States' certifications and licenses without reexamining applicants' underlying education and experience, provided that the other State: (1) has appraiser qualification criteria that meet or exceed the minimum standards for certification and licensure as adopted by the AQB; and (2) uses appraiser certification or licensing examinations that are AQB endorsed;
- Eliminate retesting, provided that the applicant has passed the appropriate AQB-endorsed appraiser certification and licensing examinations in the appraiser's home State;
- Recognize and accept successfully completed continuing education courses taken to qualify for license or certification renewal in the appraiser's home State; and
- Establish reciprocal licensing or certification fees identical in amount to the corresponding fees for in-State appraisers.

* * * * *

[FR Doc. 97–10545 Filed 4–22–97; 8:45 am]

BILLING CODE 6201–01–M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984.

Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, N.W., Room 962. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 202–010689–066.
Title: Transpacific Westbound Rate Agreement.
Parties:
American President Lines, Ltd.
Hapag-Lloyd Container Linie GmbH
Kawasaki Kisen Kaisha, Ltd.
A.P. Moller-Maersk Line
Mitsui O.S.K. Lines, Ltd.
Neptune Orient Lines, Ltd.
Nippon Kaisha Yusen, Ltd.
Orient Overseas Container Line, Inc.
P&O Nedlloyd Limited
P&O Nedlloyd B.V.
Sea-Land Service, Inc.
Synopsis: The parties are amending their agreement to extend indefinitely the authority to take independent action (''IA'') on three business days' notice for cargo of unusual dimensions, where the IA rate will remain in effect for 60 days or less.
Agreement No.: 203–011569.
Title: Amazonas Service Agreement.
Parties:
Di Gregorio Navegorio Navegacao Ltda.
Amazon Lines Limited.
Synopsis: The proposed Agreement permits the parties to enter into a cooperative working arrangement that includes space charter, equipment interchange, sailing, and voluntary rate making authority in the trades between U.S. ports and inland points and ports and inland points in Brazil, including Amazon River ports. The parties have requested short review.

Dated: April 18, 1997.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 97–10546 Filed 4–22–97; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License Revocations

The Federal Maritime Commission hereby gives notice that the following freight forwarder licenses have been revoked pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, effective on the corresponding revocation dates shown below:

License Number: 3956.
Name: Celadon-Jacky Maeder Company.
Address: 590 Belleville Turnpike, Building 26, Kearny, NJ 07032.
Date Revoked: March 17, 1997.
Reason: Surrendered license voluntarily.

License Number: 1825.
Name: International U.T.S., Ltd.
Address: 4500 Fait Avenue, Baltimore, MD 21224.
Date Revoked: March 23, 1997.
Reason: Failed to maintain a valid surety bond.

License Number: 3102.
Name: Kyung H. (Harry) Oh d/b/a ITL Shipping Company.
Address: 451 East Carson Plaza Drive, Suite 201, Carson, CA 90746.
Date Revoked: March 27, 1997.
Reason: Failed to maintain a valid surety bond.

License Number: 3585.
Name: Pan Am Cargo, Inc.
Address: 5523 N.W. 72nd Avenue, Miami, FL 33166.
Date Revoked: April 9, 1997.
Reason: Failed to maintain a valid surety bond.

Bryant L. VanBrakle,

Director, Bureau of Tariffs, Certification and Licensing.

[FR Doc. 97–10548 Filed 4–22–97; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, DC 20573.

Century Express, 5 Lehigh Drive, Smithtown, NY 11787
Officer:
John Debetta, President
Hyzoom Express Co, 203 S. Hampton Street, Anaheim, CA 92804
Mi Son Kim,
Sole Proprietor
AA Freight Forwarders, Inc., 2618 N.W. 112th Avenue, Miami, FL 33172

Officers:
Edward J. Lee, President
Mattielee V. Tatum, Vice President
Valley Cargo International Inc., 7032 N.W. 50 Street, Miami, FL 33166
Officers:
Rodrigo Rincon, Director
Victor Hugo Sierra, Owner
Seaborne International, Inc., 11222 La Cienega Boulevard, Suite 620, Inglewood, CA 90304
Officers:
Steven A. Robinson, President
Brian Anstey, Executive Vice President

Dated: April 17, 1997.

Joseph C. Polking,

Secretary.

[FR Doc. 97–10547 Filed 4–22–97; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 16, 1997.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. Community Financial Corp., Edgewood, Iowa; to acquire up to 100 percent of the voting shares of Community Savings Bank, Robins, Iowa.

B. Federal Reserve Bank of Minneapolis (Karen L. Grandstrand, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480-2171:

1. First Bank System, Inc., Minneapolis, Minnesota; to merge with U.S. Bancorp, Portland, Oregon, and thereby indirectly acquire U.S. National Bank of Oregon, Portland, Oregon; U.S. Bank of Washington, N.A., Seattle, Washington; U.S. Bank of Nevada, Reno, Nevada; U.S. Bank of Utah, Salt Lake City, Utah; U.S. Bank of Idaho, Boise, Idaho; U.S. Bank of California, Sacremento, California; First State Bank of Oregon, Canby, Oregon; Sun Capital Bank, St. George, Utah; and Business & Professional Bank, Woodland, California.

In connection with this application, Applicant also has applied to acquire West One Trust Company d/b/a U.S. Bank Trust Company, Salt Lake City, Utah; LNB Corp., Alameda, California; and U.S. Bank Trust Company, Portland, Oregon, and thereby engage in personal and institutional trust and fiduciary activities, pursuant to § 225.25(b)(3) of the Board's Regulation Y; U.S. Bancorp Insurance Agency, Inc., Portland, Oregon, and thereby engage in insurance agency activities, pursuant to §§ 225.25(b)(8)(i) and (vii) of the Board's Regulation Y.; U.S. Trade Services, Inc., Portland, Oregon, and thereby engage in letter of credit issuing and paying and related letter of credit processing activities, pursuant to § 225.25(b)(1)(iv) of the Board's Regulation Y; West One Life Insurance Company, Portland, Oregon, and thereby indirectly engage in credit reinsurance activities, pursuant to § 225.25(b)(8)(i) of the Board's Regulation Y; CBI Mortgage, Modesto, California, and thereby engage in mortgage banking activities, pursuant to § 225.25(b)(1)(iii) of the Board's Regulation Y; Compass Group, Inc., Spokane, Washington, and thereby engage in investment advisory services, pursuant to § 225.25(b)(4) of the Board's Regulation Y; Island Bancorp Leasing, Inc., Alameda, California, and thereby engage in leasing and equipment financing, pursuant to § 225.25(b)(5) of the Board's Regulation Y. Applicant also has applied to acquire numerous partnerships and thereby engage in community development activities, pursuant to § 225.25(b)(6) of the Board's Regulation Y. Applicant also has applied pursuant to § 211.33(a) of the Board's Regulation K to acquire U.S. Trade Corporation, Portland, Oregon.

Board of Governors of the Federal Reserve System, April 17, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–10480 Filed 4–22–97; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 11:00 a.m., Monday, April 28, 1997.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: April 18, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–10581 Filed 4–18–97; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Information Collection Activities: Proposed Collections; Comment Request

The Department of Health and Human Services, Office of the Secretary will periodically publish summaries of proposed information collections projects and solicit public comments in compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995. To request more information on the project or to obtain a copy of the information collection plans and instruments, call the OS Reports Clearance Officer on (202) 690–6207.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Projects: Public Health Service Acquisition Regulation—PHSAR Part 380—Special Program Requirements Affecting PHS Acquisitions, and Part 352—Solicitation Provisions and Contract Clauses—0990–0128—Extension—This clearance request addresses recordkeeping and reporting requirements in the Public Health Service Acquisition Regulation (PHSAR) for acquisitions involving safety and health, drugs and medical supplies, reusable cylinders, laboratory animals and the Indian Self-Determination Act. *Respondents:* State or local governments, Businesses or other for-profit, non-profit institutions, Small businesses; *Burden Information for Drugs and Medical Supplies—Total Number of Respondents:* 50; *Annual Frequency of Response:* three times; *Average Burden per Response:* 2 hours; *Estimated Annual Burden for Drugs and Medical Supplies Requirement:* 300 hours—Burden Information for Indian Self-Determination Act—*Total Number of Respondents:* 591; *Annual Frequency of Response:* one time; *Average Burden per Response:* 2 hours; *Estimated Annual Burden for Indian Self-Determination Act Requirement:* 1,182 hours—Burden Information for Reusable Cylinders—*Total Number of Respondents:* 16; *Annual Frequency of Response:* five times; *Average Burden per Response:* 1 hour; *Estimated Annual Burden for Reusable Cylinders Requirement:* 80 hours—Burden Information for Laboratory Animals—*Total Number of Respondents:* 51; *Annual Frequency of Response:* one time; *Average Burden per Response:* 10 hours; *Estimated Annual Burden for Laboratory Animals Requirement:* 510 hours—Burden Information for Safety and Health—*Total Number of Respondents:* 59; *Annual Frequency of Response:* one time; *Average Burden per Response:* 8 hours; *Estimated Annual Burden for Health and Safety Requirement:* 472 hours—Burden Information for Additional Payment Provisions—*Total Number of Respondents:* 454; *Annual Frequency of Response:* three times; *Average Burden per Response:* 1 hour; *Estimated Annual Burden for Additional Payment Requirement:* 1,362 hours—Total Burden: 3,906 hours.

Send comments to Cynthia Agens Bauer, OS Reports Clearance Officer, Room 503H, Humphrey Building, 200 Independence Avenue S.W., Washington, DC 20201. Written comments should be received within 60 days of this notice.

Dated: April 15, 1997.

Dennis P. Williams,

Deputy Assistant Secretary, Budget.

[FR Doc. 97–10503 Filed 4–22–97; 8:45 am]

BILLING CODE 4150–04–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Nonprescription Drugs Advisory Committee with Representation from the Endocrinologic and Metabolic Drugs Advisory Committee.

General Function of the Committee: The committee reviews and evaluates available data concerning the safety and effectiveness of over-the-counter (nonprescription) human drug products for use in the treatment of a broad spectrum of human symptoms and diseases.

Date and Time: The meeting will be held on May 13, 1997, 8:30 a.m. to 5 p.m. An open public hearing portion is scheduled from 8:30 a.m. to 9:30 a.m.

Location: Holiday Inn—Bethesda, Versailles Ballrooms I and II, 8120 Wisconsin Ave., Bethesda, MD.

Contact Person: Andrea Neal or Angie Whitacre, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5455, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12541. Please call the Information Line for up-to-date information on this meeting.

Agenda: The committee will hear presentations and discuss data submitted regarding the switch from prescription to over-the-counter status of new drug application (NDA) 16–640/S072, Questran® Powder (cholestyramine resin) and NDA 19–669/S020, Questran® Light (cholestyramine resin with aspartame), Bristol Myers Squibb, for the reduction of elevated serum cholesterol.

Procedure: The meeting is open to the public. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by May 8, 1997. Those desiring to make formal presentations should notify the contact person before May 8, 1997, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: April 17, 1997.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 97–10476 Filed 4–22–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of the Committee: Peripheral and Central Nervous System Drugs Advisory Committee.

General Function of the Committee: The committee reviews and evaluates data on the safety and effectiveness of marketed and investigational human drugs for use in neurological disease.

Date and Time: The meeting will be held on May 8, 1997, 8:30 a.m. to 5 p.m. An open public hearing portion is scheduled from 1 p.m. to 2 p.m.

Location: Holiday Inn—Bethesda, Versailles Ballrooms I, II, and III, 8120 Wisconsin Ave., Bethesda, MD.

Contact Person: Ermona B. McGoodwin or Danyiel D'Antonio,

Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5455, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12543. Please call the Information Line for up-to-date information on this meeting.

Agenda: The committee will discuss the safety and effectiveness of new drug application (NDA) 20–654 Myotrophin® (human mecasermin (recombinant deoxyribonucleic acid (DNA) origin) Injection, Cephalon-Chiron Partners) for the treatment of amyotrophic lateral sclerosis (ALS).

Procedure: The meeting is open to the public. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions should be made to the contact person by May 2, 1997. Those desiring to make formal presentations should notify the contact person before May 2, 1997, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

FDA regrets that it was unable to publish this notice 15 days prior to the May 8, 1997, Peripheral and Central Nervous System Drugs Advisory Committee meeting. Because the agency believes there is some urgency to bring this issue to public discussion and qualified members of the Peripheral and Central Nervous System Drugs Advisory Committee were available at this time, the Commissioner concluded that it was in the public interest to hold this meeting even if there was not sufficient time for the customary 15-day public notice.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: April 18, 1997.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 97–10541 Filed 4–22–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meeting and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

FDA has established an Advisory Committee Information Hotline (the hotline) using a voice-mail telephone system. The hotline provides the public with access to the most current information on FDA advisory committee meetings. The advisory committee hotline, which will disseminate current information and information updates, can be accessed by dialing 1–800–741–8138 or 301–443–0572. Each advisory committee is assigned a 5-digit number. This 5-digit number will appear in each individual notice of meeting. The hotline will enable the public to obtain information about a particular advisory committee by using the committee's 5-digit number. Information in the hotline is preliminary and may change before a meeting is actually held. The hotline will be updated when such changes are made.

MEETING: The following advisory committee meeting is announced:

Biological Response Modifiers Advisory Committee

Date, time, and place. May 6, 1997, 3 p.m., National Institutes of Health Campus, Bldg. 29, conference room 121, 8800 Rockville Pike, Bethesda, MD 20852.

Type of meeting and contact person. This meeting will be held by a telephone conference call. A speaker telephone will be provided in the conference room to allow public participation in the meeting. Open public hearing, 3 p.m. to 4 p.m., unless public participation does not last that long; open committee discussion, 4 p.m. to 4:30 p.m.; closed committee deliberations, 4:30 p.m. to 5:30 p.m.; William Freas or Rosanna L. Harvey, Center for Biologics Evaluation and Research (HFM–21), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301–827–0314, or FDA Advisory Committee Information Hotline, 1–800–741–8138 (301–443–0572 in the Washington, DC area), Biological Response Modifiers Advisory Committee, code 12388.

General function of the committee. The committee reviews and evaluates data relating to the safety, effectiveness, and appropriate use of biological response modifiers which are intended for use in the prevention and treatment of a broad spectrum of human diseases.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before April 29, 1997, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss the site visit review report for the Laboratory of Molecular Medical Genetics and the research program of an individual in the Division of Cellular and Gene Therapy.

Closed committee deliberations. The committee will discuss the intramural scientific research program. This portion of the meeting will be closed to prevent disclosure of personal information concerning individuals associated with the research program, disclosure of which would constitute a clearly unwarranted invasion of personal privacy (5 U.S.C. 552b(c)(6)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of the meeting(s) shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (subpart C of 21 CFR part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or

otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

The agenda, the questions to be addressed by the committee, and a current list of committee members will be available at the meeting location on the day of the meeting.

Transcripts of the open portion of the meeting may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, 5600 Fishers Lane, rm. 12A–16, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting may be requested in writing from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

The Commissioner has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA) (5 U.S.C. app. 2, 10(d)), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, deliberation to formulate advice and recommendations to the agency on matters that do not independently justify closing.

FDA regrets that it was unable to publish this notice 15 days prior to the May 6, 1997, Biological Response Modifiers Advisory Committee meeting. Because the agency believes there is some urgency to bring this issue to public discussion and qualified members of the Biological Response Modifiers Advisory Committee were available at this time, the Commissioner concluded that it was in the public interest to hold this meeting even if there was not sufficient time for the customary 15-day public notice.

This notice is issued under section 10(a)(1) and (a)(2) of the Federal Advisory Committee Act (5 U.S.C. app. 2), and FDA's regulations (21 CFR part 14) on advisory committees.

Dated: April 16, 1997.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 97–10478 Filed 4-22-97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meeting and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

FDA has established an Advisory Committee Information Hotline (the hotline) using a voice-mail telephone system. The hotline provides the public with access to the most current information on FDA advisory committee meetings. The advisory committee hotline, which will disseminate current information and information updates, can be accessed by dialing 1–800–741–8138 or 301–443–0572. Each advisory committee is assigned a 5-digit number. This 5-digit number will appear in each individual notice of meeting. The hotline will enable the public to obtain information about a particular advisory committee by using the committee's 5-digit number. Information in the hotline is preliminary and may change before a meeting is actually held. The hotline will be updated when such changes are made.

MEETING: The following advisory committee meeting is announced:

Ear, Nose, and Throat Devices Panel of the Medical Devices Advisory Committee

Date, time, and place. May 21, 1997, 8 a.m., Gaithersburg Hilton, Ballroom, 620 Perry Pkwy., Gaithersburg, MD. A limited number of overnight accommodations have been reserved at the hotel. Attendees requiring overnight accommodations may contact the hotel at 301–977–8900 and reference the FDA Panel meeting block. Reservations will be confirmed at the group rate based on availability. Attendees with a disability requiring special accommodations should contact Christie Wyatt, KRA Corp., 301–495–1591, ext. 224. The

availability of special accommodations cannot be assured unless prior notification is received.

Type of meeting and contact person. Open public hearing, 8 a.m. to 9:15 a.m., unless public participation does not last that long; open committee discussion, 9:15 a.m. to 4 p.m.; closed committee deliberations, 4 p.m. to 5 p.m.; Marilyn N. Flack, Center for Devices and Radiological Health (HFZ–470), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–2080, or FDA Advisory Committee Information Hotline, 1–800–741–8138 (301–443–0572 in Washington, DC area), Ear, Nose, and Throat Devices Panel, code 12522. Please call the hotline for information concerning any possible changes.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness of marketed and investigational devices and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before May 5, 1997 and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss a premarket approval application that seeks to substantiate the safety and effectiveness of a cochlear implant for use in children ages 2 years to 17 years.

Closed committee deliberations. FDA staff will present to the committee trade secret and/or confidential commercial information regarding present and future FDA issues. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of the meeting(s) shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (subpart C of 21 CFR part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

The agenda, the questions to be addressed by the committee, and a current list of committee members will be available at the meeting location on the day of the meeting.

Transcripts of the open portion of the meeting may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, 5600 Fishers Lane, rm. 12A–16, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting may be requested in writing from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

The Commissioner has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA) (5 U.S.C. app. 2, 10(d)), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, deliberation to formulate advice and recommendations to the agency on matters that do not independently justify closing.

This notice is issued under section 10(a)(1) and (a)(2) of the Federal Advisory Committee Act (5 U.S.C. app. 2), and FDA's regulations (21 CFR part 14) on advisory committees.

Dated: April 16, 1997.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 97–10477 Filed 4–22–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of the Committee: Dental Drug Products Panel Plaque Subcommittee (Nonprescription Drugs) of the Medical Devices Advisory Committee, code 12518.

General Function of the Committee: The committee reviews and evaluates data on the safety and effectiveness of marketed and investigational devices and makes recommendations for their regulation. The Dental Products Panel of the Medical Devices Advisory Committee functions at times as a nonprescription drugs advisory panel. As such, the committee reviews and evaluates available data concerning the safety and effectiveness of active ingredients, and combinations thereof, of various currently marketed nonprescription drug products for human use, the adequacy of their labeling, and advises the Commissioner of Food and Drugs on the issuance of monographs establishing conditions under which these drugs are generally recognized as safe and effective and not misbranded.

Date and Time: The meeting will be held on May 8 and 9, 1997, 8:30 a.m. to 5 p.m. Open public hearing portions are scheduled from 8:30 a.m. to 12 m. on May 8, 1997, and from 8:30 a.m. to 12 m. on May 9, 1997.

Location: Ramada Inn—Bethesda, Ambassador Ballroom, 8400 Wisconsin Ave., Bethesda, MD.

Contact Person: Andrea G. Neal or LaNise S. Giles, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5455, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12518. Please call the Information Line for up-to-date information on this meeting.

Agenda: On May 8, 1997, the subcommittee will discuss the safety of the individual ingredients menthol, thymol, methyl salicylate, and eucalyptol, and continue its discussion of the effectiveness of these ingredients. The subcommittee will also discuss zinc citrate. In addition, there will be continued discussion and/or summaries and voting on the ingredients cetylpyridinium chloride, Microdent, sodium lauryl sulfate, and C31G-Therasol® .

On May 9, 1997, the subcommittee will discuss the safety and effectiveness of the combination of hydrogen peroxide and povidone iodine, and the effectiveness of the combination of hydrogen peroxide, sodium citrate, zinc chloride, and sodium lauryl sulfate. There will also be continued discussion and/or summaries and voting on the ingredients xylitol, sodium bicarbonate, and the combination of hydrogen peroxide and sodium bicarbonate. In addition, the subcommittee will discuss general recommendations for antiplaque combination ingredients.

Procedure: The meeting is open to the public. Interested persons may present data, information, or views, orally, or in writing, on issues pending before the committee. Written submissions may be made to the contact person by April 30, 1997. Those desiring to make formal presentations should notify the contact person before April 30, 1997, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

FDA regrets that it was unable to publish this notice 15 days prior to the May 8 and 9, 1997, Dental Drug Products Panel Plaque Subcommittee (Nonprescription Drugs) of the Medical Devices Advisory Committee meeting. Because the agency believes there is some urgency to bring this issue to public discussion and qualified members of the Dental Drug Products Panel Plaque Subcommittee (Nonprescription Drugs) of the Medical Devices Advisory Committee were available at this time, the Commissioner concluded that it was in the public interest to hold this meeting even if there was not sufficient time for the customary 15-day public notice.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: April 17, 1997.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 97–10479 Filed 4–22–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97D–0164]

Positron Emission Tomography Drug Products; Draft Guidance for Industry on Content and Format of an Abbreviated New Drug Application; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance document entitled ''Guidance for Industry: Content and Format of an Abbreviated New Drug Application (ANDA)—Positron Emission Tomography (PET) Drug Products.'' This draft guidance is intended to assist applicants who wish to submit an ANDA for Fludeoxyglucose F18 Injection. The draft guidance is one of several topics to be discussed at an April 28, 1997, FDA workshop on PET radiopharmaceutical drug products. The agency is requesting comments on this draft guidance.

DATES: Written comments may be submitted on the draft guidance document by June 28, 1997. General comments on agency guidance documents are welcomed at any time.

ADDRESSES: Submit written requests for single copies of the draft guidance document to the Drug Information Branch (HFD–210), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send two self-addressed adhesive labels to assist that office in processing your request. Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857. Requests and comments should be identified with the docket number found in brackets in the heading of this document. A copy of the draft guidance document and received comments will be available for public examination in the Dockets

Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Peter Rickman, Center for Drug Evaluation and Research (HFD–615), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–0315.

SUPPLEMENTARY INFORMATION: FDA is announcing the availability of a draft guidance document entitled ''Guidance for Industry: Content and Format of an Abbreviated New Drug Application (ANDA)—Positron Emission Tomography (PET) Drug Products.'' PET is a medical imaging modality used to assess the body's biochemical processes. Radionuclides are manufactured into PET radiopharmaceutical drug products that are administered to patients for medical imaging. The images of the body's biochemical processes are then evaluated, generally for diagnostic purposes.

Under section 505(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)), ANDA's may be submitted for drug products that are the same as a listed drug, i.e., identical in active ingredient(s), dosage form, strength, route of administration and conditions of use, except for those uses for which approval cannot be granted because of exclusivity, or for which an existing patent may be omitted (21 CFR 314.92). Because a new drug application (NDA) for Fludeoxyglucose F18 Injection (NDA 20–306) was approved on August 19, 1994, for the identification of regions of abnormal glucose metabolism associated with foci of epileptic seizures, ANDA's may be submitted for drug products that are the same as this reference listed drug product and for the same use. The purpose of the draft guidance document is to assist applicants who wish to submit an ANDA for Fludeoxyglucose F18 Injection. The draft guidance is one of several issues to be discussed at an April 28, 1997, FDA workshop on PET radiopharmaceutical drug products. The workshop, which will be held in Rockville, MD, was announced in the **Federal Register** on March 14, 1997 (62 FR 12218). Other issues to be discussed at the workshop include: Registration and listing requirements, chemistry and manufacturing controls, sterility assurance, bioequivalence requirements, and labeling.

This guidance document represents the agency's current thinking on the content and format of an ANDA for PET radiopharmaceutical drug products. It does not create or confer any rights for, or on, any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirement of the applicable statute, regulations, or both.

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

An electronic version of this draft guidance is available on the Internet using the World Wide Web (http://www.fda.gov/cder/guidance.htm).

Dated: April 18, 1997.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 97–10542 Filed 4–22–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Availability of Funds for Planning Grants To Establish Comprehensive HIV Primary Health Care Services; The Ryan White Comprehensive AIDS Resources Emergency Act of 1990, as Amended by the Ryan White CARE Act Amendments of 1996

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Availability of Grants to Support Planning Activities To Establish Comprehensive Primary Health Care Services with Respect to Human Immunodeficiency Virus (HIV) Disease.

SUMMARY: The Health Resources and Services Administration (HRSA) announces that applications will be accepted for fiscal year (FY) 1997 discretionary grants to support communities and health care service entities in their preparations to provide a high quality and broad, comprehensive scope of primary health care services for people in underserved areas who are living with HIV or at risk of infection. The Ryan White Title III HIV Planning Grants are intended to assist health care service entities to qualify for grant support under the Ryan White Title III Early Intervention Services Program.

These grants are awarded under the provisions of Part C of Title XXVI of the Public Health Service (PHS) Act, as amended by the Ryan White CARE Act Amendments of 1996, Public Law 104–146 (42 U.S.C. 300ff–51—300ff–67).

The PHS is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity for setting health priorities. This grant program is related to the objectives cited for special populations, particularly people with low income, minorities, and the disabled, which constitute a significant portion of the homeless population. Potential applicants may obtain a copy of *Healthy People 2000* (Full Report; Stock No. 017–001–00474–0) or *Healthy People 2000* (Summary Report; Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402–9325 (telephone 202–783–3238).

PHS strongly encourages all grant and contract recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. In addition, Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of a facility) in which regular or routine education, library, day care, health care or early childhood development services are provided to children.

DUE DATE: Applications are due on May 23, 1997. Applications will be considered to have met the deadline if they are: (1) received on or before the deadline date; or (2) postmarked on or before the established deadline date and received in time for orderly processing. Applicants should request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks are not acceptable as proof of timely mailing. Applications postmarked after the announced closing date will not be considered for funding.

ADDRESSES: Application kits (Form PHS 5161–1) with revised face sheet DHHS Form 424, as approved by the Office of Management and Budget under control number 0937–0189 may be obtained from, and completed applications should be mailed to HRSA Grants Application Center, 40 West Gude Drive, Suite 100, Rockville, MD 20850 (telephone: 1–888–300–4772). The Bureau of Primary Health Care's Office of Grants Management can also provide assistance on business management issues, and can be reached at 4350 East-

West Highway, Bethesda, MD 20814 (telephone: 301–594–4235).

FOR FURTHER INFORMATION CONTACT: For general information and technical assistance, contact Dr. Deborah Parham of the HIV Primary Care Programs Branch, Division of Programs for Special Populations, Bureau of Primary Health Care, 4350 East-West Highway, Bethesda, MD 20814 (telephone: 301–594–4444).

SUPPLEMENTARY INFORMATION:

Number of Awards

It is anticipated that approximately 13 grants will be awarded, ranging from approximately $25,000 up to $50,000 each year for a two-year project period. The awarding of Ryan White Title III HIV Planning Grants will not obligate the HRSA to support applicants for additional Planning Grants or for future operational funding. Continuation awards for the second year will be made subject to the availability of funds and the satisfactory progress in the previous year toward meeting the goals and objectives of the proposed planning process.

Eligible Applicants

Eligible applicants are public or nonprofit private entities who are not currently grant recipients of the Ryan White Title III Early Intervention Services Program. In awarding the grants, preference will be given to entities that provide primary care services in rural or underserved communities.

The HIV Planning Grant is intended to assist health care service entities to qualify for grant support under the Ryan White Title III Early Intervention Services Program. Eligible applicants for that grant program are public or private, nonprofit entities that are: current primary care service providers to populations at risk for HIV disease; community health centers under Section 330 of the PHS Act; migrant health centers under Section 330(g) of the PHS Act; health care for the homeless grantees under Section 330(h) of the PHS Act; family planning grantees under Section 1001 of the PHS Act, other than states; comprehensive hemophilia diagnostic and treatment centers; or federally qualified health centers under section 1905(1)(2)(B) of the Social Security Act.

Project Requirements

Funds are to be used to mobilize and organize community resources, and to strengthen organizational capacity so that HIV comprehensive primary health care services can be established or strengthened. Proposed planning activities should address the requirements for the Ryan White Title III Early Intervention Services Program, as specified in the statute (sections 2651, 2661 and 2662 of the PHS Act).

Grant recipients are expected to: engage and coordinate suitable community organizations to plan for HIV primary care services; conduct an initial HIV/AIDS primary care needs assessment for the proposed service area; develop a plan of action to address priority needs; and undertake the necessary preparations to become operational. Related to these endeavors, Ryan White Title III Planning Grant recipients may also strengthen their organizational capability in clinical, administrative, managerial, fiscal and MIS structures.

The expected outcome of this grant program is either that (1) grant recipients become prepared, through the planning process, to offer comprehensive HIV primary care services to their communities; or (2) grant recipients lead a process of community development, at the conclusion of which other health care entities emerge as the most appropriate and capable service providers of comprehensive HIV primary care, and become prepared to offer such services to their communities.

Criteria for Evaluating Applications

Competitive applications for HIV Planning Grant support will be evaluated in accordance with the following criteria:

—The need in the community for assistance, based on the 2-year period preceding the proposed grant period. In awarding the grants, preference will be given to applicants who provide primary care services in rural or underserved areas where emerging or ongoing HIV issues have not been adequately addressed. Applicants must present a compelling case for grant support by drawing the connection between the services that they hope to establish and the significant disease burden and need for HIV primary care services among underserved populations in their communities.

—The adequacy, scope and completeness of the proposed planning activities.

—The applicant's role in the community and the extent to which proposed actions can reasonably assure effective collaboration with potential partners, including other Federal Ryan White programs.

—The degree to which the proposed budget is appropriate to the program plan and the degree to which coordination with other funding sources is well documented.

—The extent to which the applicant demonstrates the active inclusion of people living with HIV/AIDS, or the organizations that represent them, in the planning and evaluation process.

—The adequacy and completeness of proposed evaluation activities, which are designed to ensure that goals and objectives are achieved in a timely manner and that the planning process is effective.

Other Award Information

Public Health System Reporting Requirements: Under these requirements (approved by the Office of Management and Budget 0937–0195), the community-based nongovernmental applicant must prepare and submit a Public Health System Impact Statement (PHSIS). The PHSIS is intended to provide information to State and local health officials to keep them apprised of proposed health services grant applications submitted by community-based nongovernmental organizations within their jurisdictions. Community-based nongovernmental applicants are required to submit the following information to the head of the appropriate State and local health agencies in the area(s) to be impacted no later than the Federal application receipt due date:

(1) A copy of the face page of the application (SF 424).

(2) A summary of the project, not to exceed one page, which provides:

(a) A description of the population to be served,

(b) A summary of the services to be provided, and

(c) A description of the coordination undertaken and planned with the appropriate Federal, State and local health agencies.

The Program to Provide Outpatient Early Intervention Services with Respect to HIV Disease, of which the Ryan White Title III HIV Planning Grant is a subpart, has been determined to be a program which is subject to the provisions of Executive Order 12372 concerning intergovernmental review of Federal programs by appropriate health planning agencies, as implemented by 45 CFR Part 100. Executive Order 12372 allows States the option of setting up a system for reviewing applications from within their States for assistance under certain Federal programs. The application packages to be made available under this notice will contain a listing of States which have chosen to set up a review system and will provide a State point of contact (SPOC) in the

State for the review. Applicants (other than federally-recognized Indian tribal governments) should contact their SPOC as early as possible to alert them to the prospective applications and receive any necessary instructions on the State process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC of each affected State. The due date for State process recommendations is 60 days after the appropriate deadline dates. The BPHC does not guarantee that it will accommodate or explain its responses to State process recommendations received after the date. (See ''Intergovernmental Review of Federal Programs'', Executive Order 12372, and 45 CFR part 100 for a description of the review process and requirements.)

(The OMB Catalog of Federal Domestic Assistance number for this program is 93.918.)

Dated: April 17, 1997.

Claude Earl Fox,

Acting Administrator.

[FR Doc. 97–10473 Filed 4–22–97; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Rural Telemedicine Grant Program

AGENCY: Health Resources and Services Administration (HRSA), HHS.

ACTION: Notice of availability of funds.

SUMMARY: The Office of Rural Health Policy, HRSA, announces that applications are being accepted for Rural Telemedicine Grants to facilitate development of rural health care networks through the use of telemedicine and develop a baseline of information for the systematic evaluation of telemedicine systems serving rural areas.

DATES: Applications for the program must be received by the close of business on June 20, 1997. Applications shall be considered as meeting the deadline if they are either (1) received on or before the deadline date at the address noted below; or (2) postmarked on or before the deadline date and received by the granting agency in time for the independent review. Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service in lieu of a postmark. Private metered postmarks shall not be acceptable as proof of timely mailing. Applications are considered late if they do not meet the above criteria; late applications will be returned to the sender.

ADDRESSES: Completed applications must be sent to HRSA GRANTS APPLICATION CENTER, 40 West Gude Drive, Suite 100, Rockville, MD 20850.

FOR FURTHER INFORMATION CONTACT: Requests for technical or programmatic information on this announcement should be directed to Cathy Wasem or Amy Barkin, Office of Rural Health Policy, HRSA, 5600 Fishers Lane, Room 9–05, Rockville, MD 20857, (301) 443–0835, cwasem@hrsa.dhhs.gov or abarkin@hrsa.dhhs.gov. Requests for information regarding business or fiscal issues should be directed to Martha Teague, Office of Grants Management, Bureau of Primary Health Care, HRSA, West Tower, 11th Floor, 4350 East West Highway, Bethesda, MD 20814, (301) 594–4258.

SUPPLEMENTARY INFORMATION:

Application Packet

The standard application form and general instructions for completing applications (Form PHS–5161–1 [Revised 5/96], OMB #0937–0189) have been approved by the Office of Management and Budget. To receive an application kit call toll-free: HRSA GRANTS APPLICATION CENTER at 1–888–300–HRSA. Individuals in rural areas where the 1–888 number cannot be dialed should call the operator and ask that the operator connect them to 1–888–300–4772.

Authority

Grants for these projects are authorized under section 330A of the Public Health Service (PHS) Act as amended by the Health Centers Consolidation Act of 1996, Public Law 104–299. Awards will be made from funds appropriated under Public Law 104–208 (HHS Appropriation Act for FY 1997).

Legislative and Program Background

Section 330A of the PHS Act, as amended by Pub. L. 104–299, authorizes the Rural Health Outreach, Network Development and Telemedicine Grant Program. Grants supported under this program are to ''expand access to, coordinate, restrain the cost of, and improve the quality of essential health care services, including preventive and emergency services, through the development of integrated health care delivery systems or networks in rural areas and regions.'' Two approaches to achieve these goals are through projects funded under the Rural Health Outreach and the Rural Network Development Program. A third approach is through projects funded under the Rural Telemedicine Grant Program. This program announcement pertains only to the Rural Telemedicine Grant Program. (The **Federal Register** Notice for the Rural Health Outreach and Rural Network Development Program was published December 13, 1996. Applications were due March 31, 1997).

Rural residents in the United States often lack access to a range of health services—from basic preventive services to highly specialized services—that would enable them to prevent, recover from, or cope with disease and disability. Consistent with the legislation, the Office of Rural Health Policy (ORHP) views integrated health care delivery systems or networks as a means to stabilize and integrate fragile rural health care systems with more sustainable, comprehensive delivery networks. ORHP believes that telemedicine has the potential to facilitate the development of integrated health care networks, thereby fostering improved access to quality health care services and reducing the isolation of rural practitioners.

The goal of ORHP's Rural Telemedicine Grant Program is to improve access to quality health services for rural residents and reduce the isolation of rural practitioners through the use of telemedicine technologies.

The two objectives of the Rural Telemedicine Grant Program are: (1) To demonstrate how telemedicine can be used as a tool in developing integrated systems of health care, thereby improving access to health services for rural individuals across the lifespan and reducing the isolation of rural health care practitioners; and (2) to evaluate the feasibility, costs, appropriateness, and acceptability of rural telemedicine services and technologies. Such evaluation is needed to determine how best to organize and provide telemedicine services in a sustainable manner.

Under its Rural Telemedicine Grant Program, ORHP funded eleven telemedicine projects in fiscal year 1994 for a period of three years. Building on the lessons learned from these first telemedicine grantees, new grantees will be expected to further the development of integrated health care networks by using telemedicine to increase access to a wide range of clinical services based on community need.

Funds Available

Approximately $4 million is available for the Rural Telemedicine Grant program in FY 1997. The Office of Rural

Health Policy expects to make approximately 10–14 new awards. Applicants may propose project periods of up to three years. However, applicants are advised that continued funding of grants beyond FY 1997 is subject to the availability of funds and grantee performance. No project will be supported for more than three years. The budget period for new projects will begin September 30, 1997.

Size of Awards

Individual grant awards under this notice will be limited to $400,000 (including direct and indirect costs) per year. It is anticipated that existing telemedicine networks would come in for smaller grant awards, because the network would already have some equipment and would be supporting some personnel. Overall, applications for smaller amounts are strongly encouraged.

Definitions

For the purposes of this grant program the following definitions apply:

Telemedicine: Telemedicine is the use of telecommunication and information technologies for the clinical care of patients, including patient counseling and clinical supervision/preceptorship of medical residents and health professions students, when such supervising or precepting involves direct patient care.

The definition does not include didactic distance education, such as lectures that are designed solely to instruct health care students, personnel or patients, and in which no clinical care is provided.

Telemedicine Clinical Consultation: A telemedicine clinical consultation is a person-to-person interaction relating to the clinical condition or treatment of a patient. It is the process by which a clinical service is delivered. The consultation may be interactive (i.e., in real-time) or asynchronous (i.e., using store-and-forward technology).

Professionals from a variety of health care disciplines may be involved in providing and/or receiving consultations including, but not limited to: physicians, physician assistants, nurses, nurse practitioners, nurse-midwives, clinical nurse specialists, dentists, dental hygienists, physical therapists, occupational therapists, speech therapists, clinical psychologists, clinical social workers, substance abuse counselors, podiatrists, optometrists, dieticians/nutritionists, pharmacists, optometrists, EMTs, etc.

Telemedicine Network: A telemedicine network is comprised of hubs (i.e., entities whose health care professionals provide consultations or whose faculty supervise or precept health professions students for clinical care at rural facilities) and spokes (i.e., entities whose professionals or patients receive consultations). Some entities may function as both a hub and a spoke. The network may have additional members who do not directly receive or provide consultations, but who foster access to and coordination of services, such as area agencies on aging and providers under the WIC program.

Rural spokes may be health care facilities or places in which health care is provided such as schools and homes. Examples of spoke sites include rural hospitals, clinics, nursing homes, mental health centers, homes, public health clinics, school-based clinics, assisted living facilities, senior citizen housing, and centers for the developmentally disabled.

Program Requirements

Telemedicine Network

In order to compete for the program, applicants must participate in a telemedicine network that includes at least three members: (1) a multispecialty entity (i.e., hub) located in an urban or rural area that can provide 24-hour-a-day access to a range of specialty health care; and (2) at least two rural health facilities (i.e., spokes), which may include small rural hospitals (fewer than 100 staffed beds), rural physician offices, rural health clinics, rural community health centers and rural nursing homes. For the purposes of this grant program, a multispecialty entity may be a tertiary care hospital, a multispecialty clinic, or a collection of facilities that, combined, could provide 24-hour-a-day specialty consultations.

A telemedicine network is characterized by a partnership among its members that is evidenced by each member's: (1) resource contribution; (2) specific network role; (3) active planning and programmatic participation; (4) long-term commitment to the project; and (5) signature on a signed, dated memorandum of agreement.

Applicants are encouraged to include other types of members in their network such as mental health clinics, public health clinics and departments, school-based clinics, emergency service providers, health professions schools, home health providers, and social service programs such as area agencies on aging and providers under the WIC program. Preference will be given to applicants whose networks meet the statutory preference noted in the ''Statutory Preference Section.''

Clinical Services

An applicant must meet the following programmatic requirements for clinical services:

(1) It must provide a minimum of seven (7) clinical telemedicine services over the network, one of which must be the stabilization of patients in emergency situations. Not all services need be provided to all sites.

(2) The applicant and its network members should select the other six (6) services to be provided. These services must be based on documented needs of the communities to be served.

(3) In addition to emergency stabilization services, at least two of the grant-funded services provided by the telemedicine network must be consultant services provided by physician specialists.

(4) All services provided with funding from this grant program must be available from the multispecialty entity on a 24-hour-a-day basis unless there is a strong justification for services being available less than 24 hours-a-day. An entity is considered capable of providing specialty consultations 24-hours-a-day if they have specialists on-call.

System Design

All members of a telemedicine network will be required to be electronically linked, for at least e-mail services, by the ninth month of the first budget period.

Whenever possible, telemedicine systems should be designed with an open architecture, fostering interoperability with other telemedicine systems.

Telemedicine systems should be designed using the least costly, most efficient technology to meet the identified need(s).

ORHP grant recipients will be expected, during the first nine months of the first budget period, to develop a set of protocols for each of the clinical services to be provided using telemedicine.

Evaluation and Data Collection

An applicant must submit a plan for evaluating the telemedicine services it provides and monitoring its own performance, as well as participate in an ORHP-sponsored evaluation of telemedicine services. The ORHP-sponsored activities may include maintaining a data-log provided by ORHP and collecting data, completing surveys, and participating in on-site observations by independent evaluators. The ORHP-sponsored data activities will be subject to OMB approval under the Paperwork Reduction Act of 1995.

Funding Requirements

Use of Grant Funds

Grant funds may be used to support the operating costs of the telemedicine system, including compensation for consulting and referring practitioners.

Grant funding must be used for services provided to or in rural communities. Fifty percent (50%) or more of the grant award must be spent for: transmission costs and clinician compensation payments; costs incurred in rural communities, including rural staff salaries and equipment maintenance; and equipment placed in rural communities, irrespective of where the equipment is purchased.

Grant dollars may not be used to support didactic distance education activities. However, equipment purchased to provide clinical services may be used for a variety of non-clinical purposes, including didactic education, administrative meetings, etc.

No more than forty percent (40%) of the total grant award each year may be used to purchase, lease or install equipment (i.e., equipment used inside the health care facility for providing telemedicine services such as codecs, cameras, monitors, computers, multiplexers, etc.).

Grant funds may not be used to purchase or install transmission equipment, such as microwave towers, satellite dishes, amplifiers, digital switching equipment or laying cable or telephone lines.

Grant funds may not be used to build or acquire real property, or for construction or renovation, except for minor renovations related to the installation of equipment.

Grant funds may be used to pay for transmission costs such as the cost of satellite time or the use of phone lines. However, those applicants who anticipate very high transmission rates for all or some of their sites should consider activities to achieve more sustainable rates.

If ORHP funds are used for clinician compensation payments, payments can be up to a maximum of $60 per practitioner per consult. If a third-party payer, including Medicaid or Medicare, can be billed for a consult, the grantee may not provide the practitioner with an ORHP-funded compensation payment. This requirement applies even if the grantee has not yet established its own internal procedure to bill Medicaid or Medicare.

Indirect Costs

In accordance with the law, no more than 20 percent of the amount provided under a grant in this grant program can be used to pay for the indirect costs associated with carrying out the purposes of such grant.

Cost Participation

The amount of cost participation will serve as an indicator of community and institutional support for the project and of the likelihood that the project will continue after federal grant support has ended. Cost participation may be in cash or in-kind (e.g., equipment, personnel, building space, indirect costs).

If an award is made, all funds identified as dedicated to this project (including funds used for cost participation) will be subject to the applicable cost principles, audit and reporting requirements.

Eligible Applicants

A grant award will be made either (1) to an entity that is a health care provider and is a member of an existing or proposed telemedicine network, or (2) to an entity that is a consortium of health care providers that are members of an existing or proposed telemedicine network. The applicant must be a legal entity capable of receiving federal grant funds. The grant recipient must be a public (non-federal) or private nonprofit entity, located in either a rural or urban area. Other telemedicine network members may be public or private, nonprofit or for-profit. Health facilities operated by a Federal agency may be members of the network but not the applicant.

All spoke facilities supported by this grant must meet one of the two criteria stated below:

(1) The facility is located outside of a Metropolitan Statistical Area (MSA) as defined by the Office of Management and Budget. (A list of the cities and counties that are designated as Metropolitan Statistical Areas is included in the application kit); or

(2) The facility is located in one of the specified rural census tracts of the MSA counties listed in Appendix I. Although each of these counties is an MSA, or part of one, large parts of each county are rural. Facilities located in these rural areas are eligible for the program. Rural portions of these counties have been identified by census tract because this is the only way we have found to clearly differentiate them from urban areas in the large counties. Appendix I provides a list of these eligible census tracts by county. Appendix II includes the telephone numbers for regional offices of the Census Bureau. Applicants may call these offices to determine the census tract in which they are located.

Statutory Funding Preference

As provided in section 330A of the PHS Act, as amended by the Health Centers Consolidation Act of 1996 (Pub. L. 104–299), an applicant will be given preference in the review process if its network includes any of the following:

(a) a majority of the health care providers serving in the rural areas or region to be served by the network;

(b) any federally qualified health centers, rural health clinics, and local public health departments serving in the rural area or region;

(c) outpatient mental health providers serving in the rural area or region; or

(d) appropriate social service providers (e.g., agencies on aging, school systems, and providers under the Women, Infants, and Children [WIC] program) to improve access to and coordination of health care services.

For preference purposes, the following definitions apply:

''Health care providers'' in 'element (a)' are defined as institutions and/or facilities that provide health care. ''Federally Qualified Health Centers (FQHCs)'' are defined as those federally and nonfederally-funded health centers that have status as federally qualified health centers under section 1861(aa)(4) or section 1905(l)(2)(B) of the Social Security Act (42 U.S.C. 1395x(aa)(4) and 1396d(l)(2)(B), respectively).

''Rural health clinics (RHCs)'' are defined as clinics certified by HCFA and approved to participate in the Medicare and Medicaid programs and receive payments as a Rural Health Clinic as defined under section 1861(aa) or 1905(l) of the Social Security Act (42 U.S.C. 1395x(aa) and 1395d(l), respectively).

Approved applications that qualify for the statutory funding preference will be funded ahead of other approved applications.

HRSA will consider geographic coverage when deciding which approved applications to fund. In addition, HRSA is concerned with assuring that grants to new networks, as well as to existing networks, be funded. Therefore when making awards, HRSA will consider the balance between awards to new telemedicine networks and to existing telemedicine networks.

Review Criteria

Grant applications will be evaluated on the basis of the following criteria:

(1) Extent to which the applicant has documented the need for the project, developed measurable project objectives for meeting the need, and developed a methodology or plan of activities that will lead to attaining the project objectives, including a plan to monitor the performance of the project. (20 points)

(2) Extent to which the project objectives and related activities are consistent with the goal and objectives of the grant program noted in the 'Legislative and Program Background' section. (35 points)

(a) Extent to which the proposed project will, using telemedicine as a tool, facilitate the development of an integrated rural health network, thereby increasing access to health services and decreasing practitioner isolation. (20 points)

(b) Extent to which the proposed project will provide a baseline of information and data for the systematic evaluation of telemedicine. (15 points)

(3) Demonstrated capability, experience and knowledge (i.e. managerial, technical, and clinical) of the applicant and other network members to implement the project and to disseminate information about the project. (20 points)

(4) Level of local involvement in defining needs and planning and implementing the project. Level of commitment to the project as evidenced by cost participation by the applicant, other network members and/or other organizations, and realistic plans to sustain the telemedicine network after federal grant support ends. (15 points)

(5) Relevance of the budget to the proposed activities and reasonableness of the budget to anticipated outcomes/results. (10 points)

Other Information

Applicants must develop projects that address specific, documented needs of the rural communities. Applicants should consider (1) the health care needs of the rural communities served by the project, (2) the information and support needs of rural health care practitioners, and (3) the extent to which the project can build upon existing telecommunications capacity in the communities. Needs can be established through a formal needs assessment, by population specific demographic and health data, and by health services data.

Applicants are advised that the narrative description of their program plus the narrative budget justification may not exceed 35 pages in length. All applications must be typewritten or printed and legible. Pages must have margins no less than one inch on top and one-half inch on the sides and bottom. The print font on each page, with the exception of the narrative budget pages, must be no smaller than 12 characters per inch (cpi) or a 12 point scalable font. The narrative budget pages must be no smaller than a 12 cpi or a 10 point scalable font.

Any application that is judged nonresponsive because it is inadequately developed, in an improper format, exceeds the specified page length, or otherwise is unsuitable for peer review and funding consideration, will be returned to the applicant. All responsive applications will be reviewed by an objective review panel.

National Health Objectives for the Year 2000

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity for setting priority areas. The Rural Telemedicine Grant program is related to the priority areas for health promotion, health protection, and preventive services. Potential applicants may obtain a copy of Healthy People 2000 (Full Report: Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report: Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325 (Telephone (202) 783–3238).

Smoke-Free Workplaces

The PHS strongly encourages all grant recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people. In addition, Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of a facility) in which regular or routine education, library, day care, health care or early childhood development services are offered to children.

Public Health System Impact Statement

This program is subject to the Public Health System Reporting Requirements as approved by the OMB—0937–0195. Under these requirements, the community-based nongovernmental applicant must prepare and submit a Public Health System Impact Statement (PHSIS). The PHSIS is intended to provide information to State and local health officials to keep them apprised of proposed health services grant applications submitted by community-based nongovernmental organizations within their jurisdictions.

Community-based nongovernmental applicants are required to submit the following information to the head of the appropriate State and local health agencies in the area(s) to be impacted: a. A copy of the face page of the application (SF 424) b. A summary of the project, not to exceed one page, which provides:

(1) A description of the population to be served.

(2) A summary of the services to be provided.

(3) A description of the coordination planned with the appropriate State of local health agencies.

This information must be submitted no later than the federal application receipt due date.

Executive Order 12372

The Rural Telemedicine Grant program has been determined to be a program that is subject to the provisions of Executive Order 12372 concerning intergovernmental review of federal programs by appropriate health planning agencies as implemented by 45 CFR part 100. Executive Order 12372 sets up a system for State and local government review of proposed federal assistance applications. Applicants (other than federally-recognized Indian tribal governments) should contact their State Single Point of Contact (SPOCs) as early as possible to alert the SPOC to the prospective applications and receive any necessary instructions on the State process. For proposed projects serving more then one State, the applicant is advised to contact the SPOC of each affected State. A list of SPOCs is included in the application kit. All SPOC recommendations should be submitted to Pam Hilton, Office of Grants Management, Bureau of Primary Health Care, 4350 East West Highway, 11th floor, Bethesda, Maryland, 20814, (301) 594–4260. The due date for State process recommendations is 60 days after the application deadline of June 20, 1997 for competing applications. The granting agency does not guarantee to ''accommodate or explain'' for State process recommendations it receives after that date. (See Part 148 of the PHS Grants Administration Manual, ''Intergovernmental Review of PHS Programs under Executive Order 12372 and 45 CFR Part 100,'' for a description of the review process and requirements.

Applicants should notify their State Office of Rural Health (or other appropriate State entity) of their intent to apply for this grant program and to consult with such agency regarding the content of the application. The State Office can provide information and technical assistance. A list of State Offices of Rural Health is included with the application kit.

OMB Catalog of Federal Domestic Assistance number is 93.211.

Claude Earl Fox,

Acting Administrator.

Appendix I

Census tract numbers are shown *below* each county name.

For a spoke health care facility to be eligible as 'rural' under criterion #2, the facility must be located in one of the census tracts (CTs) or block numbered areas (BNAs) that is listed below the following counties. If a facility is classified as rural under this criterion, the CT number or BNA number must be included next to the county name when identifying the facility in the 'Telemedicine Network Identification' portion of the application.

State, County and Tract Number

Alabama

Baldwin

101–102
106
110
114–116

Mobile

59
62
66
72.02

Tuscaloosa

107

Arizona

Coconino

16–25

Maricopa

101
405.02
507
611
822.02
5228
7233

*Mohave***

**See Below

Pima

44.05
48–49

Pinal

01–02
04–12

Yuma

105–107
110
112–113
115–116

California

Butte

24–36

El Dorado

301.01–301.02
302–303
304.01–304.02
305.01–305.03
306
310–315

Fresno

40
63
64.01
64.03
65–68
71–74
78–83
84.01–84.02

Kern

33.01–33.02
34–37
40–50
51.01
52–54
55.01–55.02
56–61
63

Los Angeles

5990
5991
9001–9002
9004
9012.02
9100–9101
9108.02
9109–9110
9200.01
9201
9202
9203.03
9301

Madera

01.02–01.05
02–04
10
11.98
12.98

Merced

01–02
03.01
04
05.01–05.02
06–08
19.98
20
21.98
22
23.01
24
24.75–24.98

Monterey

109
112–0113
114.01–0114.02
115

Placer

201.01–201.02
202–204
216–217
219–220

Riverside

421
427.02–427.03
429–432
444
452.02
453–455
456.01–456.02
457.01–457.02
458–462

San Bernardino

89.01–89.02
90.01–90.02
91.01–91.02
93–95
96.01–96.03
97.01
97.03–97.04
98–99
100.01–100.02
102.01–102.02
103
104.01–104.03
105–107

San Diego

189.01–189.02
190
191.01
208
209.01–209.02
210
212.01–212.02
213

San Joaquin

40
44–45
52.01–52.02
53.02–53.04
54–55

San Luis Obispo

100–106
107.01–107.02
108
114
118–122
124–126
127.01–127.02

Santa Barbara

18
19.03

Santa Clara

5117.04
5118
5125.01
5127

Shasta

126–127
1504

Sonoma

1506.04
1537.01
1541–1543

Stanislaus

01
02.01
32–35
36.05
37–38
39.01–39.02

Tulare

02–07

26
28
40
43–44

Ventura

01–02
46
75.01

Colorado

Adams

84
85.13
87.01

El Paso

38
39.01
46

Larimer

14
17.02
19.02
20.01
22

Mesa

12
15
18
19

Pueblo

28.04
32
34

Weld

19.02
20
24
25.01–25.02

Florida

Collier

111–114

Dade

115

Marion

02
04–05
27

Osceola

401.01–401.02
402.01–402.02
403.01–403.02
404
405.01–405.02
405.03
405.05
406

Palm Beach

79.01–79.02
80.01–80.02
81.01–81.02
82.01–82.02
82.03–83.01
83.02

Polk

125–127
142–144
152
154–161

Kansas

Butler

201–205
209

Louisiana

Rapides

106
135–136

Terrebonne

122–123

MINNESOTA

*Polk**

204–210
*9701–9704

St. Louis

105
112–114
121–135
137.01–137.02
138–139
141
151–155

Stearns

103
105–111

Montana

Cascade

105

Yellowstone

15–16
19

Nevada

Clark

57–59

Washoe

31.04
32
33.01–33.04
34

New Mexico

Dona Ana

14
19

*Nye***

**See Below

Sandoval

101–104
105.01

Santa Fe

101–102
103.01

*Valencia**

*9701
*9703–9706
*9708
*9711–9712

New York

Herkimer

101
105.02
107–109
110.01–110.02
111–112
113.01

North Dakota

Burleigh

114–115

Grand Forks

114–116
118

Morton

205

Oklahoma

Osage

103–108

Oregon

Clackamas

235–236
239–241
243

Jackson

24
27

Lane

01
05
07.01–07.02
08
13–16

Pennsylvania

Lycoming

101–102

South Dakota

Pennington

116–117

Texas

Bexar

1720
1821
1916

Brazoria

606
609–619
620.01–620.02
621–624
625.01–625.03
626.01–626.02
627–632

Harris

354
544
546

Hidalgo

223–228
230–231
243

Washington

Benton

116–120

Franklin

208

King

327–328
330–331

Snohomish

532
536–538

Spokane

101–102
103.01–103.02
133
138
143

Whatcom

110

Yakima

18–26

Wisconsin

Douglas

303

Marathon

17–18
20–23

Wyoming

Laramie

16–18

*This county is divided into Block Numbered Areas (BNAs), not Census Tracts (CTs).

**This entire county, although part of a large city MSA, is eligible as rural.

Appendix II

Bureau of The Census Regional Information Service

Atlanta, GA 404–730–3957
Alabama, Florida, Georgia
Boston, MA 617–424–0501
Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont, Upstate New York
Charlotte, NC 704–344–6144
Kentucky, North Carolina, South Carolina, Tennessee, Virginia
Chicago, IL 708–562–1740
Illinois, Indiana, Wisconsin
Dallas, TX 214–767–7105
Louisiana, Mississippi, Texas
Denver, CO 303–969–7750
Arizona, Colorado, Nebraska, New Mexico, North Dakota, South Dakota, Utah, Wyoming
Detroit, MI 313–259–0056
Michigan, Ohio, West Virginia
Kansas City, KS 913–551–6711
Arkansas, Iowa, Kansas, Missouri, New Mexico, Oklahoma
Los Angeles, CA 818–904–6339
California
Philadelphia , PA 215–597–8313
Delaware, District of Columbia, Maryland, New Jersey, Pennsylvania
Seattle, WA 206–728–5314
Idaho, Montana, Nevada, Oregon, Washington

[FR Doc. 97–10435 Filed 4–22–97; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Notice of Meetings

Pursuant to Public Law 92–463, notice is hereby given of the following meetings of the SAMHSA Special Emphasis Panels (SEPs) I and II in May.

A summary of the meetings may be obtained from: Ms. Dee Herman, Committee Management Liaison, SAMHSA Office of Extramural Activities Review, 5600 Fishers Lane, Room 17–89, Rockville, Maryland 20857. Telephone: (301) 443–4783.

Substantive program information may be obtained from the individual named as Contact for the meetings listed below.

The first two meetings will be of the SEP II committee and will include the review, discussion and evaluation of individual contract proposals. These discussions could reveal personal information concerning individuals associated with the proposals and confidential and financial information about an individual's proposal. The discussions may also reveal information about procurement activities exempt from disclosure by statute and trade secrets and commercial or financial information obtained from a person and privileged and confidential. Accordingly, the meetings are concerned with matters exempt from mandatory disclosure in Title 5 U.S.C. 552b(c) (3), (4), and (6) and 5 U.S.C. App. 2, § 10(d).

Committee Name: SAMHSA Special Emphasis Panel II.

Meeting Date: May 7, 1997.

Place: DoubleTree Hotel, Rockville Room, 1750 Rockville Pike, Rockville, MD 20852.

Closed: May 7, 1997—9:00 a.m. to 5:00 p.m.

Contact: Roger Straw, Ph.D., 17–89, Parklawn Building, Telephone: (301) 443–1919, and FAX: (301) 443–3437.

Committee Name: SAMHSA Special Emphasis Panel II.

Meeting Date: May 8, 1997.

Place: Chevy Chase Holiday Inn, Terrace ''A'', 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Closed: May 8, 1997—9:00 a.m. to 1:00 p.m.

Contact: Constance M. Burtoff, 17–89, Parklawn Building, Telephone: (301) 443–2437 and FAX: (301) 443–3437.

The third meeting will be of the SEP I committee and will include the review, discussion and evaluation of individual grant applications. This discussion could reveal personal information concerning individuals associated with the applications. Accordingly, this meeting is concerned with matters exempt from mandatory disclosure in Title 5 U.S.C. 552b(c)(6) and 5 U.S.C. App. 2, § 10(d).

Committee Name: Special Emphasis Panel I.

Meeting Dates: May 19–20, 1997.

Place: Residence Inn—Bethesda, Gateway Room, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Closed: May 19, 1997—9:00 a.m. to 5:00 p.m. May 20, 1997—9:00 a.m. to Adjournment

Panel: Center for Substance Abuse Treatment (CSAT) Cooperative Agreement for a Multi-site Study For Cannabis (Marijuana) Dependent Youth

Contact: Stanley Kusnetz, Room 17–89, Parklawn Building, Telephone: (301) 443–3042 and FAX: (301) 443–3437.

Dated: April 18, 1997.

Jeri Lipov,

Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 97–10544 Filed 4–22–97; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4033–N–02]

Notice of Proposed Information Collection for Public Comment

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due: June 23, 1997.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Oliver Walker, Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 9116, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Carissa Janis, telephone number (202) 708–3291 (this is not a toll-free number)

for copies of the proposed forms and other available documents.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

The Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Revised Congregate Housing Services Program (CHSP).

OMB Control Number: 2502–0485.

Description of the need for the information and proposed use: The information is basic to the ongoing operations of the Congregate Housing Services Program (CHSP). It supports statutory requirements and program and management controls that prevent fraud, waste and mismanagement. The controls must be maintained as long as current grants are in operation, or until such time as Congress otherwise disposes of this program. Section 802 of the National Affordable Housing Act authorizes/requires matching funds and participant fee collections that are reported on information collection forms. The CHSP rule at 24 CFR 700.155(d) requires grantees to submit those forms required by the Secretary, which are included in the CHSP Handbook 4640.1.

Agency forms, if applicable: HUD 90006, HUD 90198, HUD 91178–A, HUD 91180–A, HUD 91180–B.

Members of affected public: CHSP grantees with 111 grants. An estimation of the total number of hours needed to prepare the information collection is 5,570, the number of respondents is 565, the frequency of response is once a month to once a year, and the hours of response are on average 2.77 per response.

Status of the proposed information collection: Extension.

Authority: Section 236 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: April 17, 1997.

Nicolas P. Retsinas,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 97–10429 Filed 4–22–97; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Workshop To Obtain Input for the Development of Habitat-Based Recovery Criteria for the Grizzly Bear (Ursus arctos horribilis)

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Notice of public workshop.

SUMMARY: The Fish and Wildlife Service gives notice that a public workshop will be held to begin the development of habitat-based recovery criteria for the grizzly bear (*Ursus arctos horribilis*), a threatened species in the 48 contiguous States. The workshop will allow scientists and other interested parties the opportunity to submit oral or written comments.

DATES: The public workshop will be held from 10 a.m. to 12 noon, 1 p.m. to 4 p.m., and 6 p.m. to 8 p.m. on June 17, 1997.

ADDRESSES: The public workshop will be held at the GranTree Inn, 1325 North 7th Avenue, Bozeman, Montana. Comments and materials concerning the workshop should be sent to the Grizzly Bear Recovery Coordinator, U.S. Fish and Wildlife Service, University Hall, Room 309, University of Montana, Missoula, Montana 59812. Comments and materials received will be available for inspection, by appointment, during normal business hours at the above Service address.

FOR FURTHER INFORMATION CONTACT: Dr. Christopher Servheen, Grizzly Bear Recovery Coordinator (see **ADDRESSES** above), at 406/243–4903, fax 406/329–3212, e-mail grizz@selway.umt.edu.

SUPPLEMENTARY INFORMATION:

Background

The grizzly bear (*Ursus arctos horribilis*) is listed as a threatened species in the 48 contiguous States. The Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. A revised Grizzly Bear Recovery Plan was approved by the Fish and Wildlife Service (Service) on September 10, 1993. The Bitterroot Ecosystem Recovery Plan Chapter was approved as a supplement to the Grizzly Bear Recovery Plan on September 11, 1996.

The Service will hold a public workshop seeking comments on objective, measurable habitat-based recovery criteria that the agency needs to develop and incorporate into the Grizzly Bear Recovery Plan. The criteria will be used to describe the characteristics of the habitat necessary to support a recovered population of grizzly bears. Once the habitat-based recovery criteria have been developed, specific, quantified habitat-based recovery criteria eventually will be developed for each recovery zone. These quantified criteria will then become part of the recovery goal for that particular grizzly bear population. At the workshop, the Service also wants to obtain information and comments on methods for monitoring the habitat-based recovery criteria. Emphasis of this workshop will be on the habitat needs of the Yellowstone ecosystem grizzly bear population, but comments on other grizzly bear populations and for grizzly bears anywhere in the lower 48 States are also welcome.

The Service seeks the input of scientists, the public, and interested organizations at the workshop. The workshop will be held in Bozeman, Montana, on June 17, 1997 (see **ADDRESSES** section). The workshop will be held from 10:00 a.m. to 8:00 p.m. with two breaks (see **DATES** section). Participants are invited to present information in oral and written form. All comments presented orally also should be submitted in writing at the workshop to facilitate review of these comments. Those wishing to present information or comments orally at the workshop are asked to contact Dr. Christopher Servheen, Grizzly Bear Recovery Coordinator (see **FOR FURTHER INFORMATION CONTACT** section) so that scheduling of oral presentations can be arranged in advance. Anyone wishing to provide information or comments, but unable to attend the workshop, should send the information or comments to Dr. Christopher Servheen (see **ADDRESSES** section). All information and comments previously or subsequently received will be considered during the development of the habitat-based recovery criteria.

Dated: April 16, 1997.

Wilbur Ladd,

Acting Regional Director, Denver, Colorado.

[FR Doc. 97–10470 Filed 4–22–97; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Collection of Water Delivery Data for the Operation of Irrigation Projects and Systems: Proposed Collection of Water Delivery Data; Comment Request

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that Bureau of Indian Affairs (BIA) is planning to submit the following proposed Information Collection Request (ICR) to the Office of Management and Budget (OMB): Collection of Water Delivery Data for the Operation of Irrigation Projects and Systems. Before submitting the ICR to OMB for review and approval, BIA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be received on or before June 23, 1997, to be assured of consideration.

ADDRESSES: Comments should be sent to: Bureau of Indian Affairs, Division of Water and Land, Mail Stop 4513-MIB, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Interested persons may obtain a copy of the ICR including the Water Request form without charge by contacting Ross Mooney at 202–208–5480, or facsimile number: 202–219–1255, or E-mail: Ross__Mooney@IOS.DOI.GOV.

SUPPLEMENTARY INFORMATION: In order for irrigators to receive water deliveries, information is needed by the BIA to operate and maintain its irrigation projects and fulfill reporting requirements. Section 171.7 of 25 CFR part 171, [Irrigation] Operation and Maintenance, specifies the information collection requirement. Water users must apply for water delivery. The information to be collected includes: name; water delivery location; time and date of requested water delivery; duration of water delivery; rate of water flow; number of acres irrigated; crop statistics; and other operational information identified in the local administrative manuals. Collection of this information is currently authorized under an emergency approval by OMB (OMB Control Number 1076–0141). The BIA is proceeding with this public comment period as the first step in obtaining a normal information collection clearance from OMB.

All information is to be collected annually from each water user. Annual reporting and record keeping burden for this collection of information is estimated to average 40 minutes for each response for 10,300 respondents, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Thus, the total annual reporting and record keeping burden for this collection is estimated to be 6,867 hours.

The BIA solicits comments in order to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the bureau, including whether the information will have practical utility;

(ii) Evaluate the bureau's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

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

(iv) Minimize the burden of the collection of information on those who are to respond.

A summary of the public comments will be included in BIA's submission of the information collect request.

The following information is provided for the information collection:

Title: Water Request.

OMB Control Number: 1076–0141.

Summary: This information collection is needed to operate and maintain BIA irrigation projects and systems and meet our reporting requirements.

Frequency of Collection: On Occasion.

Description of Respondents: BIA Irrigation Project Water Users.

Total Annual Responses: 51,500.

Total Annual Burden Hours: 6,867 hours.

Dated: April 17, 1997.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 97–10515 Filed 4–22–97; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–060–01–1320–01; WYW127221]

Correction to Notice of Availability of a Final Environmental Impact Statement (FEIS) for the North Rochelle Coal Lease Application Located in Northeastern Wyoming's Powder River Basin

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction.

SUMMARY: This document corrects the public comment period in the notice of availability of the final EIS for the North Rochelle Coal Lease Application in Wyoming's Powder River Basin which was published April 10, 1997 (62 FR 1763).

DATES: The FEIS which was originally scheduled to be available on April 11, 199 is now anticipated to be available to the public April 18, 1997. In order to assure that comments are considered in the Record of Decision, given this change in availability, they should be received no later than close of business on May 19, 1997, or 30 days from the date of the Environmental Protection Agency's actual date of publication of their Notice of Availability in the **Federal Register** whichever occurs first.

ADDRESSES: Comments, concerns, and requests for copies of the FEIS (or an Executive Summary of the FEIS) should be addressed to Casper District Office, Bureau of Land Management, Attn: Nancy Doelger, 1701 East ''E'' Street, Casper, Wyoming 82601. Comments can also be faxed to 307–234–1525, Attn: Nancy Doelger.

Dated: April 11, 1997.

Alan R. Pierson,

State Director.

[FR Doc. 97–10275 Filed 4–22–97; 8:45 am]

BILLING CODE 4310–22–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–985–0777–66]

Fire Management and Suppression Activites: Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent to Conduct Planning Reviews and Associated Public Participation Opportunities.

SUMMARY: The four Bureau of Land Management (BLM) District Offices in

Wyoming are reviewing their fire management and suppression activities on all of the BLM-administered public lands in Wyoming. Public involvement activities such as open houses, workshops, and field trips, to be held during the summer and fall of 1997, will provide the public an opportunity to identify concerns to be addressed in the planning review.

EFFECTIVE DATES: Meeting dates and other public participation activities in the four BLM Districts will be announced in other public notices, the local media, and in letters sent to interested and potentially affected parties. Persons wishing to participate in this planning review and wishing to be placed on mailing lists must notify the appropriate BLM District Office(s) at the addresses and phone numbers below.

FREEDOM OF INFORMATION ACT CONSIDERATIONS: Public comments submitted for this planning review, including names and street addresses of respondents, will be available for public review and disclosure at the addresses below during regular business hours (7:30 a.m. to 4:30 p.m.), Monday through Friday, except holidays. Individual respondents may request confidentiality. If you wish to withhold your name or address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your comment. Such requests will be honored to the extent allowed by law. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT:

Worland District:
Bob Ross, District Planning Coordinator, Bureau of Land Management, 101 South 23rd Street, P.O. Box 119, Worland, Wyoming 82401, 307–347–5100;

Rawlins District:
Dave McWhirter, District Resource Advisor, Bureau of Land Management, 1300 North 3rd Street, Rawlins, Wyoming 82301, 307–328–4200;

Rock Springs District:
Reneé Dana, District Resource Advisor, Bureau of Land Management, 280 Highway 191 North, Rock Springs, Wyoming 82902–1869, 307–352–0256;

Casper District:
Glen Nebeker, District Resource Advisor, Bureau of Land Management, 1701 East E Street, Casper, Wyoming 82601, 307–261–7600.

SUPPLEMENTARY INFORMATION: The planning review will identify any need for additional fire management prescriptions or actions, as appropriate. Some goals of the planning review are to identify fire management strategies to achieve desired resource conditions, reduce the potential for catastrophic wildfires through the management of fuels, improve communication and coordination to promote fire line safety, and achieve a better understanding of fire's role in the natural environment. The planning review will also address public health and safety, smoke management, public perceptions regarding fire, and economic considerations. If the final determinations of the planning review result in changes to existing management direction, or add new management direction for the BLM-administered public lands involved, the appropriate BLM land use plans (i.e., Resource Management Plans—RMPs) will be amended.

Dated: April 17, 1997.

Alan R. Pierson,

State Director.

[FR Doc. 97–10468 Filed 4–22–97; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–015–1430–01: GP–7–0145]

Realty Action

AGENCY: Bureau of Land Management, Lakeview District.

ACTION: Direct sale of public land in Lake County OR 53020.

The following parcel of public land is suitable for direct sale under Section 203 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1713, at no less than the appraised fair market value. The land will not be offered for sale for at least 60 days following the publication of this notice in the **Federal Register**.

Legal description	Acreage	Sale price	Deposit
Parcel Serial No., OR 53020	2.5	$2,500	$750

T. 25S., R. 14E., W.M., Oregon
Sec. 32: SE¼SE¼SW¼SE¼.

The above described parcel of land is hereby segregated from appropriation under the public land laws, including the mining laws, but not from sale under the above cited statute for 270 days from the date of publication or until title transfer is completed or the segregation is terminated by publication in the **Federal Register**, whichever occurs first.

The land is not considered essential to the public land management base and is unsuitable for management by another Federal agency. No significant resource values will be affected by this disposal. The sale is consistent with Bureau planning for the land involved and will serve important public objectives.

The sale parcel will be offered under direct sale procedures to Fort Rock Care Center, Inc. of Fort Rock, Oregon. Direct sale procedures are considered appropriate, in this case, as the offered public land is necessary to accommodate the construction of the Fort Rock Care Center. Direct sale procedures are authorized under 43 CFR 2711.3–3. The land will be offered for direct sale at 10:00 am PST, on July 1, 1997, and will be by sealed bid only. A written sealed bid must be submitted to the BLM, Lakeview District Office at P.O. Box 151, 1000 South Ninth Street, Lakeview, Oregon 97630, no later than 4:30 pm PST, June 30, 1997, and must be for not less than the appraised sale price indicated. The written sealed bid must be accompanied by a certified check, postal money order, bank draft or cashier's check, made payable to the Department of the Interior-BLM for not less than the bid deposit specified in this notice. The bid shall be enclosed in a sealed envelope clearly marked, in the lower left hand corner, Bid for Public Land Sale OR 53020, Lake County, Oregon, July 1, 1997.

The total purchase price for the land shall be paid within 180 days of the date of sale or the bid deposit will be forfeited and the parcel withdrawn from further sale consideration.

The terms, conditions and reservation applicable to the sale are as follows:

(1) Patent to the sale parcel will contain a reservation to the United States for ditches and canals.

(2) The sale parcel will be subject to all valid existing rights of record at the time of patent issuance.

(3) The mineral interests being offered for conveyance with sale parcels OR 53020 have no known value. A deposit or bid to purchase the parcel will also constitute an application for conveyance of the mineral estate with the following reservations;

(a) Diatomite, oil and gas and geothermal resources will be reserved to the United States.

The above mineral reservations are being made in accordance with Section 209 of the Federal Land Policy and Management Act of 1976.

Fort Rock Care Center, Inc. must include with their bid deposit a non-refundable $50.00 filing fee for conveyance of the mineral estate.

Federal law requires that the bidder must be a U.S. citizen, 18 years of age or older, a state or state instrumentality authorized to hold property, or a corporation authorized to own real estate in the state in which the land is located.

Detailed information concerning the sale, including the reservations, sale procedures, terms and conditions, planning and environmental documentation, is available at the Lakeview District Office, P.O. Box 151, 1000 South Ninth Street, Lakeview, Oregon 97630.

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 Lakeview Resource Manager, Bureau of Land Management, at the above address. Objections will be reviewed by the District Manager who may sustain, vacate or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

Scott R. Florence,

Manager, Lakeview Resource Area.

[FR Doc. 97–10455 Filed 4–22–97; 8:45 am]

BILLING CODE 4310–33–M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Alaska Outer Continental Shelf Region, Cook Inlet Oil and Gas Lease Sale 149

AGENCY: Minerals Management Service

ACTION: Final Notice of Sale

1. **Authority**. This Notice is published pursuant to the Outer Continental Shelf (OCS) Lands Act (43 U.S.C. 1331-1356, as amended) and the regulations issued thereunder (30 CFR Part 256).

2. **Filing of Bids**.

(a) **Filing of Bids**. Sealed bids will be received by the Regional Director (RD), Alaska OCS Region, Minerals Management Service (MMS), 949 East 36th Avenue (Third Floor), Anchorage, Alaska, 99508-4302. Bids may be delivered in person to that address during normal business hours (8 a.m. to 4 p.m., Alaska Standard Time (a.s.t.) until the Bid Submission Deadline at 10 a.m. Tuesday, June 10, 1997. Hereinafter, all times cited in this Notice refer to a.s.t. unless otherwise stated. Bids will not be accepted the day of Bid Opening, Wednesday, June 11, 1997. Bids received by the RD later than the time and date specified above will be returned unopened to the bidders. Bids may not be modified or withdrawn unless a written modification or written withdrawal request is received by the RD prior to 10 a.m. Tuesday, June 10, 1997. Bid Opening Time will be 9 a.m., Wednesday, June 11, 1997, at the Wilda Marston Theatre, Z. J. Loussac Public Library, 3600 Denali Street, Anchorage, Alaska.

All bids must be submitted and will be considered in accordance with applicable regulations, including 30 CFR Part 256. The list of restricted joint bidders which applies to this sale was published in the *Federal Register* on March 27, 1997, Volume 62, Number 59, Page 14699.

(b) Natural Disaster. In the event a natural disaster (such as earthquake) or other occurrence causes the MMS Alaska OCS Region Office to be closed on Tuesday, June 10, 1997, bids will be accepted until 9 a.m. Wednesday, June 11, 1997, at the site of bid opening specified above. Under these conditions, bids may be modified or withdrawn upon written notification up until 9 a.m. Wednesday, June 11, 1997. Closure of the office may be determined by calling (907) 271-6010 and hearing a recorded message to that effect.

3. Method of Bidding.

(a) Submission of Bids. A separate signed bid in a sealed envelope labeled "Sealed Bid for Oil and Gas Lease Sale 149, not to be opened until 9 a.m., a.s.t., Wednesday, June 11, 1997" must be submitted for each block or bidding unit bid upon. The sealed envelope and the bid should contain the following information: the company name, Alaska OCS Region Company Number (YK Company Number), map number and name, and the block number(s) of the block or bidding unit bid upon. In addition, the total amount bid to be considered by MMS must be a whole dollar amount. Any cent amount above the whole dollar will be ignored by MMS.

Bidders must submit with each bid 1/5th of the cash bonus, in cash or by cashier's check, bank draft, or certified check,

payable to the order of the U.S. Department of the Interior--Minerals Management Service. For identification purposes, the following information should appear on the check or draft: company name, Alaska OCS Region Company Number, map number and name, and block number(s) bid on. No bid for less than all of a block or bidding unit will be considered.

All documents must be executed in conformance with signatory authorizations on file in the MMS Alaska OCS Regional Office. Partnerships also need to submit or have on file a list of signatories authorized to bind the partnership. Bidders submitting joint bids must state on the bid form the proportionate interest of each participating bidder, in percent to a maximum of five decimal places, e.g., 33.33333 percent. The combined proportionate interest amounts stated for joint bidders must equal 100 percent. Other documents may be required of bidders under 30 CFR 256.46. Bidders are warned against violation of 18 U.S.C. 1860 prohibiting unlawful combination or intimidation of bidders.

4. **Bidding, Yearly Rental, and Royalty Systems**. The following bidding, yearly rental, and royalty systems apply to this sale:

(a) Bidding Systems. All bids submitted at this sale must provide for a cash bonus in the amount of $62 or more per hectare or fraction thereof.

(b) Yearly Rental. All leases awarded will provide for a yearly rental payment of $13 per hectare or fraction thereof.

(c) Royalty Systems. All leases will provide for a minimum

royalty of $13 per hectare or fraction thereof. A Fixed Royalty Rate of 12½ percent applies to all blocks and bidding units offered in this sale.

5. **Equal Opportunity**. The certification required by 41 CFR 60-1.7(b) and Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, on the Compliance Report Certification Form, Form MMS-2033 (June 1985), and the Affirmative Action Representation Form, Form MMS-2032 (June 1985) must be on file in the MMS Alaska OCS Regional Office prior to lease award (see paragraph 14(g)).

6. **Bid Opening**. Bid opening will begin at the bid opening time stated in paragraph 2. The opening of bids is for the sole purpose of publicly announcing bids received, and no bids will be accepted or rejected at that time.

7. **Deposit of Payment**. Any cash, cashier's checks, certified checks, or bank drafts submitted with a bid may be deposited by the Government in an interest-bearing account in the U.S. Treasury during the period the bids are being considered. Such a deposit does not constitute and shall not be construed as acceptance of any bid on behalf of the United States.

8. **Withdrawal of Blocks**. The United States reserves the right to withdraw any block from this sale prior to issuance of a written acceptance of a bid for the block.

9. **Acceptance, Rejection, or Return of Bids**. The United States reserves the right to reject any and all bids. In any case, no bid will be accepted, and no lease for any block or

bidding unit will be awarded to any bidder, unless:

(a) the bidder has complied with all requirements of this Notice and applicable regulations;

(b) the bid is the highest legal bid; and

(c) the amount of the bid has been determined to be adequate by the authorized officer.

No bonus bid will be considered for acceptance unless it provides for a cash bonus in the amount of $62 or more per hectare or fraction thereof. Any bid submitted which does not conform to the requirements of this Notice, the OCS Lands Act, as amended, and other applicable regulations may be returned to the person submitting that bid by the RD and not considered for acceptance.

To ensure that the government receives a fair return for the conveyance of lease rights for this sale, the MMS has modified its two-phased process for bid adequacy determination. The MMS will not automatically accept legal high bids on confirmed and wildcat blocks or bidding units which receive three or more bids. Such bids will be evaluated in accordance with the remaining elements of the MMS bid adequacy procedures. This modification was described in the *Federal Register* on March 29, 1996 (61 FR 14162). A copy of the revised bid adequacy procedures ("Summary of Procedures for Determining Bid Adequacy at Offshore Oil and Gas Lease Sales: Effective April 1996, with Sale 157") is available from the MMS Alaska OCS Regional Office (see paragraph 14(a) of this Notice).

10. Successful Bidders. The following requirements apply

to successful bidders in this sale:

(a) Lease Issuance.

Each person who has submitted a bid accepted by the authorized officer will be required to execute copies of the lease (Form MMS-2005 (March 1986)), pay the balance of the cash bonus bid along with the first year's annual rental for each lease issued, by electronic funds transfer in accordance with the requirements of 30 CFR 218.155, and satisfy the bonding requirements of 30 CFR 256, Subpart I, as amended.

Paragraph 14(m), Information to Lessees, contains additional information pertaining to this matter.

(b) Certification Regarding Nonprocurement Debarment, Suspension, and Other Responsibility Matters -- Primary Covered Transactions.

Each person involved as a bidder in a successful high bid must have on file, in the MMS Alaska OCS Region, a currently valid certification that the person is not excluded from participation in primary covered transactions under Federal nonprocurement programs and activities. A certification previously provided to that office remains currently valid until new or revised information applicable to that certification becomes available. In the event of new or revised applicable information, a subsequent certification is required before lease issuance can occur. Persons submitting such certifications should review the requirements of 43 C.F.R., Part 12, Subpart D, as amended in the Federal Register of June 26, 1995, at 60 FR 33035.

Copies of the certification form are available from the MMS Alaska OCS Regional Public Information Office. See Paragraph 14(a) of this Notice for directions on how to obtain the forms.

11. Official Protraction Diagrams. Blocks being offered may be located on the following OCS Official Protraction Diagrams (OPD's) available for $2 each from the MMS, Alaska OCS Regional Public Information Office. See Paragraph 14(a) of this Notice for directions on how to obtain OPD's.

These OPD's are based on the North American Datum of 1983 (NAD 83). They reflect current baseline and boundary information portrayed on a metric NAD 83 cadastre. Bidders must utilize the OPD(s) and block number(s) based on NAD 83 in submitting bids.

NP 05-08 Kenai
NO 05-02 Seldovia

12. Description of the Areas Offered for Bids. The lease sale area offered for bidding is listed by OPD. Three categories of blocks appear under each OPD listed: (1) whole blocks, (2) split blocks, and (3) blocks which comprise bidding units.

Whole blocks fall entirely under the jurisdiction of the Federal Government. Each block must be bid on separately. Hectares for whole blocks listed in this paragraph are found on the appropriate OPD.

Split blocks are blocks divided into two or more portions. This occurs where part of the block lies within 3 geographical miles of the seaward boundary of Alaska. Each split block portion listed under SPLIT BLOCKS must be bid on separately.

Bidding units are a combination of portions of adjacent blocks. The entire bidding unit is listed under the OPD where

the first partial block is located. When part of the bidding unit is located on an adjacent OPD, the appropriate OPD number will be listed (i.e., block 6482, NO 05-01). All parts of a bidding unit must be bid on together.

Copies of block diagrams for split blocks are available from the Alaska OCS Regional Public Information Office. See Paragraph 14(a) for information on how to obtain copies.

The following blocks or portions of blocks are offered for bidding:

Official Protraction Diagram NP 05-08, Kenai, (approved January 3, 1994)

(1) WHOLE BLOCKS:

6859	6908-6911	7008-7013	7108-7113
6860	6958-6962	7058-7063	

(2) SPLIT BLOCKS:

Blocks	Hectares	Blocks	Hectares
6862 Area B	779.334626	7007 Area B	1445.113455
6913 Area B	717.283524	7057 Area B	1819.229840
6963 Area B	2113.917394	7114 Area B	1260.801087

(3) BIDDING UNITS:

Blocks	Hectares	Total Hectares
6759 Area B	78.036811	
6808 Area B	10.592334	
6809 Area B	1895.343563	1983.972708
6760 Area B	328.547743	
6810 Area B	1954.792990	2283.340733
6811 Area B	166.053812	
6861 Area B	1713.984153	1880.037965
6857 Area B	5.953182	
6858 Area B	1122.208141	1128.161323
6907 Area B	473.737973	
6957 Area B	1103.882558	1577.620531
6912 Area B	2207.099593	
6912 Area C	94.296112	

6964 Area B	213.419463	
7014 Area B	1630.062395	
7015 Area B	5.932264	1849.414122

(3) BIDDING UNITS (continued for NP 05-08, Kenai):

Blocks	Hectares	Total Hectares
7064 Area B	2096.382220	
7065 Area B	157.582044	2253.964264
7106 Area B	38.842284	
7107 Area B	2195.878992	2234.721276

Official Protraction Diagram NO 05-02, Seldovia, (approved January 4, 1995)

(1) WHOLE BLOCKS:

6007-6013	6106-6112
6057-6063	6156-6162

(2) SPLIT BLOCKS:

Blocks	Hectares	Blocks	Hectares
6006 Area B	433.276471	6208 Area B	576.000000
6014 Area B	1346.224318	6209 Area B	576.000000
6064 Area B	892.168991	6210 Area B	576.000000
6105 Area B	757.968070	6211 Area C	576.000000
6155 Area B	2038.826882		
6207 Area B	576.000000		

(3) BIDDING UNITS:

Blocks	Hectares	Total Hectares
6055 Area B	181.529564	
6056 Area B	1993.296505	2174.826069
6113 Area B	2084.249688	
6114 Area B	62.294910	2146.544598
6205 Area C	555.629220	
6205 Area D	20.370780	576.000000
6206 Area A	22.589966	
6206 Area C	553.410034	576.000000
6163 Area B	1546.208235	
6213 Area C	259.420981	1805.629216
6212 Area C	483.537564	
6212 Area D	92.462436	576.000000

13. Lease Terms and Stipulations.

(a) Leases resulting from this sale will have initial terms of 5 years. Leases will be issued on Form MMS-2005 (March 1986). Copies of the lease form may be obtained by contacting the Alaska OCS Regional office. See paragraph 14(a).

(b) The following stipulations will be included in leases resulting from this sale, as indicated.

Stipulation No. 1. Protection of Fisheries

Exploration and development and production operations shall be conducted in a manner that prevents unreasonable conflicts between the natural gas and oil industry and fishing activities (including, but not limited to, subsistence and sport- and commercial-fishing activities).

Lease-related use will be restricted when the Regional Supervisor, Field Operations (RSFO), determines it is necessary to prevent unreasonable conflicts with local subsistence harvests and sport-and commercial-fishing operations. In enforcing this term, the RSFO will work with other agencies and the public to assure that potential conflicts are identified and efforts are taken to avoid these conflicts. (For example, timing operations to avoid fishing activities, such as drift net fisheries that generally take place north of Anchor Point between June 25 and August 5, or locating structures away from major rip currents where there may be a higher density of fishing activity). In order to avoid these conflicts, restrictions, including directional drilling, seasonal drilling, subsea completion techniques and other technologies deemed appropriate by the RSFO,

may be required. This stipulation may be modified or waived if the RSFO, in consultation with the State of Alaska and the Kenai Peninsula Borough, determines that activities occurring during this time period will not result in unreasonable conflicts with fishing activities.

Prior to submitting an Exploration Plan (EP) or Development and Production Plan (DPP), as required by 30 CFR 250.33 (b) 14 and 17, and 250.34 (b)(8)(C)(v)(g) and (9), the lessee shall review planned exploration and development activities, including plans for seismic surveys, drill rig transportation, or other vessel traffic, with potentially affected fishing organizations, subsistence communities, and port authorities to prevent unreasonable fishing gear conflicts. The lessee will make a good faith effort to notify potentially affected groups of commercial fishing interests from a list obtained from the Commercial Fish Division of the State of Alaska Department of Fish & Game; advertising in local newspapers; and notifying local communities and recognized tribal governments near the affected area. The lessee shall discuss how mobilization of the drilling unit and crew and supply boat routes will be scheduled and located. The EP or DPP shall include a summary of fishing activities in the area of proposed operation, an assessment of effects on fishing from the proposed activity, and measures taken by the lessee to prevent unreasonable conflicts. This summary shall provide a method for notifying potentially affected fishing organizations, subsistence communities, and port authorities prior to commencement of proposed operations.

Local communities, including fishing interests, will have the opportunity to review and comment on proposed EP's and DPP's as part of the Minerals Management Service (MMS) regulatory review process pursuant to 30 CFR 250.33 and 34. During this review, fishing interests may comment on potential conflicts and the lessee's plans for preventing unreasonable conflicts. The comments will be considered during MMS's decision to approve, disapprove, or require modification of the plan.

Stipulation No. 2. Protection of Biological Resources

If biological populations or habitats that may require additional protection are identified in the lease area by the Regional Supervisor, Field Operations (RSFO), the RSFO may require the lessee to conduct biological surveys to determine the extent and composition of such biological populations or habitats. The RSFO shall give written notification to the lessee of the RSFO's decision to require such surveys.

Based on any surveys which the RSFO may require of the lessee or on other information available to the RSFO on special biological resources, the RSFO may require the lessee to:

(1) Relocate the site of operations;

(2) Establish to the satisfaction of the RSFO, on the basis of a site-specific survey, either that such operations will not have a significant adverse effect upon the resource identified or that a special biological resource does not exist;

(3) Operate during those periods of time, as established by the RSFO, that do not adversely affect the biological resources; and/or

(4) Modify operations to ensure that significant biological populations or habitats deserving protection are not adversely affected.

If any area of biological significance should be discovered during the conduct of any operations on the lease, the lessee shall immediately report such findings to the RSFO and make every reasonable effort to preserve and protect the biological resource from damage until the RSFO has given the lessee direction with respect to its protection.

The lessee shall submit all data obtained in the course of biological surveys to the RSFO with the locational information for drilling or other activity. The lessee may take no action that might affect the biological populations or habitats surveyed until the RSFO provides written directions to the lessee with regard to permissible actions.

Stipulation No. 3. Orientation Program

The lessee shall include in any exploration or development and production plans submitted under 30 CFR 250.33 and 250.34 a proposed orientation program for all personnel involved in exploration or development and production activities (including personnel of the lessee's agents, contractors, and subcontractors) for review and approval by the Regional Supervisor, Field Operations. The program shall be designed in sufficient detail to inform individuals working on the project of specific types of environmental, social, and cultural concerns that relate to the sale and adjacent areas. The program shall address the importance of not disturbing archaeological and

biological resources and habitats, including endangered species, fisheries, bird colonies, and marine mammals and provide guidance on how to avoid disturbance. The program shall be designed to increase the sensitivity and understanding of personnel to community values, customs, and lifestyles in areas in which such personnel will be operating. The orientation program also shall include information concerning avoidance of conflicts with subsistence, commercial-fishing activities, and pertinent mitigation.

The program shall be attended at least once a year by all personnel involved in onsite exploration or development and production activities (including personnel of the lessee's agents, contractors, and subcontractors) and all supervisory and managerial personnel involved in lease activities of the lessee and its agents, contractors, and subcontractors.

The lessee shall maintain a record of all personnel who attend the program onsite for so long as the site is active, not to exceed 5 years. This record shall include the name and date(s) of attendance of each attendee.

Stipulation No. 4. Transportation of Hydrocarbons

Pipelines will be required: (a) if pipeline rights-of-way can be determined and obtained; (b) if laying such pipelines is technologically feasible and environmentally preferable; and (c) if, in the opinion of the lessor, pipelines can be laid without net social loss, taking into account any incremental costs of pipelines over alternative methods of transportation and any incremental benefits in the form of increased environmental

protection or reduced multiple-use conflicts. The lessor specifically reserves the right to require that any pipeline used for transporting production to shore be placed in certain designated management areas. In selecting the means of transportation, consideration will be given to any recommendation of an advisory group with participation of Federal, State, and local governments and industry.

Following the development of sufficient pipeline capacity, no crude oil production will be transported by surface vessel from offshore production sites, except in the case of emergency. Determinations as to emergency conditions and appropriate responses to these conditions will be made by the Regional Supervisor, Field Operations.

Stipulation No. 5. Prohibition on Drilling Fluids and Cuttings Discharges

Discharges of drilling fluids and cuttings resulting from development and production drilling activities will be prohibited where injection or barging to an offsite landfill or disposal well are technically and economically practicable. This determination will be made by the Regional Supervisor, Field Operations under the authority at 30 CFR 250.40(b).

14. **Information to Lessees:**

(a) **Supplemental Documents**. For copies of the various documents identified as available from the MMS Alaska OCS Regional office, prospective bidders should contact the Public Information Office, Minerals Management Service, 949 East 36th Avenue, Room 300, Anchorage, Alaska 99508-4302, either in writing

or by telephone at (907) 271-6070 or 1- (800) 764-5627. For additional information, contact the Regional Supervisor for Leasing and Environment at that address or by telephone at (907) 271-6040.

(b) ***Bird and Marine Mammal Protection***. Lessees are advised that during the conduct of all activities related to leases issued as a result of this sale, the lessee and its agents, contractors, and subcontractors will be subject to the following laws; among others, the provisions of the Marine Mammal Protection Act (MMPA) of 1972, as amended (16 U.S.C. 1361 et seq.); the Endangered Species Act (ESA), as amended (16 U.S.C. 1531 et seq.); and applicable International Treaties.

Lessees and their contractors should be aware that disturbance of wildlife could be determined to constitute harm or harassment and, thereby, be in violation of existing laws and treaties. With respect to endangered species and marine mammals, disturbance could be determined to constitute a "taking" situation. Under the ESA, the term "take" is defined to mean "harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or to attempt to engage in such conduct." Under the MMPA, "take" means "harass, hunt, capture, collect, or kill or attempt to harass, hunt, capture, or kill any marine mammal." Violations under these Acts and applicable Treaties may be reported to the National Marine Fisheries Service (NMFS) or the U.S. Fish and Wildlife Service (FWS), as appropriate.

Incidental taking of marine mammals and endangered and threatened species is allowed only when the statutory

requirements of the MMPA and/or the ESA are met. Section 101(a)(5) of the MMPA allows for the taking of small numbers of marine mammals incidental to a specified activity within a specified geographical area. Section 7(b)(4) of the ESA allows for the incidental taking of endangered and threatened species under certain circumstances. If a marine mammal species is listed as endangered or threatened under the ESA, the requirements of both the MMPA and the ESA must be met before the incidental take can be allowed.

Under the MMPA, the NMFS is responsible for species of the order Cetacea (whales and dolphins) and the suborder Pinnipedia (seals and sea lions) except walrus; the FWS is responsible in Alaskan waters for polar bears, sea otters, and walrus. Procedural regulations implementing the provisions of the MMPA are found at 50 CFR Part 18.27 for FWS, and at 50 CFR Part 228 for NMFS.

Lessees are advised that specific regulations must be applied for and in place and the Letters of Authorization must be obtained by those proposing the activity to allow the incidental take of marine mammals whether or not they are endangered or threatened. The regulatory process may require 1 year or longer.

Of particular concern is disturbance at major wildlife concentration areas, including bird colonies, marine mammal haulout and breeding areas, and wildlife refuges and parks. Maps depicting major wildlife concentration areas in the lease area are available from the Regional Supervisor, Field Operations. Lessees also are encouraged to confer with the FWS and NMFS in

planning transportation routes between support bases and lease holdings.

Lessees should exercise particular caution when operating in the vicinity of species whose populations are known or thought to be declining and that are not protected under the ESA; specifically, Steller's eiders, spectacled eiders, marbled murrelet, Pacific harbor seals, and northern fur seals.

Behavioral disturbance of most birds and mammals found in or near the lease area would be unlikely if aircraft and vessels maintain at least a 1-mile horizontal distance and aircraft maintain at least a 1,500-foot vertical distance above known or observed wildlife concentration areas, such as bird colonies and marine mammal haulout and breeding areas.

For the protection of endangered whales and marine mammals throughout the lease area, it is recommended that all aircraft operators maintain a minimum 1,500-foot altitude when in transit between support bases and exploration sites. Lessees and their contractors are encouraged to minimize or reroute trips to and from the leasehold by aircraft and vessels when endangered whales are likely to be in the area.

Human safety should take precedence at all times over these recommendations.

(c) Sensitive Areas to be Considered in the Oil-Spill-Contingency Plans (OSCP).

Lessees are advised that environmentally sensitive areas are valuable for their concentrations of marine birds, marine mammals, fishes, pollock-spawning habitat, or other biological

resources or cultural resources and should be considered when developing OSCP's. Identified areas of special biological and cultural sensitivity include:

Chisik and Duck Islands, Kamishak Bay, Kachemak Bay, the Barren Islands, Marmot Island, Tugidak Island, Chirikof Island, Puale Bay, and the Pye Islands all contain or are inhabited in whole or part by concentrations of biological resources that should be considered.

In addition, five National Wildlife Refuges (Alaska Maritime, Alaska Peninsula, Becharof, Kenai, Kodiak); Lake Clark National Park and Preserve; Aniakchak National Monument and Preserve; all Islands classified as wilderness under the authority of Katmai National Park and Preserve; McNeil River State Game Sanctuary; State Game Refuges (Trading Bay and McNeil River); Critical Habitat Areas (Kalgin Island, Clam Gulch, Fox River Flats, Kachemak Bay Tugidak Island, and Redoubt Bay), Alaska State Parks (Shuyak, Afognak Island, Kachemak Bay, and Kachemak Bay Wilderness Park); and the Captain Cook State Recreation Area are located near or adjacent to the Cook Inlet Planning Area and also include important concentrations of biological resources which should be considered in developing the OSCP. These areas are managed by the U.S. Fish and Wildlife Service (FWS), National Park Service (NPS), and State of Alaska, respectively.

National Historic Landmarks (Yukon Island Main site near Homer) have been identified as sensitive and should also be considered.

Industry should consult with FWS, NPS, or State personnel to identify specific environmentally sensitive areas within national wildlife refuges, national park system units, or State special areas that should be considered when developing a project-specific OSCP.

These areas are among areas of special biological and cultural sensitivity to be considered in the OSCP required by 30 CFR 250.42. Lessees are advised that they have the primary responsibility for identifying these areas in their OSCP's and for providing specific protective measures. Additional areas of special biological and cultural sensitivity may be identified during review of exploration plans and development and production plans.

Consideration should be given in OSCP's as to whether use of dispersants is an appropriate defense in the vicinity of an area of special biological and cultural sensitivity. Lessees are advised that prior approval must be obtained before dispersants are used.

(d) ***Steller Sea Lion.*** Lessees are advised that the Steller sea lion is listed as a threatened species by the U.S. Department of Commerce and is protected by the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.). Lessees should conduct their activities in a manner that will limit potential encounters and interactions between lease operations and Steller sea lions. The National Marine Fisheries Service (NMFS) is responsible for the protection of Steller sea lions and lessees are advised to contact NMFS regarding proposed operations and

actions that might be taken to minimize interaction with Steller sea lions and known haulout and pupping areas.

Lessees are advised the Steller sea lion has been listed as threatened under the Endangered Species Act with protective regulations (55 FR 12645, April 5, 1990).

(e) ***Coastal Zone Management***. Lessees are advised that the Alaska Coastal Management Program (ACMP) may contain policies and standards that are relevant to exploration and development and production activities associated with leases resulting from this sale.

In addition, coastal districts including the Kodiak Island Borough, Kenai Peninsula Borough, Matanuska-Susitna Borough, and the Municipality of Anchorage have enforceable policies that have been incorporated into the ACMP. The policies are more specific than the Statewide standards.

Relevant policies are applicable to ACMP consistency reviews of postlease activities. Lessees are encouraged to consult and coordinate early with those involved in coastal management review.

(f) ***Oil-Spill-Response Preparedness***. Lessees are advised that they must be prepared to respond to oil spills which could occur as a result of offshore natural gas and oil exploration and development activities. With or prior to submitting a plan of exploration or a development and production plan, the lessee will submit for approval an oil-spill-contingency plan (OSCP) in accordance with 30 CFR 250.42 and 30 CFR 254. Of particular concern are sections of the OSCP which address potential spill

size and trajectory, specific actions to be taken in the event of a spill, the location and appropriateness of oil-spill equipment, and the ability of the lessee to protect communities and important resources from adverse effects of a spill. In the event local communities could be immediately affected by a spill, lessees are encouraged to stage response equipment within those communities and to utilize community resources in their response effort. In addition, lessees will be required to conduct spill response drills which include deployment of equipment to demonstrate response preparedness for spills under realistic conditions. Guidelines for oil spill contingency planning and response drills which supplement 30 CFR 250.43 and 30 CFR 254 have been developed and are available from the Regional Supervisor/Field Operations.

(g) ***Affirmative Action Requirements***. Revision of Department of Labor regulations on affirmative action requirements for Government contractors (including lessees) has been deferred, pending review of those regulations (see *Federal Register* of August 25, 1981, at 46 FR 42865 and 42968). Should changes become effective at any time before the issuance of leases resulting from this sale, section 18 of the lease form (Form MMS-2005, March 1986), would be deleted from leases resulting from this sale. In addition, existing stocks of the affirmative action forms described in paragraph 5 of this Notice contain language that would be superseded by the revised regulations at 41 CFR 60-1.5(a)(1) and 60-1.7(a)(1). Submission of Form MMS-2032 (June 1985) and Form MMS-2033 (June 1985) will

not invalidate an otherwise acceptable bid, and the revised regulations' requirements will be deemed to be part of the existing affirmative action forms.

(h) ***Navigation Safety***. Operations on some of the blocks offered for lease may be restricted by designation of fairways, precautionary zones, anchorages, safety zones, or traffic separation schemes established by the U.S. Coast Guard pursuant to the Ports and Waterways Safety Act (33 U.S.C. 1221 et seq.), as amended, and the Deepwater Port Act (33 U.S.C. 1501-1524).

U.S. Army Corps of Engineers (COE) permits are required for construction of any artificial islands, installations, and other devices permanently or temporarily attached to the seabed located on the OCS in accordance with section 4(e) of the OCS Lands Act, as amended.

For additional information, prospective bidders should contact the U.S. Coast Guard, 17th Coast Guard District, P.O. Box 3-5000, Juneau, Alaska 99802, (907) 586-7355. For COE information, prospective bidders should contact U.S. Army Corps of Engineers, Alaska District, Regulatory Branch (1145b), P.O. Box 898, Anchorage, Alaska 99506-0898, (907) 753-2724.

(i) ***Offshore Pipelines***. Bidders are advised that the Department of the Interior and the Department of Transportation have entered into a Memorandum of Understanding, dated December 10, 1996, concerning the design, installation, operations, inspection, and maintenance of offshore pipelines. Bidders should consult both Departments for regulations applicable to offshore pipelines.

(j) ***Discharges into the Marine Environment.*** Lessees are advised that discharges into marine waters are prohibited unless authorized by the U.S. Environmental Protection Agency (USEPA) approved National Pollutant Discharge Elimination System (NPDES) permit in accordance with the Clean Water Act. By agreement between the Department of the Interior (USDOI) and the USEPA, the MMS will conduct NPDES permit compliance inspections in conjunction with its inspections of postlease operations authorized under the Outer Continental Shelf Lands Act.

Through the cooperative agreement between USDOI and USEPA, the lease sale Environmental Impact Statement provides a thorough description and analysis of water quality and biological resources in the sale area. This information will be used by the USEPA in its process for setting discharge restrictions during its NPDES permit review process.

In accordance with 30 CFR 250.40 (b), the MMS may restrict the rate of drilling fluid discharges or prescribe alternative methods of discharge. The MMS may also restrict the use of components which could cause unreasonable degradation of the marine environment. Lessees are also advised that the method of disposal of drill cuttings, sand, and other well solids shall be approved by the MMS.

Lessees are advised that, pursuant to USEPA's draft NPDES General Permit for Cook Inlet, environmental monitoring will be required for new Exploration and Development and Production facilities. In addition, Stipulation No. 5, *Prohibition on Drilling Fluids and Cuttings Discharges* applies to leases issued

as a result of this sale and prohibits discharges of drilling fluids and cuttings resulting from development and production drilling activities where other disposal methods are practicable.

(k) *Community Monitoring of the Marine Environment*. Lessees are advised that observation groups may be formed in many small communities to monitor the shores adjacent to the lease area before and after lease-related activities occur. Communities who are dependent on marine resources have indicated that they plan to monitor the status of the water, shoreline, and associated living resources and report results to MMS. The MMS may require that the results of these community monitoring programs be used in describing existing and planned monitoring systems for measuring impacts of discharges on water quality in the DPP, as required by 30 CFR 250.34(b)(8)(v)(H).

(l) *Multiple Operations*. Lessees are advised that MMS will prepare an environmental analysis on each proposed exploration (EP) or Development and Production (DPP) Plan in accordance with 30 CFR 250.33 and 34. Local communities, including fishing interests, will have the opportunity to review and comment on proposed EP's and DPP's as part of the MMS regulatory review process pursuant to 30 CFR 250.33 and 34. This assessment, which will take into consideration the timing, location, and nature of the operation, will evaluate the cumulative effects from proposed multiple operations on the OCS and adjacent State submerged lands. The spatial proximity between multiple drilling operations and the type and location of fishing activities and other vessel traffic that might occur during the proposed

drilling period and the measures to be taken by the lessee to prevent unreasonable conflicts, as required by the Protection of Fisheries stipulation, will be considered in the assessment.

(m) Electronic Funds Transfer. Bidders are advised that the 4/5ths bonus and first year rental EFT instructions for lease payoff have been revised and updated by MMS Royalty Management. Companies may now use either the Fedwire Deposit System or the Automated Clearing House (overnight payments). See paragraph 10(a) of this Notice.

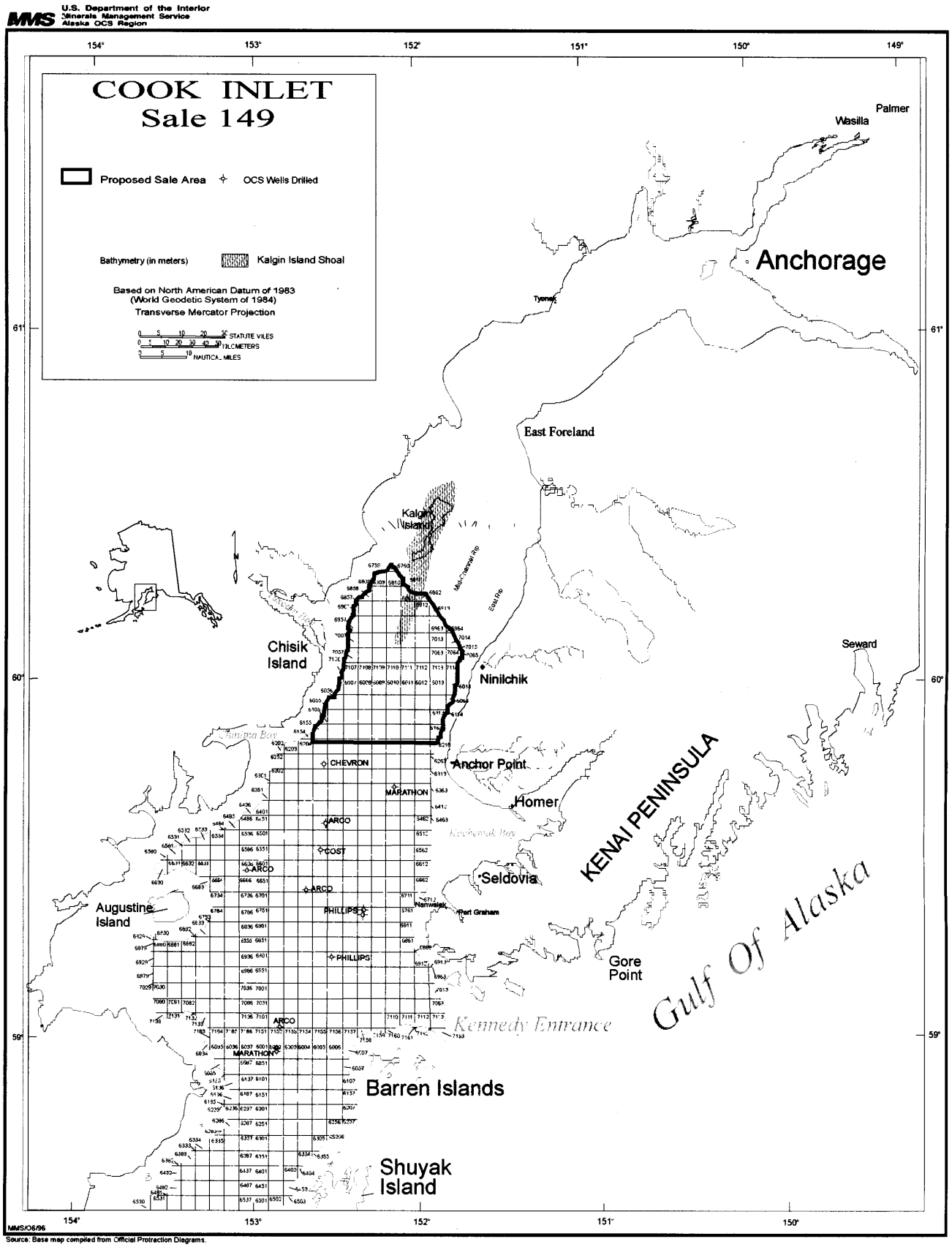
Cynthia Quarterman
Director, Minerals Management Service

Approved:

Bob Armstrong
Assistant Secretary, Lands and Minerals Management

APR 16 1997

Date



[FR Doc. 97–10471 Filed 4–22–97; 8:45 am]

BILLING CODE 4310–MR–C

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Outer Continental Shelf Cook Inlet; Notice of Leasing Systems, Sale 149

Section 8(a)(8) (43 U.S.C. 1337(a)(8)) of the Outer Continental Shelf Lands Act (OCSLA) requires that, at least 30 days before any lease sale, a Notice be submitted to the Congress and published in the **Federal Register**:

This Notice is published pursuant to these requirements.

1. Identifying the bidding systems to be used and the reasons for such use; and

2. Designating the tracts to be offered under each bidding system and the reasons for such designation.

This notice is published pursuant to these requirements.

1. *Bidding systems to be used.* In the Outer Continental Shelf (OCS) Sale 149, blocks will be offered under the following bidding system as authorized by section 8(a)(1) (43 U.S.C. 1337(a)(1)), as amended: bonus bidding with a fixed 12½-percent royalty.

a. *Bonus Bidding with a 12½-Percent Royalty.* This system is authorized by section (8)(a)(1)(A) of the OCSLA, as amended. This system has been chosen for all blocks proposed for Sale 149 because these blocks are expected to have high exploration, development, and production costs.

The Department of the Interior analyses indicate that the minimum economically developable discovery on a block in such high-cost areas under a 12½-percent royalty system would be less than for the same block under a 16⅔-percent royalty system. As a result, more blocks may be explored and developed. In addition, the lower royalty rate system is expected to encourage more rapid production and higher economic profits. It is not anticipated, however, that the larger cash bonus bid associated with a lower royalty rate will significantly reduce competition, as the higher costs for exploration and development are the primary constraints to competition.

2. *Designation of Blocks.* All blocks in this lease sale will be offered under a 12½-percent royalty system because that system is most appropriate to the resource levels and costs expected in this sale area.

Dated: April 16, 1997.

Cynthia Quarterman,

Director, Minerals Management Service.

Bob Armstrong,

Assistant Secretary, Land and Minerals Management.

[FR Doc. 97–10472 Filed 4–22–97; 8:45 am]

BILLING CODE 4310–MR–M

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Issue a Prospectus For Operation of a Boat Transportation From Santa Barbara Harbor to Channel Islands National Park

SUMMARY: The National Park Service will be releasing a concession prospectus authorizing an operation of a new boat transportation service from Santa Barbara City Harbor to Channel Islands National Park. The primary service will be to the islands of Santa Rosa and San Miguel within the park. Extended service to the other three islands will also be allowed. The concession contract will be for a period of five (5) years.

SUPPLEMENTAL INFORMATION: There is no existing concessioner providing this service and award of this concession contract will be fully competitive. The operation is year-round with the peak season more than likely being from May through October. The service will provide visitors with an opportunity for regular and reoccurring boat service for day visitors, campers or multi-day live-aboard visitors from Santa Barbara Harbor. The cost for purchasing a Prospectus is $30.00. Parties interested in obtaining a copy should send a check payable to ''National Park Service'' to the following address: National Park Service, Office of Concession Program, Pacific Great Basin Support Office, 600 Harrison Street, Suite 600, San Francisco, California 94107–1372. The front of the envelope should be marked ''Attention: Office of Concession Program Management—Mailroom Do Not Open.'' Please include a mailing address indicating where to send the prospectus. Inquiries may be directed to Ms. Teresa Jackson, Office of Concession Program Management at (415) 427–1369.

Dated: March 26, 1997.

Stanley T. Albright,

Regional Director, Pacific West Region.

[FR Doc. 97–10431 Filed 4–22–97; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Issue a Prospectus for Operation of a Boat Transportation From Ventura Harbor to Channel Islands National Park

Summary

The National Park Service will be releasing a concession prospectus authorizing continued operation of a boat transportation service from Ventura Harbor to Channel Islands National Park. The primary service will be to the islands of Anacapa and Santa Cruz within the park. Extended boat service to the other three islands will also be authorized. The service will provide day visitors and campers with the opportunity for one and multi-day trips to the islands. The concession contract will be for a period of ten (10) years.

Supplementary Information

The existing concessioner, Island Packers Company, Inc., has performed its obligations to the satisfaction of the Secretary under an existing contract and therefore pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969 U.S.C. □20), is entitled to be given preference in the renewal and execution of a new contract providing that the existing concessioner submits a responsive offer (a timely offer which meets the terms and conditions of the Prospectus). This means that the contract will be awarded to the party submitting the best offer, provided that if the best offer was not submitted by the existing concessioner, then the existing concessioner will be afforded the opportunity to match the best offer. If the existing concessioner agrees to match the best offer, then the contract will be awarded to the existing concessioner.

If the existing concessioner does not submit a responsive offer, the right of preference in renewal shall be considered to have been waived, and the contract will then be awarded to the party that has submitted the best responsive offer.

The Secretary will consider and evaluate all proposals received as a result of this notice.

The cost for purchasing a prospectus is $30.00. Parties interested in obtaining a copy should send a check payable to ''National Park Service'' to the following address: National Park Service, Office of Concession Program Management, Pacific Great Basin Support Office, 600 Harrison St., Suite 600, San Francisco, California 94107–1372. The front of the envelope should be marked ''Attention: Office of Concession Program Management—Mail Room Do Not Open''. Please include a mailing address indicating where to send the Prospectus. Inquiries may be directed to Ms. Teresa Jackson, Office of Concession Program Management at 427–1369.

Dated: March 31, 1997.

Stanley T. Albright,

Regional Director, Pacific West Region.

[FR Doc. 97–10430 Filed 4–22–97; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Final Environmental Impact Statement for Resources Management Plan to Improve Water Quality and Conserve Rare Species and Their Habitats on Santa Rosa Island; Channel Islands National Park, Santa Barbara County, California; Notice of Availability

Summary

Pursuant to § 102(2)(c) of the National Environmental Policy Act of 1969 (P.L. 91–190, as amended), the National Park Service, Department of the Interior, has prepared a Final Environmental Impact Statement assessing the potential impacts of alternatives identified in a Resources Management Plan proposed for improving water quality and conserving rare species and their habitats on Santa Rosa Island in California. Once approved, the plan will guide resources management on Santa Rosa Island for the next 15 years.

Background

The Final Environmental Impact Statement and Resources Management Plan (FEIS/RMP) presents and analyzes a proposal and four alternatives for improving water quality and riparian areas and promoting conservation of rare species and their habitats on Santa Rosa Island. ''Rare species'' includes: species which have been listed or proposed for listing as threatened or endangered in accordance with the Endangered Species Act; those species which are candidates for such listing; and those which were formerly candidates.

Alternatives

The Draft EIS/RMP (Draft) was made available for public review and comment on May 6, 1996, and had identified Alternative C, Targeted Management Action, as a preferred alternative. In response to public comment on the Draft, the National Park Service has identified a different alternative as the proposed action in the FEIS/RMP. The new proposed action, Alternative D, Revised Conservation Strategy, would improve water quality, protect riparian habitat areas, and conserve rare species and their habitats on Santa Rosa Island, in part by requiring changes in the Vail & Vickers cattle grazing-commercial hunting operation over the next 14 years. Additional actions proposed include: the immediate closure of two pastures to cattle and horses, and reduction in the number of cattle grazing in other pastures with resources at risk; removing deer from the island within three (3) years and phased removal of elk over a fourteen (14) year period. The Park would also implement road management actions to reduce impacts to island streams from existing practices; develop a comprehensive weed management plan to address problems resulting from invasion of alien plant species; and develop monitoring programs for rare species, water quality and riparian areas.

The following alternatives to the proposal are also evaluated in the FEIS/RMP:

Alternative A, No Action, would continue the existing cattle ranching and commercial hunt operation, with no changes.

Alternative B, Minimal Action, includes exclusion of cattle from one pasture, removal of deer from the island, and construction of small riparian exclosures in several drainages.

Alternative C, Targeted Action, includes removal of cattle and horses from one pasture, implementation of a seasonal grazing rotation in another pasture, construction of small riparian exclosures, and removal of deer and reduction of elk.

Alternative E, Immediate Removal of Ungulates, includes removal of all cattle, horses, elk and deer from the island within three years.

Decision Process

A ''no action'' period on the part of the National Park Service will end 30 days after the Environmental Protection Agency's notice of receipt of this FEIS/RMP is filed in the **Federal Register**. Subsequently, notice of a Record of Decision (ROD) will be published, prior to any implementation of elements of the proposed action. Anticipated elements include the following: after the ROD has been duly noticed, the National Park Service will revise terms of an existing Special Use Permit issued to Vail & Vickers, so as to make their forthcoming operations consistent with the alternative selected and identified in the ROD. Accordingly, at that time the existing Special Use Permit would be revoked and replaced with a new permit incorporating pertinent management practices prescribed in the selected FEIS/RMP alternative.

Information

Inquiries about the FEIS/RMP or requests for copies should be directed to Channel Islands National Park, 1901 Spinnaker Drive, Ventura, CA 93001, or by telephone at (805) 658–5776.

Dated: April 11, 1997.

Stanley T. Albright,

Regional Director, Pacific West Region.

[FR Doc. 97–10531 Filed 4–22–97; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Mojave National Preserve Notice of Intent to Prepare Environmental Impact Statement for AT&T Corp's Removal of Coaxial Cable

Summary

In accordance with § 102(2)(C) of the National Environmental Policy Act of 1969 (PL91–190), the National Park Service is initiating an environmental impact analysis process to identify and assess potential impacts of alternative means proposed for recovering approximately 220 miles of a coaxial cable communications system. AT&T Corp. of Atlanta, Georgia (AT&T) owns and maintains a transcontinental Phillips-140 cable system, a portion of which extends for 709 miles between Mojave, California and Socorro, New Mexico. This communications technology is obsolete and AT&T officials have notified the Department of the Interior of their desire to remove segments of the system (consisting of underground coaxial communications cable and appurtenant surface and below-ground servicing facilities).

Background

AT&T was originally issued Right-of-Way Grants for the subject communications system in 1963 and 1964. In March, 1997 a formal request to terminate portions of the right-of-way was submitted to the National Park Service and the Bureau of Land Management, pursuant to the terms of the grants. Upon preliminary review of the formal termination request and supplemental materials (an environmental report and draft plan of operation for removing the cable), it has been determined that the potential for significant impact to the human environment may exist. Notice is hereby given that it is anticipated that a draft environmental impact statement and removal plan (DEIS/RP) will be prepared. As the Department's designated lead bureau, the National

Park Service will be joined by the Bureau of Land Management and the U.S. Fish and Wildlife Service as cooperating agencies in the DEIS/RP process. All three agencies will collaborate in identifying and analyzing alternative means for accomplishing cable removal while providing for resource protection and restoration, and minimizing disturbance to visitors, users, and operations. As a conceptual framework for formulating these alternatives, the purposes of the Federal lands managed will be identified and contrasted. Other key elements to be addressed include: project-associated cultural and natural resources, visitor patterns and experiences, authorized users, access and management facilities, and available recovery and remediation techniques.

Comments

All interested persons, organizations, and agencies wishing to provide initial comments or suggestions about issues and concerns recommended to be addressed in the DEIS/RP may send such information to the Superintendent, Mojave National Preserve, 222 East Main Street, Suite 202, Barstow, California, 92311; or to Ms. Joan DeGraff, Project Manager, Denver Service Center, 12795 West Alameda Parkway, P.O. Box, Denver, Colorado, 80225–0281. All such comments should be postmarked not later than sixty (60) days from the date of publication of this Notice. All respondents will be included in timely project updates. In addition, it is anticipated that several public hearings will be held in late April or early May, 1997, affording an additional early comment opportunity. Full details on times and locations of these sessions may be obtained by contacting the Project Manager at the above address or via telephone at (303) 969–2464.

Supplementary Information

The subsequent availability of a DEIS/RP will be announced by formal Notice and in local and regional news media. The DEIS/RP is anticipated to be completed and available for public review during late summer, 1997. A final environmental impact statement (FEIS) is anticipated to be completed approximately six months later. A Record of Decision will be published in the **Federal Register** not sooner than thirty (30) days after distribution of the FEIS document. The responsible official is the Regional Director, Pacific West Region, National Park Service.

Dated: April 9, 1997.

Patricia L. Neubacher,

Acting Regional Director, Pacific West Region.

[FR Doc. 97–10433 Filed 4–22–97; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Capital Region; National Capital Memorial Commission Notice of Public Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the National Capital Memorial Commission will be held on Wednesday, April 29, 1997, at 1 p.m., at the National Building Museum, Room 312, 5th and F Streets, NW.

The Commission was established by Public Law 99–652, the Commemorative Works Act, for the purpose of preparing and recommending to the Secretary of the Interior; Administrator, General Services Administration; and Members of Congress broad criteria, guidelines, and policies for memorializing persons and events on Federal lands in the National Capital Region (as defined in the National Capital Planning Act of 1952, as amended), through the media of monuments, memorials and statues. It is to examine each memorial proposal for adequacy and appropriateness, make recommendations to the Secretary and Administrator, and to serve as information focal point for those persons seeking to erect memorials on Federal land in the National Capital Region.

The members of the Commission are as follows:

Director, National Park Service
Chairman, National Capital Planning Commission
The Architect of the Capital
Chairman, American Battle Monuments Commission
Chairman, Commission of Fine Arts
Mayor of the District of Columbia
Administrator, General Services Administration
Secretary of Defense

The purpose of the meeting will be to discuss currently authorized and proposed memorials in the District of Columbia and environs.

The meeting will be open to the public. Any person may file with the Commission a written statement concerning the matters to be discussed. Persons who wish to file a written statement or testify at the meeting or who want further information concerning the meeting may contact the Commission at (202) 619–7097. Minutes of the meeting will be available for public inspection 4 weeks after the meeting at the Office of Stewardship and Partnerships, National Capital Support Office, 1100 Ohio Drive, SW., Room 220, Washington , D.C. 20242.

Dated: April 2, 1997.

Terry R. Carlstrom,

Acting Regional Director, National Capital Region.

[FR Doc. 97–10432 Filed 4–22–97; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Notice of Proposed Information Collection

AGENCY: Office of Surface Mining Reclamation and Enforcement.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Office of Surface Mining Reclamation and Enforcement (OSM) is announcing its intention to request approval for the collection of information for noncoal reclamation, 30 CFR Part 875.

DATES: Comments on the proposed information collection must be received by June 23, 1997, to be assured of consideration.

ADDRESSES: Comments may be mailed to John A. Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW., Room 210—SIB, Washington, DC 20240. Comments may also be submitted electronically to jtreleas@osmre.gov.

FOR FURTHER INFORMATION CONTACT: To request a copy of the information collection request, explanatory information and related forms, contact John A. Trelease, at (202) 208–2783.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget (OMB) regulations at 5 CFR 1320, which implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). This notice identifies information collections that OSM will be submitting to OMB for extension. These collections are contained in 30 CFR 876, Acid mine drainage treatment and abatement program.

OSM has revised burden estimates, where appropriate, to reflect current

reporting levels or adjustments based on reestimates of burden or respondents. OSM will request a 3-year term of approval for each information collection activity.

Comments are invited on: (1) The need for the collection of information for the performance of the functions of the agency; (2) the accuracy of the agency's burden estimates; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information. A summary of the public comments will accompany OSM's submission of the information collection request to OMB.

This notice provides the public with 60 days in which to comment on the following information collection activity:

Title: Noncoal reclamation, 30 CFR Part 875.

OMB Control Number: 1029–0103.

Summary: This Part establishes procedures and requirements for State and Indian tribes to conduct noncoal reclamation under abandoned mine land funding. The information is needed to assure compliance with the Surface Mining Control and Reclamation Act of 1977.

Bureau Form Number: None.

Frequency of Collection: On occasion.

Description of Respondents: State governments and Indian Tribes.

Total Annual Responses: 4.

Total Annual Burden Hours: 220.

Dated: April 17, 1997.

Arthur W. Abbs,

Chief, Division of Regulatory Support.

[FR Doc. 97–10418 Filed 4–22–97; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF JUSTICE

Notice of Consent Judgment Pursuant to the Clean Air Act

In accordance with Departmental Policy, 28 C.F.R. § 50.7, 38 FR 19029, notice is hereby given that a proposed Consent Decree in *United States* v. *Big Apple Wrecking Corp., et al.*, 88 Civ. No. 9190 (DNE), was lodged in the United States District Court for the Southern District of New York, on March 3, 1997. The proposed Consent Decree resolves the United States' claims against Leon D. DeMatteis Construction Corp. (''DeMatteis'') and Crescent-Duane Company (''Crescent-Duane'') under section 112 of the Clean Air Act (''the Act''), 42 U.S.C. § 7412, and the National Emission Standards for Hazardous Air Pollutants for asbestos (''the asbestos NESHAP''), 40 C.F.R. Part 61, Subpart M, for their failures to comply with work practice standards contained in the asbestos NESHAP during the removal, handling and disposal of asbestos from a building being demolished at 105–107 Duane Street in New York City (the ''Duane Street site'').

Under the terms of the Consent Decree, the Settling Defendants will jointly pay to the United States a civil penalty of $25,000 and will comply with injunction requirements that, *inter alia*, (a) Prohibit future violations of the Act and the asbestos NESHAP, (b) require the Settling Defendants to provide notice to EPA of future demolition or renovation operations, and (c) require the Settling Defendants to cooperate with the United States in its prosecution of this case against Big Apple Wrecking. The Decree resolves only those civil claims alleged in the complaint against settling defendants.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, written comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Big Apple Wrecking Corp., et al.*, DOJ # 90–5–2–1–1281, 88 Civ. No. 9190 (DNE).

The proposed Consent Decree may be examined at the Office of the Untied States Attorney, Southern District of New York, 100 Church Street, 19th Floor, New York, New York 10007; at the Region II Office of the U.S. Environmental Protection Agency, 290 Broadway, New York, New York 10278; and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624–0892. Copies of the Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy, please enclose a check in the amount of $3.50 (25 cents per page reproduction costs) payable to the Consent Decree Library.

Joel M. Gross,

Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 97–10450 Filed 4–22–97; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Water Act

In accordance with Departmental policy, 28 CFR § 50.7, and 42 U.S.C. § 9622(d), notice is hereby given that a proposed consent decree in *United States* v. *Kennecott Greens Creek Mining Company*, Civil Action No. A97–0099–CV (JWS), was lodged on March 19, 1997 with the United States District Court for the District of Alaska. The Complaint in this case alleges that Kennecott Greens Creek Mining Company (''Greens Creek'') discharged pollutants from its mine into Hawk Inlet, near Juneau, Alaska, at concentrations in excess of those allowed by its National Pollutant Discharge Elimination System permit. The Consent Decree requires Greens Creek to continue operation of a wastewater treatment system at the mine. The Consent Decree also requires Greens Creek to pay a civil penalty of $300,000.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Kennecott Greens Creek Mining Company*, DOJ Ref. #90–5–1–1–4346.

The proposed consent decree may be examined at the office of the United States Attorney, Federal Bldg. & U.S. Courthouse, 222 W. 7th Ave., Anchorage AK 99513, the Region 10 Office of the Environmental Protection Agency, 1200 Sixth Ave., Seattle, WA 98101, and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $5.75 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 97–10452 Filed 4–22–97; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980

In accordance with Department policy, 28 CFR 50.7, and 42 U.S.C. § 9622(d)(2), notice is hereby given that on April 8, 1997, a Consent Decree was lodged in *United States* v. *Kennecott Holdings Corporation, et al.*, Civil Action No. 97–39–BLG–JDS with the United States District Court for the District of Montana.

The Complaint in this case was filed with Section 107 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (''CERCLA''), 42 U.S.C. § 9607, with respect to the McLaren Tailings Superfund Site located in Park County, Montana against Kennecott Holdings Corporation and Kennecott Montana Company. Pursuant to the terms of the Consent Decree, which resolves claims under the above-mentioned statute and under Section 7003 of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6973, the settling defendants will covenant not to seek reimbursement of response costs incurred at the Site from the United States and the United States covenants not to sue the settling defendants for response costs incurred by the United States at the Site.

The Department of Justice will receive comments relating to the proposed Consent Decree for a period of thirty days from the date of publication of this notice. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Kennecott Holdings Corporation, et. al.*, DOJ Ref. No. 90–11–3–1644. Commenters may request an opportunity for a public meeting in the affected area, in accordance with Section 7003(d) of RCRA.

The proposed Consent Decree may be examined at the office of the United States Attorney, District of Montana, 2929 3rd Avenue North, Suite 400, Billings, Montana 59103 or at the offices of the Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado, 80202. Copies of the Consent Decree may also be examined and obtained by mail at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005 (202–624–0892). When requesting a copy by mail, please enclose a check in the amount of $5.50 (twenty-five cents per page reproduction costs) payable to the ''Consent Decree Library.''

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 97–10499 Filed 4–22–97; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

In accordance with Departmental policy, 28 C.F.R. § 50.7, and 43 U.S.C. § 9622(d), notice is hereby given that a proposed consent decree in *United States* v. *Kerr-McGee Chemical Corporation,* Civil Action No. 97–0121–E–BLW, was lodged on March 21, 1997 with the United States District Court for the District of Idaho. The Complaint in this case alleges claims for recovery of response costs and injunctive relief arising out of the release of hazardous substances at Kerr-McGee Chemical Corporation's vanadium plant in Caribou County, Idaho. The Consent Decree requires Kerr-McGee to eliminate uncontrolled discharges of wastewater into groundwater, excavate tailings and institute institutional controls to prevent consumption of groundwater that exceeds health standards. The Consent Decree also requires Kerr-McGee to pay the United States' costs associated with the Site.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Kerr-McGee Chemical Corporation*, DOJ Ref. No. 90–11–2–1208.

The proposed consent decree may be examined at the office of the United States Attorney, 877 W. Main St., Suite 201, Boise, Idaho 83702; at the Region 10 Office of the Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington, 98101; and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $20.00 for the consent decree without attachments, $63.50 with attachments (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 97–10451 Filed 4–22–97; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Emergency Review, Comment Request

April 16, 1997.

The Department of Labor has submitted the following (see below) information collection request (ICR), utilizing emergency review procedures, to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995 (P.L. 104–13, 44 U.S.C. Chapter 35). OMB approval has been requested by April 25, 1997. A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor Department Clearance Officer, Theresa M. O'Malley ((202)–219–5096, ext. 143).

Comments and questions about the ICR listed below should be forwarded to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Department of Labor, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316). The Office of Management and Budget is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Agency: Department of Labor, Bureau of International Labor Affairs.

Title: International Child Labor Study Company Questionnaires.

OMB Number: 1225–0 new.

Frequency: One time.

Affected Public: Business or other profit.

Number of Respondents: 50.

Estimated Time Per Respondent: 3 hours.

Total Burden Hours: 150.

Total Burden Cost (Capital/startup): 0.

Total Burden Cost (Operating and maintenance): 0.

Description: The Department of Labor (DOL) requires the requested information in order to complete a Congressionally-mandated report on international child labor (pursuant to the 1997 Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriation Bill, P.L. 104–134). Congress has requested that DOL's report include an analysis of efforts by importers to eliminate exploitative child labor in sectors where exploitative child labor is a problem, including through codes of conduct or labeling systems. The industries to be reviewed, hand-knotted carpets, soccer balls, leather footwear, and tea, are based on products identified in earlier DOL child labor reports. In order to fulfill the Congressional mandate, DOL requests that U.S. importers of these goods furnish information regarding any programs in which they participate to eliminate child labor in these industries, particularly labeling efforts to inform consumers that no child labor is used in the production of these products. DOL has requested an emergency review in order to complete the study by July 15, 1997.

Theresa M. O'Malley,

Departmental Clearance Officer.

[FR Doc. 97–10423 Filed 4–22–97; 8:45 am]

BILLING CODE 4510–28–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB review; comment request

April 17, 1997.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (P.L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor, Departmental Clearance Officer, Theresa M. O'Malley ((202) 219–5096 ext. 143). Individuals who use a telecommunications device for the deaf (TTY/TDD) may call (202) 219–4720 between 1:00 p.m. and 4:00 p.m. Eastern time, Monday through Friday.

Comments should be sent to Office of Information and Regulatory Affairs, Attn.: OMB Desk Officer for BLS, DM, ESA, ETA, MSHA, OSHA, PWBA, or VETS, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), by May 23, 1997.

The OMB is particularly interested in comments which:

- evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- enhance the quality, utility, and clarity of the information to be collected; and
- minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Employment Standards Administration.

Title: Work Experience and Career Exploration Programs (WECEP)—29 CFR Part 570.35A.

OMB Number: 1215–0121 (extension).

Frequency: Biennially.

Affected Public: Individuals or households; State, Local or Tribal Government.

Number of Respondents: 16,016.

Estimated Time Per Respondent: 2 hours per WECEP application; 1 hour per training agreement.

Total Burden Hours: 8,016.

Total Annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): $3.00.

Description: Section 570.35a(2) of the Fair Labor Standards Act requires that a letter of application requesting approval of WECEP be filed by a State educational agency with the Administrator, Wage and Hour Division. Without this information, the Administrator would not have the means to determine whether or not WECEP program meets requirements to permit the employment of minors, 14 and 15 years of age, under conditions and in occupations which are otherwise prohibited by child labor regulations.

Agency: Employment Standards Administration.

Title: Regulations to Implement the Remedial Education Provisions of the Fair Labor Standards Amendments of 1989—29 CFR 516.34.

OMB Number: 1215–0175 (extension).

Frequency: On occasion.

Affected Public: Business or other for-profit; Not for-profit institutions; State, Local or Tribal Government.

Number of Respondents: 15,000.

Estimated Time Per Respondent: 10 minutes.

Total Burden Hours: 5,000.

Total Annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): 0.

Description: Pursuant to Section 7(g) of the Fair Labor Standards Act (FLSA), as amended, employees who lack a high school diploma or whose reading level or basic skills are at or below the eighth grade level may be required to attend up to ten hours per week of remedial education. The additional hours devoted to such remedial education do not have to be compensated at the time and one-half overtime rate set forth in FLSA Section 7(a). However, employees must receive compensation at their regular rate of pay for time spent receiving such remedial education. The basic recordkeeping requirements for employers of employees subject to the FLSA are contained in 29 CFR Part 516, Records to be Kept by Employers. Failure to require such records to be kept would make it very difficult to determine compliance.

Theresa M. O'Malley,

Departmental Clearance Officer.

[FR Doc. 97–10425 Filed 4–22–97; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Employment and Training Administration

Federal-State Unemployment Compensation Program: Unemployment Insurance Program Letters Interpreting Federal Unemployment Insurance Law

The Employment and Training Administration interprets Federal law

requirements pertaining to unemployment compensation as part of its role in the administration of the Federal-State unemployment compensation program. These interpretations are issued in Unemployment Insurance Program Letters (UIPLs) to the State Employment Security Agencies (SESAs). The UIPL described below is published in the **Federal Register** in order to inform the public.

UIPL 22–97

Several questions have arisen concerning the coverage of certain governmental services performed as a result of natural disasters. These questions have concerned Section 3309(b)(3)(D) of the Federal Unemployment Tax Act, which permits the exclusion from coverage of temporary governmental services performed ''in case of * * * emergency''. This UIPL is issued to restate the Department's interpretation concerning what services are performed ''in case of * * * emergency'' and to provide the Department's position on the distinction between emergencies and disasters. This UIPL does not represent a change to the Department's interpretation of Federal law.

Dated: April 17, 1997.

Raymond J. Uhalde,

Acting Assistant Secretary of Labor.

U.S. Department of Labor

Employment and Training Administration, Washington, DC 20210

Classification, UI
Correspondence Symbol, TEUL
Date, April 14, 1997

Directive: Unemployment Insurance Program Letter No. 22–97
To: All State Employment Security Agencies
From: Grace A. Kilbane, Director, Unemployment Insurance Service
Subject: Exclusion of Governmental Services Performed ''In Case of Emergency''

1. *Purpose.* To restate a Departmental interpretation of a Federal law exclusion from unemployment compensation (UC) coverage for governmental services performed in case of emergency and to provide the Department's position on the distinction between emergencies and disasters.

2. *References.* The Federal Unemployment Tax Act (FUTA); *Draft Language and Commentary to Implement the Unemployment Compensation Amendments of 1976—P.L. 94–566 (1976 Draft Language).*

3. *Background.* In the past year, several questions have arisen concerning the coverage of governmental services performed as a result of natural disasters. These questions have concerned Section 3309(b)(3)(D), FUTA, which permits the exclusion from coverage of temporary governmental services performed ''in case of * * * emergency''. This UIPL is issued to restate the Department's interpretation concerning what services are performed ''in case of * * * emergency'' and to provide the Department's position on the distinction between emergencies and disasters.

Rescissions, None
Expiration Date, Continuing

4. *Federal Law Requirements.* The Department has long taken the position that, because FUTA is a remedial statute aimed at overcoming the evils of unemployment, it is to be liberally construed to effectuate its purposes and exceptions to its coverage requirements are to be narrowly construed. This rule of construction avoids ''difficulties for which the remedy was devised and adroit schemes by some employers and employees to avoid the immediate burdens at the expense of the benefits sought by the legislation.'' [1] As such, provisions requiring coverage of services are construed broadly, while exceptions to required coverage are construed narrowly.

Among other things, Section 3304(a)(6)(A), FUTA, requires coverage of services performed for certain governmental entities. Specifically, it requires coverage of services to which Section 3309(a)(1) applies. Among these services are those excluded from the term ''employment'' solely by reason of Section 3306(c)(7). Section 3306(c)(7) applies to services performed for a ''State, or any political subdivision thereof'' and instrumentalities of these entities. Exceptions to this required coverage are permitted only when specified by Federal law.

Section 3309(b)(3) excludes from required coverage services performed for the above governmental entities if such service is performed by an individual in the exercise of his duties—

(d) as an employee serving on a temporary basis *in case of* fire, storm, snow, earthquake, flood, or similar emergency. * * * [Emphasis added.]

5. *Discussion.* In his remarks on the legislation which created the emergency exclusion, Representative Corman, the acting chairman of the responsible subcommittee, stated that—

A similarly worded exclusion is also contained in the Social Security Act and in the unemployment compensation program for Federal employees. This exclusion has the purpose of excluding only those individuals hired or impressed into service to deal directly with *an emergency or urgent distress associated with an emergency.* [122 Cong. Rec. 35131 (1976). Emphasis added.]

In 1976 the Department quoted the above language and stated that—

[T]he exclusion applies to individuals who are hired or impressed to assist *in emergencies* and includes such tasks as fire-fighting, removal of storm debris, restoration of public facilities, snow removal, road clearance, etc. [*1976 Draft Legislation,* page 27. Emphasis added.]

The FUTA exclusion applies only to services performed ''in case of'' fire, storm, snow, earthquake, flood, or similar emergency. ''Emergency'' is defined in the Second College Edition of the American Heritage Dictionary as ''an unexpected situation or sudden occurrence of a serious and urgent nature that demands immediate action.'' The FUTA language ''in case of'' indicates that it is the emergency itself—or the urgent distress caused by the emergency—which must directly cause the need for the services to be performed. Therefore, for the services to be performed ''in case of * * * emergency,'' a direct relationship must exist between the services and the emergency, as defined above.

Whether services performed as a result of a disaster are also performed ''in case of * * * emergency'' must be determined on a case-by-case basis. ''Disaster'' is defined in the Second College Edition of the American Heritage Dictionary as ''an occurrence causing widespread destruction and distress.'' Since disaster-related services may be performed after the need for immediate action has passed, they are not necessarily performed ''in case of * * * emergency.'' For example, services performed removing hurricane debris to gain access to a hospital are performed ''in case of * * * emergency'' when there is an immediate need to obtain access to the hospital. However, when the removal of hurricane debris from the roadside does not require immediate action, services are not performed ''in case of * * * emergency'' and may not be excluded from coverage on that basis.

Conversely, an emergency situation does not always rise to the level of a disaster. For example, an emergency situation need not be widespread. Thus, even in the absence of a disaster, services may be performed ''in case of * * * emergency'' and the services may be excluded from coverage.

Each State is responsible for obtaining sufficient facts to support a determination under provisions of State law corresponding to the FUTA exclusion that the services were performed ''in case of * * * emergency.''

6. *Action required.* State agency administrators are requested to provide this UIPL to appropriate staff.

7. *Inquiries.* Direct questions to your Regional Office.

[FR Doc. 97–10466 Filed 4–22–97; 8:45 am]

BILLING CODE 4510–30–M

[1] This rule of construction was set forth on page 5 of Supplement #5—Questions and Answers Supplementing *Draft Language and Commentary to Implement the Unemployment Compensation Amendments of 1976—P.L. 94–566,* dated November 13, 1978. Several Federal court decisions, including two involving Federal UC law, *United States* v. *Silk,* 331 U.S. 704, 712 (1947) and *Farming, Inc.* v. *Manning,* 219 F.2d 779, 782 (3d Cir., 1955), state this principle. More recently this principle was stated in UIPL 30–96, dated August 8, 1996.

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR–97–12]

Agency Information Collection Activities; Announcement of OMB Approval

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: The Occupational Safety and Health Administration (OSHA) is announcing that a collection of information regarding an annual OSHA injury and illness survey of ten or more employers has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995. This document announces the OMB approval number.

FOR FURTHER INFORMATION CONTACT: James Maddux, Office of Statistics, Occupational Safety and Health Administration, U.S. Department of Labor, Room N3507, 200 Constitution Avenue, NW, Washington, D.C. 20210, telephone (202) 219–6463.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 11, 1997 (62 FR 6434), the Agency announced the proposed information collection had been submitted to OMB for review and clearance. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), OMB has approved the information collection and assigned OMB control number 1218–0214. The approval expires 4/30/2000. Under 5 CFR 1320.5(b), an Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

Dated: April 12, 1997.

Stephen A. Newell,

Director, OSHA Office of Statistics.

[FR Doc. 97–10424 Filed 4–22–97; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Working Group Studying Soft Dollar Arrangements and Commission Recapture; Advisory Council on Employee Welfare and Pension Benefits Plans; Notice of Meetings

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting will be held May 13 of the Advisory Council on Employee Welfare and Pension Benefit Plans Working Group formed to study Soft Dollar Arrangements and Commission Recapture.

The session will take place in Room N–5437 A&B, Department of Labor Building, Second and Constitution Avenue, NW, Washington, DC 20210. The purpose of the open meeting, which will run from 1:00 p.m. to approximately 3:30 p.m., is for Working Group members to begin taking testimony on the topics of industry soft dollar and directed brokerage practices.

Members of the public are encouraged to file a written statement pertaining to any topic concerning ERISA by submitting 20 copies on or before May 6, 1997, to Sharon Morrissey, Executive Secretary, ERISA Advisory Council, Department of Labor, Room N–5677, 200 Constitution Avenue, NW, Washington, DC 20210. Individuals or representatives of organizations wishing to address the Working Group on Soft Dollar Arrangements and Commission Recapture should forward their request to the Executive Secretary or telephone (202) 219–8753. Oral presentations will be limited to 10 minutes, but an extended statement may be submitted for the record. Individuals with disabilities, who need special accommodations, should contact Sharon Morrissey by May 6, at the address indicated in this notice.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before May 6.

Signed at Washington, DC, this 17th day of April, 1997.

Olena Berg,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 97–10463 Filed 4–22–97; 8:45 am]

BILLING CODE 4510–29–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Working Group on Studying the Merits of Defined Contribution vs. Defined Benefit Plans; Advisory Council on Employee Welfare and Pension Benefits Plans; Notice of Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 USC 1142, the Advisory Council on Employee Welfare and Pension Benefit Plans Working Group established to Study the Merits of Defined Contribution vs. Defined Benefit Plans With an Emphasis on Small Business Concerns will hold a public meeting on May 13, 1997 in Room N–5437 A&B, Department of Labor Building, Second and Constitution Avenue, NW, Washington, DC 20210.

The purpose of the open meeting, which will run from 9:30 a.m. to approximately noon, is for Working Group members to begin taking testimony on the topic.

Members of the public are encouraged to file a written statement pertaining to any topic concerning ERISA by submitting 20 copies on or before May 6, 1997, to Sharon Morrissey, Executive Secretary, ERISA Advisory Council, Department of Labor, Room N–5677, 200 Constitution Avenue, NW, Washington, DC 20210. Individuals or representatives of organizations wishing to address the Working Group on Studying the Merits of Defined Contribution vs. Defined Contribution Plans With an Emphasis on Small Business Concerns should forward their request to the Executive Secretary or telephone (202) 219–8753. Oral presentations will be limited to 10 minutes, but an extended statement may be submitted for the record. Individuals with disabilities, who need special accommodations, should contact Sharon Morrissey by May 6, at the address indicated in this notice.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before May 6.

Signed at Washington, DC, this 17th day of April, 1997.

Olena Berg,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 97–10464 Filed 4–23–97; 8:45 am]

BILLING CODE 4510–29–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Working Group Studying Employer Assets In ERISA Employer-Sponsored Plans; Advisory Council on Employee Welfare and Pension Benefits Plans; Notice of Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 USC 1142, a public meeting will be held on May 14, 1997 of the Advisory Council on Employee Welfare and Pension Benefit Plans Working Group studying Employer Assets in ERISA Employer-Sponsored Plans.

The purpose of the open meeting, which will run from 9:30 a.m. to approximately noon and from 1:00 p.m. until approximately 3:30 p.m. in Room N–5437 A&B, Department of Labor Building, Second and Constitution Avenue NW, Washington, DC 20210, is for Working Group members to begin taking testimony on the topic of employer assets in ERISA employer-sponsored plans. The work group will seek testimony related to Department of Labor issues and violations related to employer assets held by the plan, current and legislative history and actions related to employer assets held by a plan and discussion related to the types of plans that include employer assets or securities.

Members of the public are encouraged to file a written statement pertaining to any topic concerning ERISA by submitting 20 copies on or before May 6, 1997, to Sharon Morrissey, Executive Secretary, ERISA Advisory Council, Department of Labor, Room N–5677, 200 Constitution Avenue, NW, Washington, DC 20210. Individuals or representatives of organizations wishing to address the Working Group on Employer Assets in ERISA Employer-Sponsored Plans should forward their request to the Executive Secretary or telephone (202) 219–8753. Oral presentations will be limited to 10 minutes, but an extended statement may be submitted for the record. Individuals with disabilities, who need special accommodations, should contact Sharon Morrissey by May 6, 1997, at the address indicated in this notice. Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before May 6.

Signed at Washington, DC this 17th day of April, 1997.

Olena Berg,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 97–10465 Filed 4–22–97; 8:45 am]

BILLING CODE 4510–29–M

NATIONAL TRANSPORTATION SAFETY BOARD

Sunshine Act Meeting

Public Board of Inquiry in Puerto Rico; Explosion

In connection with its investigation of the explosion in the Humberto Vidal shoe store and office building in San Juan, Puerto Rico, on November 21, 1996, the National Transportation Safety Board will convene a public board of inquiry at 9:00 a.m., on Monday, June 2, 1997, in the ballroom of the Embassy Suites Hotel, 8000 Tartak Street, Carolina, Puerto Rico. For more information, contact Pat Cariseo, Office of Public Affairs, Washington, D.C. 20594, telephone (202) 314–6100.

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Robert Barlett, 202–314–6446 (voice) or 202–314–6482 (fax), at least 5 days prior to board of inquiry date.

Dated: April 21, 1997.

Bea Hardesty,

Federal Register Liaison Officer.

[FR Doc. 97–10606 Filed 4–21–97; 8:45 am]

BILLING CODE 7533–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 030–30266; License No. 30–23697–01E EA 96–135]

21st Century Technologies, Inc. successor Licensee to Innovative Weaponry, Inc., Fort Worth, Texas, Order Imposing Civil Monetary Penalty

I

Innovative Weaponry, Inc. [of New Mexico] was the former holder of Materials License No. 30–23697–01E issued by the Nuclear Regulatory Commission (NRC or Commission) and which was amended on April 3, 1995 to name Innovative Weaponry of Nevada (Licensee) as the licensee. The license was subsequently amended to change the name to 21st Century Technologies, Inc., and reissued to reflect a move to Fort Worth, Texas. The license authorized the Licensee to distribute luminous gunsights or weapons containing luminous gunsights in accordance with the conditions specified therein.

II

An investigation of the Licensee's activities was conducted from May 9, 1995 through March 22, 1996. The results of this investigation indicated that the Licensee had not conducted its activities in full compliance with NRC requirements. A written Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was served upon the Licensee by letter dated May 15, 1996. The Notice states the nature of the violations, the provisions of the NRC's requirements that the Licensee had violated, and the amount of the civil penalty proposed for the violations.

The Licensee responded to the Notice in a Reply and an Answer, both dated October 1, 1996. In its responses, the Licensee admitted that the events that constitute the violations occurred, but denied that these were violations of lawful exercise of regulatory authority under the Atomic Energy Act, asserted that the penalty would cause financial hardship, and disagreed with other aspects of the enforcement process.

III

After consideration of the Licensee's response and the statements of fact, explanation, and argument for mitigation contained therein, the NRC staff has determined, as set forth in the Appendix to this Order, that the violations occurred as stated and that the amount of the proposed penalty for the violations designated in the Notice should be mitigated by $5,000 and a civil penalty of $2,500 imposed.

IV

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205, It is hereby ordered that:

The Licensee pay a civil penalty in the amount of $2,500 within 30 days of the date of this Order, by check, draft, money order, or electronic transfer, payable to the Treasurer of the United States and mailed to James Lieberman, Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852–2738.

V

The Licensee may request a hearing within 30 days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request

for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and include a statement of good cause for the extension. A request for a hearing should be clearly marked as a ''Request for an Enforcement Hearing'' and shall be addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, with a copy to the Commission's Document Control Desk, Washington, D.C. 20555. Copies also shall be sent to the Assistant General Counsel for Hearings and Enforcement at the same address and to the Regional Administrator, NRC Region IV, 611 Ryan Plaza Drive, Suite 400, Arlington, Texas 76011.

If a hearing is requested, the Commission will issue an Order designating the time and place of the hearing. If the Licensee fails to request a hearing within 30 days of the date of this Order (or if written approval of an extension of time in which to request a hearing has not been granted), the provisions of this Order shall be effective without further proceedings. If payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event the Licensee requests a hearing as provided above, the issues to be considered at such hearing shall be:

(a) Whether the Licensee was in violation of the Commission's requirements as set forth in the Notice referenced in Section II above, and

(b) Whether, on the basis of those violations, this Order should be sustained.

Dated at Rockville, Maryland this 10th day of April 1997.

For the Nuclear Regulatory Commission.

James Lieberman,

Director, Office of Enforcement.

Appendix—Evaluation and Conclusion

On May 15, 1996, a Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was issued for violations identified during an NRC investigation. Innovative Weaponry, Inc. (Licensee) responded to the Notice on October 1, 1996. The Licensee admitted that the events that were described in the Notice occurred, but denied that these were violations of lawful exercise of regulatory authority under the Atomic Energy Act, asserted that the penalty would cause financial hardship, and disagreed with other aspects of the enforcement process. The NRC's evaluation and conclusion regarding the licensee's requests are as follows:

Restatement of Violations

A. License No. 30–23697–01E authorizes the licensee to distribute SRB Technologies, Inc., Model PRH–800/G/200 sealed light sources.

Contrary to the above, from June to August 1995, the licensee distributed tritium sealed light sources from a manufacturer not authorized in the license. (01013)

B. License Condition 10 of License No. 30–23697–01E authorizes the licensee to distribute sealed light sources in specified gunsights and in specified configurations.

Contrary to the above, from July to September 1995, the licensee distributed tritium sealed light sources in configurations not specified or otherwise authorized in the license. (01023)

These violations represent a Severity Level III problem (Supplement VI). Civil Penalty—$7,500.

Summary of Licensee's Response to Violations

In its October 1, 1996 ''Reply to Notice of Violation,'' the Licensee admitted that it distributed tritium sealed sources from a manufacturer not mentioned in the license but denied that that was a violation of a lawful exercise of regulatory authority under the Atomic Energy Act of 1954, as amended. The Licensee did not specifically admit or deny the violation of distribution of tritium sealed light sources in configurations not specified or otherwise authorized in the license, but implied admission of that act by use of statements such as ''[t]he reason for both actions was inadvertent error'' and ''[t]he distribution of configurations mentioned [sic] in the license was also made without direct knowledge of corporate management,'' and further discussed those acts in the context of admitting that the acts occurred. The Licensee denies that either of these activities constitutes a violation of a lawful exercise of regulatory authority under the Atomic Energy Act and relevant case law. The Licensee further argues that the provisions of the license requiring ''designation of manufacturers'' and ''description of the configuration of the gunsights as a condition precedent to distribution'' are unlawful because they are beyond the jurisdiction of the NRC to regulate.

In its October 1, 1996 ''Answer to Notice of Violation,'' the Licensee denied the violations to the extent and for the reasons set out in its ''Reply to Notice of Violation,'' and enumerated the following as extenuating circumstances: (1) The NRC lacks jurisdiction, (2) there were no adverse consequences to public health and safety, (3) the alleged acts were not intentional and were not [sic] without prior knowledge of management, (4) the alleged acts were self-identified, (5) management attempted to correct the situation immediately on discovery, (6) the Licensee realized no appreciable profit, (7) no accepted philosophy of enforcement is well served by imposing the civil penalty. In addition, the Licensee contended that the acts are of only minor concern rather than ''significant regulatory concern.''

NRC Evaluation of Licensee's Response to Violations

The Licensee's Reply specifically admitted that the Licensee had distributed tritium sources from a manufacturer who was not mentioned in the license. As to the second violation, distribution of sources in configurations not authorized, the only logical inference that can be drawn from the language of the October 1, 1996 Reply is that the Licensee also admits the facts of that violation. In addition, at the April 23, 1996 Predecisional Enforcement Conference the Licensee conceded that the events described in the Notice had occurred. The Licensee has not challenged the NRC's findings that the unauthorized distributions occurred and has not provided any facts to support such a challenge. Thus, there is no need to further address the factual determinations.

As to the assertion that the conditions or restrictions contained in the license are unlawful due to their failure to ensure public health and safety, the regulations controlling radioactive materials are promulgated under the Act to protect health and minimize danger to life by assuring that licensees will do what is required. The regulations require that sufficient information concerning the sources and the product be submitted prior to issuance of a license, to demonstrate that the product will meet the safety criteria set forth in the regulations for that type of product. Thus, if a licensee manufactures products in unapproved configurations, the NRC has no way of knowing if the product poses a threat to public health and safety. The provisions concerning the specific source and gunsight models listed in IWI's license were not imposed by the NRC; rather, the list of authorized source models, designation of suppliers of tritium sources, and the specific configurations of gunsights came directly from information submitted by IWI to the NRC during the licensing process.

The thrust of the Licensee's disagreement goes to the agency's jurisdiction and the licensing system promulgated under 10 CFR Part 30. Section 81 of the Atomic Energy Act (AEA or Act) provides in part that a person may not transfer or receive, own, or possess any byproduct material except as authorized pursuant to the AEA.

The NRC's jurisdiction under Section 81 of the Act to regulate use of sealed sources containing byproduct material is long-established. Regulations controlling radioactive materials are promulgated under the Act to protect health and minimize danger to life by endeavoring to ensure that licensees will do what is required to prevent adverse impacts on public health and safety. As noted in the General Statement of Policy and Procedure for NRC Enforcement Actions, (NUREG–1600), Section I (Enforcement Policy), licensees are expected to exercise meticulous attention to detail and maintain a high standard of compliance with NRC requirements. This standard applies even in cases such as this, in which no adverse consequences to public health and safety actually occurred in this matter.

Further, regardless of whether violations were committed with or without the knowledge of Licensee management, a licensee committing a violation is subject to enforcement action. In this case, the Licensee did not make a sufficient effort to be aware of the applicable requirements and ensure that they were met. Section VI.B. of the

Enforcement Policy states: ''Although management involvement, direct or indirect, in a violation may lead to an increase in the civil penalty, the lack of management involvement may not be used to mitigate a civil penalty.''

The claim that the Licensee realized no appreciable profit from the transactions is not relevant to the fact that the licensee violated its license. As to whether this civil penalty serves the purposes of the NRC's enforcement program, it clearly does so. In cases such as this, an NRC enforcement action is used, in part, as a deterrent to emphasize the importance of management being aware of license requirements, and where there is a question as to the meaning of a requirement, of the need to seek clarification. If a licensee believes that license conditions are unwarranted, the licensee should seek an amendment, and comply with the license until the amendment is granted.

Summary of Licensee's Request for Mitigation

The Licensee contends that the enforcement action imposes a severe financial hardship on the Licensee, that the NRC standards for imposing civil penalties are too vague to meet standards of due process, and that the penalty should not be imposed because the basic information on which the decision is being made has not been made available to the Licensee in preparation of its defense.

NRC Evaluation of Licensee's Request for Mitigation

The Licensee sought mitigation complaining that the NRC standards for imposing civil penalties are too vague to meet the standards of due process but did not provide further argument or explanation of that claim. The Congress has provided the Commission with the discretion to issue civil penalties of up to $110,000 per day per violation. The NRC has for almost 15 years provided publicly available guidelines for developing enforcement actions, including civil penalties. These guidelines are published in the Enforcement Policy.

As to the Licensee's claim that the basic information on which the action was taken was not made available to the Licensee, although the OI Report had not yet been provided to the Licensee because the Licensee had not paid the required charges,[1] the discussion at the Predecisional Enforcement Conference centered on these violations and how they occurred. Further, during the OI investigation the NRC obtained copies of records from the Licensee, including purchase documents for luminous sources and sales documentation. The nature of the violations cited is such that these documents and the personal knowledge of Licensee employees were clearly the basis for the citations and were available to the Licensee.

The staff has reviewed the assessment of the civil penalty, including the exercise of discretion which escalated the civil penalty to $7,500. In assessing a civil penalty, the NRC weighs both the potential safety significance and the regulatory significance. While the safety concerns in this matter may not be significant, the regulatory concerns are significant because Licensee management failed to apply the meticulous attention to compliance with license conditions that is required of a licensee. While the NRC remains concerned about management involvement in these violations, the civil penalty has been reconsidered in light of the safety significance of the actual violations. The civil penalty is, therefore, being mitigated by $5,000.

As to alleged financial hardship, the NRC's Enforcement Policy provides: ''. . . it is not the NRC's intention that the economic impact of a civil penalty be so severe that it puts a licensee out of business (orders, rather than civil penalties, are used when the intent is to suspend or terminate licensed activities) or adversely affects a licensee's ability to safely conduct licensed activities.''

Therefore, to balance these considerations and to be responsive to the potential financial hardship to the Licensee, the NRC will allow the Licensee, if it wishes, to pay the civil penalty in monthly installments.

NRC Conclusion

The NRC has concluded that the violations occurred as stated and that the Licensee provided an adequate basis for mitigation of the civil penalty. However, full mitigation is not warranted because of the importance of emphasizing the role of management in ensuring that it understands regulatory requirements and that these requirements are implemented. Here, the new management did not make sufficient effort to ensure compliance. Consequently, a civil penalty in the amount of $2,500 should be imposed. However, to be responsive to the potential for further financial hardship, the NRC will permit the Licensee to pay the civil penalty in monthly installments.

[FR Doc. 97–10524 Filed 4–22–97; 8:45 am]
BILLING CODE 7590–01–P

[1] The OI Report was provided to the Licensee on October 16, 1996.

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–400]

Carolina Power & Light Company; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–63 issued to Carolina Power & Light Company (the licensee) for operation of the Shearon Harris Nuclear Power Plant, Unit 1, located in New Hill, North Carolina.

The proposed amendment would modify the emergency diesel generator (EDG) circuitry to return the onsite power system to its original functional design basis, minimize the need for operator action if a loss of off-site power (LOOP) occurs during EDG testing, and to eliminate the need to declare the EDG inoperable during periodic testing. The proposed amendment must be issued in a timely manner to avoid an unnecessary delay in the modification of the EDG circuitry, and thus an unnecessary delay of the Harris unit 1 restart as a result of the recent discovery by the licensee that the EDG circuitry is not in compliance with the current plant Final Safety Analysis Report (FSAR) and licensing basis requirements. Such a forced delay in the unit restart is unnecessarily costly to the licensee, and the proposed amendment would improve the reliability of the EDG in its designed function during postulated design bases events. The licensee held a meeting with the staff on April 7, 1997, to discuss the proposed modification to the EDG protection circuitry and formally notified the NRC staff that the proposed modification constitutes an unreviewed safety question; and thus the modification would need the NRC review and approval pursuant to the requirements of 10 CFR 50.59(c) and 10 CFR 50.90. On April 18, 1997, the licensee submitted their proposed modification to the EDG circuitry and requested that staff approval be granted under exigent circumstances pursuant to 10 CFR 50.91(a)(6). The NRC staff is thus satisfied that, once formally notified of the potential deficiency in the EDG protection circuitry, the licensee used its best efforts to make a timely amendment request.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

Pursuant to 10 CFR 50.91(a)(6), for amendments to be granted under exigent circumstances, the NRC staff must determine that the amendment request involves no significant hazards considerations. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. 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 design change does not change the overall design, layout, and functional performance of the plant structures, systems, and components (SSC), nor does it lower the quality class of any SSC. Specifically, the probability of loss of both divisions of onsite power remains unchanged because the safety related electrical isolation feature of the LOOP relays is not affected and the Technical Specification and FSAR requirement to test only one EDG at a time is retained. The proposed design change does not increase the onsite or offsite radiological effects previously evaluated in the FSAR as a consequence of an accident.

Therefore, there would be no increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed modification does not create any new accident initiators. The proposed modification restores the ability of the EDG to respond to a bona fide LOOP as described in the FSAR. The consequences of failure of any circuit components associated with this modification would not result in accidents other than those already addressed in the FSAR.

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 a significant reduction in the margin of safety.

The margins of safety defined in the Technical Specification Bases are not changed by the proposed modification. The proposed modification restores the ability of the EDG to respond to a bona fide LOOP as described in the FSAR and does not change the acceptance limits defined in the Technical Specifications or the FSAR.

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.

The Commission is seeking public comments on this proposed determination. Any comments received within 14 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 14-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 14-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. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By May 23, 1997, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Cameron Village Regional Library, 1930 Clark Avenue, Raleigh, North Carolina 27605. 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 party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, *Attention:* Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 248–5100 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to Mark Reinhart: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to William D. Johnson, Vice President and Senior Counsel, Carolina Power & Light Company, Post Office Box 1551, Raleigh, North Carolina, 27602, 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 presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated April 18, 1997, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Cameron Village Regional Library, 1930 Clark Avenue, Raleigh, North Carolina 27605.

Dated at Rockville, Maryland, this 18th day of April 1997.

For the Nuclear Regulatory Commission.

Ngoc B. Le,

Project Manager, Project Directorate II–1, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 97–10633 Filed 4–22–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–255, 50–266/301, 50–313/368, 72–5, 72–7, 72–13]

Consumers Power Company, Palisades Nuclear Plant, Wisconsin Electric Power Company (Point Beach Nuclear Plant, Units 1 and 2), Entergy Operations, Inc. (Arkansas Nuclear one, Units 1 and 2), Issuance of Director's Decision Under 10 CFR 2.206

Notice is hereby given that the Director, Office of Nuclear Reactor Regulation, has issued a Director's Decision concerning a Petition dated September 30, 1996, filed by Citizens' Utility Board (Petitioner) under Section 2.206 of Title 10 of the Code of Federal Regulations (10 CFR 2.206). The Petition requested that the NRC (1) Require Wisconsin Electric Power Company to retain 24 empty and available spaces in the Point Beach Nuclear Plant spent fuel pool to accommodate retrieval of spent fuel from a VSC–24 cask, and (2) prohibit loading of VSC–24 casks until the Certificate of Compliance, the Safety Analysis Report, and the Safety Evaluation Report are amended to contain operating controls and limits to prevent hazardous conditions.

The Director of the Office of Nuclear Reactor Regulation has determined that the Petition should be denied for the reasons stated in the ''Director's Decision Under 10 CFR 2.206'' (DD–97–09), the complete text of which follows this notice. The decision and documents cited in the decision are available for public inspection and copying in the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

A copy of this decision has been filed with the Secretary of the Commission for the Commission's review in accordance with 10 CFR 2.206(c). As provided therein, this decision will become the final action of the Commission 25 days after issuance unless the Commission, on its own motion, institutes review of the decision within that time.

Dated at Rockville, Maryland, this 17th day of April 1997.

For the Nuclear Regulatory Commission.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

Director's Decision Under 10 CFR 2.206

I. Introduction

On September 30, 1996, Citizens' Utility Board filed a Petition pursuant to Section 2.206 of Title 10 of the *Code of Federal Regulations* (10 CFR 2.206) requesting that the U.S. Nuclear Regulatory Commission (NRC) take the following actions:

1. Order Wisconsin Electric Power Company (WEPCO) to retain 24 empty and available spaces in the Point Beach Nuclear Plant spent fuel pool to provide the capability to permit retrieval of spent fuel from a VSC–24 cask in the event of an accident requiring removal of spent fuel from the cask or in the event that conditions of the certificate of compliance (COC) for the VSC–24 require removal of spent fuel from the cask, until such time that WEPCO has other options available to it to remove spent fuel from a cask in the event conditions warrant it; and

2. Order users of the VSC–24 cask not to load VSC–24 casks until the COC, safety analysis report (SAR), and safety evaluation report (SER) are amended to contain operating controls and limits that prevent hazardous conditions, including but not limited to the generation of explosive gases, due to VSC–24 material reactions with environments encountered during loading, storage, and unloading of the VSC–24 cask. The SAR and SER must be amended such that each operating control and limit is clearly documented and justified in the technical review sections of the SAR and associated SER as necessary and sufficient for safe cask operation.

The Petition has been referred to me pursuant to 10 CFR 2.206. The NRC letters dated October 11 and December 10, 1996, to Mr. Dennis Dums, on behalf of the Petitioner, acknowledged receipt of the Petition and provided the NRC staff's determination that the Petition did not require immediate action by the NRC. Notice of receipt was published in the **Federal Register** on December 16, 1996 (61 FR 66063).

On the basis of the NRC staff's evaluation of the issues and for the reasons given below, the Petitioner's requests are denied.

II. Background

The Petitioner's first request is for the NRC to order WEPCO to maintain sufficient empty space in the spent fuel pool at Point Beach to accommodate the unloading of a VSC–24 spent fuel storage cask. NRC regulations include a requirement that an independent spent fuel storage installation (ISFSI) be designed to provide for the ready retrieval of spent fuel or high-level radioactive waste for further processing or disposal. This requirement is applicable to ISFSIs so that the stored spent fuel can be retrieved for transport to either a monitored retrievable storage installation (MRS) or a high-level waste repository whenever it becomes available. This regulation, 10 CFR 72.122(l), provides as follows:

> (1) Retrievability. Storage systems must be designed to allow ready retrieval of spent fuel or high-level radioactive waste for further processing or disposal.

In addition to the regulatory requirements in Section 72.122(l) pertaining to retrieval of the fuel assemblies for further processing or disposal, there are certain events or conditions that could warrant removing a VSC–24 cask from an ISFSI and returning the multi-assembly sealed basket (MSB) to the spent fuel pool and unloading the stored fuel assemblies. The COC requires a VSC–24 cask to be returned to the spent fuel pool in response to those design basis events or conditions that may challenge the integrity of the storage cask or the cladding of the spent fuel assemblies.[1]

Petitioner's second request is for an NRC order to WEPCO and other users of VSC–24 casks not to load additional casks until the COC, the SAR, and the SER are amended to contain operating controls and limits to prevent hazardous conditions. On May 28, 1996, a hydrogen gas ignition occurred during the welding of the shield lid after spent fuel had been loaded into a VSC–24 cask at the Point Beach Nuclear Plant. The hydrogen was formed by a chemical reaction between a zinc-based coating (Carbo Zinc 11) and the borated water in the spent fuel pool. Following the event, the NRC issued confirmatory action letters (CALs) to those licensees using or planning to use VSC–24 casks for the storage of spent nuclear fuel (i.e., licensees for Point Beach, Palisades, and Arkansas Nuclear One). The CALs documented the licensees' commitments not to load or unload a VSC–24 cask without resolution of material compatibility issues identified in NRC Bulletin 96–04, ''Chemical, Galvanic, or Other Reactions in Spent Fuel Storage and Transportation Casks,'' dated July 5, 1996, and subsequent confirmation of corrective actions by the NRC. The staff has acknowledged that the event demonstrated that the SAR and related NRC review, as documented in the SER, did not adequately address the use of a zinc-based coating and its reaction with the acidic water in spent fuel pools.

The licensees using VSC–24 casks submitted to the NRC information on operating controls and limits to prevent hazardous conditions implemented in response to NRC Bulletin 96–04 and subsequent staff inquiries. The submittals from the licensees included evaluations of possible material interactions and provided descriptions of how procedures were revised. The revisions include controls for the environments that the casks encounter during use, requirements for inspections and environmental sampling, and additional precautions for various cask operations. The NRC staff has evaluated these responses for Arkansas Nuclear One (ANO) and Point Beach and, as documented in the safety evaluations dated December 3, 1996, and April 8, 1997, determined that the operating controls and limits proposed by these licensees are acceptable and satisfy regulatory requirements. By a separate letter also dated December 3, 1996, the staff informed the licensee for ANO that its corrective actions had been verified by inspections performed by the NRC staff. Shortly thereafter, the licensee initiated cask loading activities.[2] The NRC will perform inspections in the near future in order to verify corrective actions implemented at Point Beach. The review of responses to the bulletin related to Palisades is ongoing. Cask operations at Point Beach and Palisades continue to be limited by the licensees' commitments described in CALs.

III. Discussion

As noted, the Petition requests two actions be taken by the NRC. They are addressed below.

Item 1: Order WEPCO To Retain 24 Spaces in the Point Beach Spent Fuel Pool

The first requested action calls for the NRC to issue an order to WEPCO to retain 24 empty and available spaces in the Point Beach spent fuel pool to provide the capability to unload a VSC–24 dry storage cask. The two basic reasons to return a cask to the spent fuel pool would be either to (1) Retrieve the fuel assemblies for further processing or disposal pursuant to 10 CFR 72.122(l) or (2) respond to an event or condition that has potentially degraded the cask or spent fuel in regard to the requirements established in the COC.

As previously discussed, 10 CFR 72.122(l) sets forth requirements pertaining to retrieval of the fuel for further processing or disposal; however, it provides no basis for the NRC to require a licensee to maintain a specified reserve capacity in the spent fuel pool. Licensees will have considerable opportunity to plan and schedule the activities associated with retrieving fuel assemblies from existing storage casks for transfer to other casks for further processing or disposal. This ability to control the activity includes either ensuring that existing spent fuel pool facilities will support the transfer or developing alternate approaches. Alternate approaches could involve, for example, making room in spent fuel pools by use of other storage or transportation casks, expanding the wet storage capacity by making changes to the spent fuel pool or other parts of the reactor facility, or development of a system for direct cask-to-cask transfer under dry conditions. Therefore, the design requirement for ready retrieval in 10 CFR 72.122(l) does not provide a basis for issuing an order as requested by the Petitioner.

Similarly, requiring the licensee to maintain space in the spent fuel pool is not necessary as a contingency for certain events or conditions for which a cask must be returned to the spent fuel pool to facilitate inspections or ensure adequate cooling of the fuel assemblies. During its reviews performed during certification of the VSC–24 design, the NRC staff confirmed that the design features of the cask provide reasonable

[1] The following sections of the COC include requirements for returning a VSC–24 cask to the spent fuel pool and/or unloading the cask:

Section 1.2.3, ''Maximum Permissible Air Outlet Temperature'';

Section 1.2.10, ''Time Limit for Draining the MSB'';

Section 1.2.15, ''Handling Height''; and

Section 1.3.4, ''Thermal Performance.''

Each section is discussed later in this decision.

[2] The NRC staff is looking into reports from licensees on the need to perform weld repairs during the welding of the shield lid into the MSBs of several VSC–24 casks. This potential problem is not related to the requested actions or supporting information cited in the Petition. The NRC staff determined that the issuance of this Director's Decision should not be delayed pending resolution of potential problems associated with the weld repairs because the weld repairs are not related to concerns presented in the Petition and the welding issue is being addressed by ongoing NRC activities. The Petitioner was informed of the welding issue and the NRC staff's decision to not include the issue in the staff's evaluation of the Petition.

assurance that the cask and fuel assemblies will confine the radioactive materials following the design basis events established for dry storage casks. These design features include the confinement function provided by the welded MSB, the cooling and shielding functions provided by the ventilated concrete cask (VCC), the limitations on the fuel to be stored, and other cask characteristics and limitations placed on its use that were relied upon during the NRC's certification of the cask. Although the NRC staff considered it prudent to require a cask to be returned to the spent fuel pool to ensure cooling of the spent fuel and support inspections to confirm that the cask could remain in service following certain design basis events, the ability of the VSC–24 casks to withstand such events made it unnecessary for the NRC to include specific time constraints in which the operation needed to be completed.[3]

In the event that a condition would arise requiring a cask to be returned to the spent fuel pool, the continued confinement of the radioactive materials within the MSB would afford the licensee ample time to develop corrective actions that would maintain safe storage conditions and minimize occupational exposures. The design features of the cask, the unlikely nature of events that may require unloading a cask, and the NRC staff's judgment that licensees could develop an alternate approach if a spent fuel pool could not support an immediate unloading of a cask have previously been cited as reasonable justification for not requiring licensees to maintain a fixed reserve capacity in spent fuel pools.[4]

Requirements defining conditions for returning a cask to the spent fuel pool were included in the COC for the VSC–24 cask in order to maintain the cask components and stored spent fuel assemblies within the boundaries evaluated and accepted by the NRC staff during the certification process. The COC addresses those events or conditions which might lead to degradation of the cask or fuel assemblies. The required actions normally include restoring operations to within the acceptable limits or otherwise ensuring the spent fuel is placed in a safe storage condition. The COC requirements for some events or conditions include returning the MSB to the spent fuel pool to provide a safe storage condition and unloading of the spent fuel assemblies in order to support inspections of the cask.

The COC-required action in Section 1.2.10, ''Time Limit for Draining the MSB,'' states that a cask should be returned to the spent fuel pool for cooling if the water cannot be drained within the specified time after the MSB is removed from the spent fuel pool with 24 spent fuel assemblies. The referenced draining operation is part of the cask-loading sequence and it is reasonable to assume, therefore, that the cask-loading area within or adjacent to the spent fuel pool would be available for the cask should this contingency need to be implemented. Further, the COC-required action is meant to restore cooling to maintain safety margins pertaining to fuel assembly subcriticality and can be accomplished without unloading the fuel assemblies from the MSB. It is likely, however, that the locations in the spent fuel pool that had contained the fuel assemblies loaded into the storage cask would remain available during the loading and draining of the cask.

Section 1.2.15, ''Handling Height,'' requires fuel assemblies to be returned to the spent fuel pool, and inspections and evaluations performed for cask components in the event a loaded cask is dropped from a height greater than 18 inches. The COC prohibits handling of a loaded VCC at a height greater than 80 inches. The NRC evaluation of the MSB drop analysis concurred that drops up to 80 inches of the MSB inside the VCC can be sustained without breaching the confinement boundary, preventing removal of the spent fuel assemblies, or causing a criticality accident. However, it is deemed prudent to return the cask to the spent fuel pool to perform inspections and evaluations in the event a cask experiences a significant drop, which is considered to be a drop from a height greater than 18 inches. The requirement to perform such inspections and evaluations was, therefore, included in the COC in the event that a cask were to be dropped during movement. However, since the most likely time for a cask drop event to occur would be during movement of a newly loaded cask to the ISFSI, it is reasonable to assume that the spaces in the spent fuel pool that had contained the fuel assemblies loaded into the cask would remain available. Moreover, even assuming for the sake of this analysis that the drop occurs when spaces might not be available in the spent fuel pool, reviews of the cask have shown that the cask and fuel will remain intact following a drop from the maximum allowable height. Because a drop from the maximum allowable height would not pose an immediate threat to the safety of the public or plant personnel, adequate time would be available for the licensee to develop and implement approaches to perform the required inspections and evaluations if spaces were not available in the spent fuel pool to support an immediate unloading of the cask. Temporary shielding, loading the affected MSB into a spare VCC, placing the affected MSB into the cask loading area within or adjacent to the spent fuel pool, or other contingency actions could ensure safe storage conditions while the licensee developed and implemented an approach to allow for the actual unloading of the cask that had been dropped.

The requirements contained in Sections 1.2.3, ''Maximum Permissible Air Outlet Temperature,'' and 1.3.4, ''Thermal Performance,'' were included in the COC to provide reasonable assurance that the temperatures of the fuel cladding and the VSC–24 concrete do not exceed design limits. Concrete temperature limits are intended to prevent gradual degradation of the VCC and the shielding it provides for the MSB, which is the containment vessel for the spent fuel. Other temperature limits pertain to the fuel cladding and are intended to maintain the stored fuel assemblies below the temperatures at which damage might occur. However, in the event that excessive temperatures are detected, cooling of the cask and subsequent placement of the MSB into the spent fuel pool, if necessary, are sufficient to avoid immediate safety concerns. Because safe storage of the fuel assemblies is achieved by placing the affected MSB into the cask loading area adjacent to or within the spent fuel pool, the actual unloading of the assemblies from the MSB to the storage racks within the spent fuel pool can await the licensee's development of alternative approaches if that were necessary due to a lack of storage space in the spent fuel pool. Such approaches may require the licensee to make modifications to the spent fuel pool or other parts of the reactor facility.

In addition to the specific COC requirements previously discussed, a cask might need to be returned to the spent fuel pool if the cask fails to meet some criteria provided in NRC regulations or the COC and should, therefore, be removed from service.

[3] The position that a time-urgent unloading of a cask need not be considered is also supported by the analysis of a hypothetical event involving the failure of the stored fuel pins with subsequent ground level breach of an MSB that was presented in the SAR for the VSC–24 design. Although no identified accident results in such failures, the event was analyzed to demonstrate the limited radiological consequences from accidents involving VSC–24 casks.

[4] See resolution of public comments published with rulemakings to add the VSC–24 cask (58 FR 17948) and TN–24 cask (58 FR 51762) to the list of NRC-certified casks.

Tests and surveillances performed before and after loading spent fuel into a storage cask are designed to detect failures to conform to design or regulatory requirements before a problem presents an imminent threat to the cask or stored fuel. Therefore, while discovery of a nonconformance or previously unidentified vulnerability may require removing a cask from service as part of a licensee's corrective actions, it is highly improbable that the discovery of such a condition would pose an immediate safety concern. As in the previous examples, safe storage of the spent fuel could be accomplished by returning the affected MSB to the cask loading area within or adjacent to the spent fuel pool and the MSB and spent fuel could remain there while the licensee determined an appropriate course of action, including provisions for unloading the cask, if necessary.

In sum, no credible accident has been identified that would require the immediate unloading of a storage cask as a necessary protective measure to avoid significant radiological consequences to members of the public. In addition, there is no event or condition that was identified during the certification of the VSC–24 cask that would require a time-urgent unloading of a cask. Therefore, there is no need for NRC to require continuous availability of space in the spent fuel pool to accommodate the potential need to unload a cask. Further, the NRC staff has reasonable assurance that licensees could, if necessary, develop and implement an approach to unload a cask if required to do so by unplanned events or conditions, such as those identified in the COC. If space is not immediately available in the spent fuel pool, there would be time to make it available by relocating other spent fuel assemblies or removing them for temporary storage in a cask or by making modifications to the spent fuel pool or other parts of the reactor facility. Therefore, the NRC does not see a need to require the licensee to reserve a fixed number of vacant spaces in the spent fuel pool or to maintain the capability to retrieve the spent fuel from a cask within a specified period of time, particularly when there is no such prescriptive requirement stated in NRC rules.

Item 2: Order VSC–24 Users Not To Load Casks Pending Amendment of Documents

The Petitioner's second request was for the NRC to order all users of the VSC–24 cask not to load VSC–24 casks until the COC, the SAR, and the SER are amended to contain operating controls and limits that prevent hazardous conditions. As noted previously, following the event at Point Beach, the NRC staff recognized that additional evaluation of potential material interactions was warranted for all transportation and storage casks. In regard to the VSC–24 cask, the event and subsequent NRC inspections made it apparent that actual changes in the operating procedures or the design of the cask would be necessary. CALs were issued to confirm licensees' commitments to refrain from loading VSC–24 casks pending completion of the staff's review of the responses to NRC Bulletin 96–04 and verification of the associated corrective actions. As discussed, the CALs established a process by which the NRC staff could obtain confidence that operating controls and limits to address potential hazardous conditions are developed and implemented by each licensee using VSC–24 casks.

In particular, the CAL process ensures that licensees will incorporate the necessary operating controls and limits into revised plant procedures. Moreover, under existing NRC requirements, the licensee must adequately implement those revised procedures. For this reason, no changes to the COC or the SAR are needed to ensure that enforceable operating controls and limits are in place to address potential hazardous conditions during the loading or unloading of a cask. Further, as previously indicated, the staff has documented the process, information, and results of its review of the licensee's response to Bulletin 96–04 for use of the VSC–24 at ANO and Point Beach in safety evaluations available for public review. The NRC staff is currently reviewing the responses to the bulletin submitted by the licensee for Palisades.

Although the actions taken as part of the CAL process provide adequate assurance that technical and regulatory compliance issues raised by the event at Point Beach will be resolved before a licensee loads or unloads a VSC–24 cask, the NRC staff agrees with the Petitioner that it would be beneficial if the SAR and other licensing basis documents accurately described the identified chemical reaction and the associated operating controls and limits. The NRC staff is currently reviewing a proposed amendment to the SAR and the COC for the VSC–24 cask design and will ensure that the information related to the identified chemical reaction and associated operating controls is adequately addressed in the appropriate licensing-basis document. In addition, the NRC staff is processing a petition for rulemaking, PRM–72–3, that may lead to additional updating of ISFSI SARs and the inclusion of information on operating controls and limits implemented as a result of the event at Point Beach. However, the previously discussed controls to be implemented by the licensees and verified by the NRC staff as part of the CAL process, and the enforceability of those controls under existing NRC requirements, make it unnecessary to require revision of the specific licensing documents cited by the Petitioner as a precondition for resuming cask operations at the facilities using VSC–24 casks.

IV. Conclusion

The Petitioner requested that the NRC (1) Require WEPCO to retain 24 empty and available spaces in the Point Beach Nuclear Plant spent fuel pool to accommodate retrieval of spent fuel from a VSC–24 cask, and (2) prohibit loading of VSC–24 casks until the COC, the SAR, and the SER are amended to contain operating controls and limits to prevent hazardous conditions. Each of the claims by the Petitioner has been reviewed. I conclude that for the reasons discussed above, no adequate basis exists for granting the Petitioner's request for either (1) Requiring the licensee for Point Beach to reserve a fixed number of vacant spaces in the spent fuel pool or (2) suspension of the licensees' use of the general license for dry cask storage of spent nuclear fuel at Palisades, Point Beach, or Arkansas Nuclear One pending revision of the SAR, the SER, and the COC for the VSC–24 cask.

A copy of this decision will be filed with the Secretary of the Commission for the Commission to review in accordance with 10 CFR 2.206(c). As provided by this regulation, this decision will constitute the final action of the Commission 25 days after issuance unless the Commission, on its own motion, institutes a review of the decision within that time.

Dated at Rockville, Maryland, this 17th day of April 1997.

For the Nuclear Regulatory Commission.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 97–10522 Filed 4–22–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 030–04593, 040–02253, 070–00263]

Termination of Watertown Arsenal Licenses and Opportunity for a Hearing

AGENCY: Nuclear Regulatory Commission.

ACTIONS: Notice of intent to terminate radioactive material license numbers 20–01010–04 and SNM–00244, to amend radioactive material license number SUB–00238 and notice of an opportunity to request a hearing on the proposed actions.

SUMMARY: This notice is to inform the public that the Nuclear Regulatory Commission intends to terminate NRC radioactive material license numbers 20–01010–04 and SNM–00244, to amend NRC radioactive material license number SUB–00238, and to provide interested individuals with an opportunity to request a hearing on the proposed NRC actions. Radioactive material license numbers 20–01010–04, SNM–00244, and SUB–00238 were issued to the Department of the Army authorizing the use of radioactive materials at the U.S. Army Research Laboratory (ARL), Watertown, Massachusetts. NRC intends to terminate radioactive material license numbers 20–01010–04 and SNM–00244, and amend radioactive material license number SUB–00238 to remove the ARL as a location of use, because remediation of residual radioactive material attributable to licensed operations at the ARL has successfully been completed and the facility is suitable for release for unrestricted use. License number SUB–00238 will remain active to authorize decommissioning activities at the portion of the ARL known as the Mall Property.

SUPPLEMENTARY INFORMATION: The majority of the licensed activities at the ARL involved work with depleted uranium. Beginning in the 1940s, research involved various machining operations, with munitions development commencing in the 1950s. The ARL has several large buildings that required significant remediation. The history of licensed activities at the ARL also indicated a potential for large volumes of contaminated soil. In 1992, NRC staff added the Watertown Arsenal/Mall site, which includes the ARL and the portion of the facility referred to as the Mall Property, to the NRC's Site Decommissioning Management Plan list to ensure the timely and effective cleanup of the site.

The licensee conducted a radiological field survey at the ARL from October 1991 to January 1992. The survey was a characterization of the buildings and grounds. Additional surveys were conducted during remediation activities. The surveys identified contamination in nine buildings at the facility.

Remediation of the ARL began in June 1992 and was completed in late 1994. Remediation methods varied from general cleaning of surfaces to extensive demolition. Approximately 95,000 cubic feet of solid radioactive waste was generated during facility decommissioning activities.

To support their request to terminate radioactive material license numbers 20–01010–04 and SNM–00244, and to amend license number SUB–00238 to remove the ARL site as a location of use, the licensee determined the radiological status of the ARL by performing a final radiation survey of the facility and submitted the results of this survey to NRC for review. The results of the licensee's final survey indicate that residual radioactive material attributable to licensed operations on surfaces and in soil meet the release criteria specified in the licensee's approved decommissioning plan, which are lower than the current NRC criteria for unrestricted use. The results of the NRC confirmatory survey are in agreement with the licensee's final survey data. Region I staff reviewed the final survey and the confirmatory survey data and determined that the ARL meets NRC guidelines for release for unrestricted use for surface contamination and soil.

Consequently, NRC staff intends to terminate NRC license numbers 20–01010–04 and SNM–00244, to amend NRC license number SUB–00238 to remove the ARL as a location of use, and release the facility for unrestricted use. License number SUB–00238 will remain active to authorize decommissioning activities at the Mall Property. These licenses are covered by categorical exclusions in 10 CFR 51.22(c)(14)(v), (viii) and (xv), respectively. Therefore, no environmental assessment is needed to terminate or amend these licenses.

NRC hereby provides notice that termination of license numbers 20–01010–04 and SNM–00244, and the amendment of license number SUB–00238, are proceedings on licenses falling within the scope of Subpart L ''Informal Hearing Procedures for Adjudication in Materials Licensing Proceedings,'' of NRC's rules and practice for domestic licensing proceedings in 10 CFR Part 2. Pursuant to § 2.1205(a), any person whose interest may be affected by these proceedings may file a request for a hearing in accordance with § 2.1205(c). A request for a hearing must be filed within thirty (30) days of the date of publication of this **Federal Register** notice.

The request for a hearing must be filed with the Office of the Secretary either:

1. By delivery to the Docketing and Service Branch of the Office of the Secretary at One White Flint North, 11555 Rockville Pike, Rockville, MD 20852–2738; or
2. By mail or telegram addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Attention: Docketing and Service Branch.

In addition to meeting other applicable requirements of 10 CFR Part 2 of the NRC's regulations, a request for a hearing filed by a person other than an applicant must describe in detail:

1. The interest of the requester in the proceeding;
2. How that interest may be affected by the results of the proceeding, including the reasons why the requester should be permitted a hearing, with particular reference to the factors set out in § 2.1205(g);
3. The requester's areas of concern about the licensing activity that is the subject matter of the proceeding; and
4. The circumstances establishing that the request for a hearing is timely in accordance with § 2.1205(c).

In accordance with 10 CFR § 2.1205(e), each request for a hearing must also be served, by delivering it personally or by mail, to:

1. The applicant, Department of the Army, U.S. Army Research Laboratory, AMSRL–OP–WT, Caretaker Force, 395 Arsenal St., Watertown, MA 02172–2700 Attention: Kenneth F. Worth; and
2. NRC staff, by delivery to the Executive Director for Operations, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852–2738, or by mail, addressed to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For further details with respect to this action, interested individuals may review the documents associated with this action which are available for inspection at NRC's Region I offices located at 475 Allendale Road, King of Prussia, PA 19406. Persons desiring to review documents at the Region I Office should call Ms. Cheryl Buracker at (610) 337–5093 several days in advance to assure that the documents will be readily available for review.

Dated at Rockville, Maryland this 17th day of April, 1997.

For the Nuclear Regulatory Commission.

John W. N. Hickey,

Chief, Low-Level Waste and Decommissioning Projects Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 97–10523 Filed 4–22–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Biweekly Notice

Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law 97–415, the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. Public Law 97–415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from March 29, 1997, through April 11, 1997. The last biweekly notice was published on April 9, 1997 (62 FR 17223).

Notice of Consideration Of Issuance Of Amendments To Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunith For A Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

By May 23, 1997, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and at the local public document room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with

the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 248-5100 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to **(Project Director)**: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

Carolina Power & Light Company, et al., Docket No. 50-400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of amendment request: March 17, 1997

Description of amendment request: The proposed change would revise eight specifications for 18-month tests to delete a conditional statement that the testing be done while the unit is shut down and to clarify that Harris Nuclear Plant (HNP) may take credit for tests on some components which are performed while the unit is at power.

Basis for proposed no significant Hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes permit HNP to evaluate the conditions required to safely perform a test, but the changes do not directly affect the functioning or operation of any plant equipment. Since no equipment operation is involved there is no increase in the probability or consequence of any previously identified accident.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes to the conditional statements on the surveillance frequencies do not involve any physical alterations or additions to plant equipment or alter the manner in which any safety-related system performs itsfunction or is operated. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. The proposed amendment does not involve a significant reduction in the margin of safety.

The proposed changes to the conditional statements on the surveillance frequency allows HNP to evaluate the conditions needed to safely perform the required testing. There is no change in the frequency of testing or in the testing which is required. There is no change in the responsibility of HNP toperform tests in a safe and responsible manner, and any changes to procedures will have to be individually evaluated to ensure that they do not reduce the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Cameron Village Regional Library, 1930 Clark Avenue, Raleigh, North Carolina 27605

Attorney for licensee: William D. Johnson, Vice President and Senior Counsel, Carolina Power & Light Company, Post Office Box 1551, Raleigh, North Carolina 27602

NRC Project Director: Mark Reinhart, Acting

Commonwealth Edison Company, Docket Nos. STN 50-454 and STN 50-455, Byron Station, Unit Nos. 1 and 2, Ogle County, Illinois Docket Nos. STN 50-456 and STN 50-457, Braidwood Station, Unit Nos. 1 and 2, Will County, Illinois

Date of amendment request: January 30, 1997

Description of amendment request: The proposed amendment would revise Technical Specification (TS) 1.0, ''Definitions;'' TS 3/4.6.1, ''Primary Containment'' and associated Bases; and TS 5.4.2, ''Reactor Coolant System Volume'' for Byron and Braidwood to support steam generator replacement. ComEd will be replacing the original Westinghouse D4 steam generators at Byron and Braidwood with Babcock and Wilcox International steam generators. The replacement steam generators increase the Reactor Coolant System volume which results in a higher calculated peak containment pressure (P_a) value.

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.

Each of the [replacement steam generators] RSGs has a larger [reactor coolant system] RCS side volume than the original steam generators (OSGs). As a result of the RCS

volume increase, the mass and energy release during the blowdown phase of the large break loss of coolant accident (LBLOCA) is increased. Additionally, the heat transfer rate of the RSGs is greater than the OSGs, and the RSGs will operate at a slightly higher pressure than that for the OSGs. Consequently, the steam enthalphy exiting the break during the reflood period, with the RSG, will be greater than that for the OSG. This results in an increase in the containment building peak pressure, P_a.

The proposed revisions to the Technical Specifications involve the specified value of Unit 1 RCS volume and the defined value of Unit 1 P_a. Several editorial changes are also being made to improve clarity and consistency of the TS.

RCS volume is not an initiator for any event and an increase in volume does not affect any operating margin or requirements. Therefore, increasing the primary volume does not increase the probability of any event previously analyzed.

The revised value of P_a continues to be less than the design basis pressure for the containment building structure. The change represents only a revision to the containment test pressure for containment leakage testing. Such testing is only performed with the affected unit in the shutdown condition. Therefore, the proposed change in P_a does not involve a significant increase in the probability of an accident previously evaluated.

All accidents in the Updated Final Safety Analysis Report (UFSAR) were evaluated to determine the effect of an increase in primary volume on accident consequences. The events identified that may be impacted by an increase in primary volume are the Waste Gas System Leak or Failure and LBLOCA. For the Waste Gas System Leak or Failure, the activity of the decay tank is controlled to Technical Specification limits which are unaffected by RCS volume. Therefore, an increase in RCS volume would not increase the offsite dose.

The offsite dose calculation for the LBLOCA is unaffected by the proposed change. The license basis offsite dose calculation is in accordance with NRC Reg Guide 1.4 ''Assumptions Used for Evaluating The Potential Radiological Consequences of a Loss of Coolant Accident for Pressurized Water Reactors.'' This Regulatory Guide states, in part, ''...a number of appropriately conservation assumptions, based on engineering judgment and on applicable experimental results from safety research programs conducted by the AEC.'' These conservatisms include (but are not limited to) the following assumptions:

- Twenty five percent of the equilibrium radioactive full power inventory is immediately available for leakage from the primary containment.
- 100% of the equilibrium full power radioactive noble gas inventory is immediately available for leakage from the primary containment.
- The primary containment should be assumed to leak at the (maximum) leak rate specified in the technical specifications for the first 24 hours and at 50% of this value for the remaining 29 days of the accident duration.

The design basis leakage corresponding to a peak containment pressure of 50 psig utilized in the design basis accident analysis is 0.10% per day of the containment free air mass. Therefore, the offsite dose calculation was performed with a leakage of .1% per day for day one and .05% per day for days two through 30. Isotopic inventories are unaffected by the increase in reactor coolant volume. Thus, the offsite dose is unaffected by the increase in the peak containment pressure. Therefore, this proposed change to P_a does not involve a significant increase in the consequences of an accident previously evaluated.

The editorial changes proposed are for clarity and consistency within the Technical Specifications and do not affect either the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change in RCS volume is a change in a plant parameter within the ''Design Features'' section of the Technical Specifications. Increasing the RCS volume does not create any new or different failure modes. The existing RCS design requirements continue to be met.

The revised value of P_a continues to be less than the design basis pressure for the containment building structure. The change represents only a revision to the test pressure for containment leakage testing. Such testing is only performed with the affected unit in the shutdown condition. Therefore, no new or different failure modes are being introduced by modification of the testing parameters.

The editorial changes proposed are for clarity and consistency within the Technical Specifications and do not result in any physical changes to the facility or how it is operated. No new or different failure modes are being introduced by these changes.

Therefore, these proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

Changing the RCS volume in the Technical Specifications does not reduce the margin of safety. RCS volume is a design feature. The change in RCS volume does not involve a change to any setpoint or design requirements. An evaluation of all UFSAR accidents was performed to determine the effect of an increase in RCS volume. This evaluation is summarized as follows:

An evaluation of the Chemical and Volume Control System Malfunction was performed to determine the effect of the increased RCS volume due to the RSGs. The larger RCS volume of the RSGs reduces the reactivity insertion for a given dilution flow rate. Therefore, the UFSAR analyses remain bounding for Byron Unit 1 and Braidwood Unit 1 with the RSGs and there is no reduction in the margin of safety.

An evaluation of the Inadvertent Actuation of the Emergency Core Cooling System During Power Operation Event was performed to determine the effect of the increased RCS volume due to the RSGs. For this event, the injection of borated water causes a negative reactivity insertion, which increases DNBR. For a given Refueling Water Storage Tank (RWST) boron concentration, the larger RCS volume will cause a reduction in the negativity insertion rate as compared to the current UFSAR analysis. However, negative reactivity would still be inserted, no fuel pins would experience DNB, and there is no reduction in the margin of safety.

An evaluation of the Small Break LOCA was performed to determine the effect of increased RCS volume. The additional RCS volume will cause a delay in the loop seal clearing which in turn delays the core uncovery as compared with the UFSAR analysis. A delay in core uncovery reduces the amount of core heatup which results in a lower peak clad temperature (PCT) because the core decay heat would be less than in the UFSAR analysis. The benefit is considered small, but there is still a benefit. Therefore, the increased RCS volume does not result in a reduction in the margin of safety.

An evaluation of the Large Break LOCA was performed to determine the effect of increased RCS volume. For a LBLOCA, the increased RCS volume causes the blowdown phase of the event to be longer. Increased blowdown phase, alone, could potentially result in a higher PCT. However, the RSGs also have less resistance to flow due to increased primary side steam generator flow area, which results in a higher blowdown flow compared to the OSGs. The increased blowdown flow more than compensates for the longer blowdown phase associated with the increased RCS volume. The net effect is a decrease in PCT for the RSG compared to the OSG. Therefore, there is no reduction in the margin of safety.

An evaluation of the Gas Waste System Leak or Failure was performed to determine the effect of the increased RCS volume. Because the activity of the decay tank is controlled within Technical Specification limits, an increase in RCS volume would not change the results of the event. Therefore, there is no reduction in the margin of safety.

An evaluation was performed to determine the effect of the increased RCS volume on the peak containment pressure following a LBLOCA. The increased RCS volume caused the peak containment pressure to increase to 47.8 psig. This is still below the containment design pressure of 50.0 psig. Therefore, there is no reduction in the margin of safety.

This proposed change involves testing requirements designed to demonstrate adequate leakage rates are maintained. If adequate leakage rates are maintained as outlined in the Technical Specifications, there will be no reduction in the margin of safety. In the event of degradation of a containment seal that results in unacceptable leakage, plant shutdown will occur as required by Technical Specifications and administrative requirements in accordance with approved plant procedures. Therefore, this proposed change does not involve a significant reduction in a margin of safety.

The editorial changes proposed are for clarity and consistency within the Technical Specifications and do not result in any physical changes to the facility or how it is

operated. Therefore, the changes have no effect on the margin of safety.

Thus, this amendment request does not result in any decrease 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 requested amendments involve no significant hazards consideration.

Local Public Document Room location: For Byron, the Byron Public Library District, 109 N. Franklin, P.O. Box 434, Byron, Illinois 61010; for Braidwood, the Wilmington Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481.

Attorney for licensee: Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60603

NRC Project Director: Robert A. Capra

Consumers Power Company, Docket No. 50-255, Palisades Plant, Van Buren County, Michigan

Date of amendment request: March 27, 1997

Description of amendment request: The proposed amendment would alter the company name in the Facility Operating License DPR-20 and Technical Specifications for the Palisades Plant. Specifically, the proposed amendment would revise the name from ''Consumers Power Company'' to ''Consumers Energy Company.''

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 proposed changes involve a significant increase in the probability or consequences of an accident previously evaluated?

Since the proposed changes do not alter the technical content of any Facility Operating License or Technical Specifications requirements, they do not alter any feature of plant equipment, settings, operation, or configuration.

Therefore, they cannot involve a significant increase in the probability of an accident previously evaluated.

The proposed changes alter the company name in the Facility Operating License and Technical Specifications to reflect the change from ''Consumers Power Company'' to ''Consumers Energy Company''. The proposed change will not affect any obligations. The company will continue to own all of the same assets, will continue to serve the same customers, and will continue to honor all existing obligations and commitments. The proposed changes will not alter plant operation or configuration, or its ability to respond to accidents.

Therefore, they will not involve a significant increase in the consequences of any accident previously evaluated.

B. Do the proposed changes create the possibility of a new or different kind of accident from any previously evaluated?

Since the proposed changes do not alter the technical content of any Facility Operating License or Technical Specifications requirements, they do not alter any feature of plant equipment, settings, operation or configuration.

Therefore, they cannot create the possibility of a new or different kind of accident from any previously evaluated.

C. Do the proposed changes involve a significant reduction in a margin of safety?

Since the proposed changes do not alter the technical content of any Facility Operating License or Technical Specifications requirements, they do not alter any feature of plant equipment, settings, operation, or configuration.

Therefore, they cannot 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: Van Wylen Library, Hope College, Holland, Michigan 49423

Attorney for licensee: Judd L. Bacon, Esquire, Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201

NRC Project Director: John N. Hannon

Duke Power Company, Docket Nos. 50-269, 50-270 and 50-287, Oconee Nuclear Station, Units 1, 2, and 3, Oconee County, South Carolina

Date of amendment request: March 31, 1997 (TSC 96-10)

Description of amendment request: The proposed amendments would modify and clarify the High Pressure Injection (HPI) System operability requirements in Specification 3.3.1, impose additional HPI system operability requirements for operation above 75 percent power, incorporate the new Standard Technical Specifications format for the HPI system, revise Specification 3.3.2 to clarify that the Reactor Building Emergency Sump isolation valves are remote-manually operated valves, and add new specifications and a surveillance test to address operability requirements of the atmospheric dump valves. In addition, corresponding Bases changes would be incorporated.

Basis for proposed no significant Hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated:

No. None of the proposed changes has any impact upon the probability of any accident which has been evaluated in the UFSAR [Updated Final Safety Analysis Report]. The only potential change in operating configuration is allowing operation with the HPI [High Pressure Injection] System pump discharge header cross-

connected. This operating mode does not affect the probability of a LOCA [Loss-of-Coolant Accident] or of any other accident evaluated in the UFSAR.

None of these changes have any impact upon the ability of the HPI System to add soluble poison to the Reactor Coolant System, as addressed by Specification 3.2. The remaining potential impact is upon the ability to mitigate the consequences of a small break LOCA, which is addressed below. The small break LOCA is the limiting design basis accident with respect to HPI System operability requirements.

The proposed changes to Specification 3.3.1 provide appropriate actions to address any degradation in the operability of the HPI System. The operability requirements for the HPI System are supported by a spectrum of small break LOCA analyses based on the approved Evaluation Model described in FTI [Framatome Technologies, Incorporated] topical report BAW-10192P. These small break LOCA analyses demonstrate that the acceptance criteria of 10CFR 50.46 are not violated.

Two trains of HPI are required to mitigate a small break LOCA above 75% FP [full power]. Operability requirements in the proposed Technical Specifications assure that the HPI System can withstand the worst single failure and still result in two HPI pumps injecting through two trains. The full power small break LOCA analyses supporting this proposed license amendment have been performed in accordance with the approved Evaluation Model described in FTI topical report BAW-10192P. The proposed Technical Specifications limit operation above 75% FP with a degraded HPI System to 72 hours before a power reduction to less than 75% FP (or a reactor shutdown) must be initiated. The required actions depend on the HPI System components that are inoperable. The 72 hour completion time is consistent with the time requirements for HPI specified in NUREG-1430.

When at or below 75% FP, one HPI train provides sufficient flow to mitigate a small break LOCA. The 75% power level is justified by analyses using the Evaluation Model described in FTI topical report BAW-10192P, considering the worst case break location and size described in LER [Licensee Event Report] 269/90-15 and Attachment 3 to this submittal. The proposed Technical Specifications require two HPI trains to be operable at or below 75% FP. These requirements ensure that, following the worst single failure, one train of HPI would remain

available to mitigate a small break LOCA. Operation with less than two HPI trains operable is restricted to 72 hours before shutdown requirements are imposed. This completion time is consistent with the time requirements specified for an HPI System in NUREG-1430.

The additional HPI system restriction that requires the HPI pump discharge header to be cross-connected when all three HPI pumps are operable does not increase the consequences of a small break LOCA. If a single failure prevents one HPI train from actuating, this lineup results in at least two HPI pumps initially injecting through the automatically actuating train. This increases the amount of cooling flow initially delivered to the core as compared to the current system configuration.

The impact of this alignment has been evaluated, considering the potential single active failures, including the failure of any powered component to operate and any single failure of electrical equipment.

It has been determined that, when each of the three HPI pumps is either running or is capable of automatic actuation upon an Engineered Safeguards signal, cross-connection of the HPI pump discharge header does not introduce susceptibility to any single failure. Therefore, the potential consequences of a small break LOCA are not increased. If fewer than three HPI pumps are either running or are capable of automatic actuation, and the HPI pump discharge header were cross-connected, a single failure of one pump could cause a single pump to be aligned to both HPI trains. In this condition, the single pump could experience runout conditions prior to corrective operator action. However, proposed Specification 3.3.1 requires the discharge header to be isolated between the two remaining operable HPI pumps. The proposed BASES provide guidelines to ensure that the requirements for redundancy are properly implemented. Therefore, the proposed specifications ensure that the consequences of a small break LOCA are not increased by allowing the HPI pump discharge header to be cross-connected.

In addition, proposed Specification 3.4.7 requires new operability requirements for the main steam atmospheric dump valves. These operability requirements do not impact the probability or consequences of any accident. The proposed specification for the atmospheric dump valves provides additional assurance that these valves will be operable in the event of a small break LOCA.

In summary, the proposed Technical Specifications provide adequate controls to assure that operability of the HPI System is maintained in a manner consistent with the requirements of the design basis accidents. Therefore, it is concluded that this amendment request will not significantly increase the probability or consequences of an accident previously evaluated.

(2) Create the possibility of a new or different kind of accident from any kind of accident previously evaluated:

No. Of the proposed substantive changes, only cross-connection of the HPI pump discharge header represents any change to the way in which the facility is normally operated. Operation with the discharge header cross-connected is not a new configuration, as it has always been used for HPI pump testing both at power and during shutdown conditions. Potential failure modes have already been considered as described earlier. No new initiating events or potentially unanalyzed conditions have been created. Therefore, this proposed amendment will not create the possibility of any new or different kind of accident.

(3) Involve a significant reduction in a margin of safety.

No. The HPI restrictions associated with the proposed Technical Specifications are supported by analyses which demonstrate that the acceptance criteria of 10 CFR 50.46 are not violated for any small break LOCA. These analyses were performed in accordance with the Evaluation Model described in FTI topical report BAW-10192P. Therefore, it is concluded that the proposed amendment request will not result in a significant decrease in the margin of safety.

Duke has concluded, based on the above, that there are no significant hazards considerations involved in this amendment request.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Oconee County Library, 501 West South Broad Street, Walhalla, South Carolina 29691

Attorney for licensee: J. Michael McGarry, III, Winston and Strawn, 1200 17th Street, NW., Washington, DC 20036

NRC Project Director: Herbert N. Berkow

Duquesne Light Company, et al., Docket Nos. 50-334 and 50-412, Beaver Valley Power Station, Unit Nos. 1 and 2, Shippingport, Pennsylvania

Date of amendment request: March 10, 1997

Description of amendment request: The proposed amendment would modify Technical Specification 3.4.5, ''Steam Generators,'' and associated Bases to allow repair of steam generator tubes by installation of sleeves with the tungsten inert gas (TIG) welded sleeve developed by ABB Combustion Engineering. In addition, the proposed amendment would delete the option for using the kinetic sleeving methodology previously approved for use at Beaver Valley, but is not currently recommended by Framatome Technologies, Inc.

Basis for proposed no significant Hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed amendment allows the ABB Combustion Engineering (ABB/CE) tungsten inert gas (TIG) welded tubesheet sleeves and tube support plate sleeves to be used as an alternate steam generator tube repair method. The sleeve configuration was designed and analyzed in accordance with the criteria of Regulatory Guide (RG) 1.121 and Section III of the ASME [American Society of Mechanical Engineers] Code. Fatigue and stress analyses of the sleeved tube assemblies produce acceptable results for both types of sleeves as documented in ABB/CE Topical Report CEN-629-P, Revision 02 and CEN-629-P Addendum 1. Mechanical testing has shown that the structural strength of the sleeves under normal, faulted, and upset conditions is within the acceptable limits specified in RG 1.121. Leakage rate testing for the tube sleeves has demonstrated that primary to secondary leakage is not expected during any plant condition. The consequences of leakage through the sleeved region of the tube is fully bounded by the existing steam generator tube rupture (SGTR) analysis included in the Updated Final Safety Analysis Report (UFSAR).

The sleeves are designed to allow inservice inspection of the pressure retaining portions of the sleeve and parent tube. Inservice inspection is performed on all sleeves following installation to ensure that each sleeve has been properly installed and is structurally sound. Periodic inspections are performed in subsequent refueling outages to monitor sleeve degradation on a sample basis. The eddy current technique used for inspection will be capable of detecting both axial and circumferential flaws. Specific guidance for steam generator sleeve inspection is provided in the current technical specification surveillance requirements. Tubes that contain defects in a sleeve, which exceed the repair limit, will be removed from service. This ensures that sleeve and tube structural integrity is maintained.

The proposed TS change to support the installation of TIG welded sleeves does not adversely impact any previously evaluated design basis accident. The effect of sleeve installation on the performance of the SG [steam generator] was analyzed for heat transfer, flow restriction, and steam generation capacity. The sleeves reduce the risk of primary to secondary leakage in the SG. The installation of ABB/CE sleeves results in a hydraulic flow restriction that is dependent on the number and types of sleeves installed. The reduction in primary system flow rate is a small percentage of the flow rate reduction seen from plugging one tube and is a preferable alternative when considering core margins based on minimum reactor coolant system flow rates. The sleeving installation will result in a resistance to primary coolant flow through the tube for other evaluated accidents. The results of the analyses and testing, as well as industry operating experience, demonstrate that the sleeve assembly is an acceptable

means of maintaining tube integrity. In summary, installation of sleeves does not substantially affect the primary system flow rate or the heat transfer capability of the steam generators.

Installation of the sleeves can be used to repair degraded tubes by returning the condition of the tubes to their original design basis condition for tube integrity and leak tightness during all plant conditions. The tube bundle overall structural and leakage integrity will be increased with the installation of the sleeves reducing the risk of primary to secondary leakage in the SG while maintaining acceptable reactor coolant system flow rates. Therefore, sleeving will not increase the probability of occurrence of an accident previously evaluated.

Removal of the kinetically welded sleeve process as an approved SG tube repair methodology will have no effect on plant operations. There are currently no kinetically welded sleeves installed in the steam generators. Had there been, plant operations would have still been bounded by the existing SGTR analysis in the UFSAR.

Therefore, these proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The implementation of the proposed sleeving process will not introduce significant or adverse changes to the plant design basis. Stress and fatigue analyses of the repair has shown the ASME Code Section III and RG 1.121 allowable values are met. Implementation of TIG welded sleeving maintains overall tube bundle structural and leakage integrity at a level consistent with that of the originally supplied tubing. Leak and mechanical testing of the sleeves support the conclusions that the sleeve retains both structural and leakage integrity during all conditions. Repair of a tube with a sleeve does not provide a mechanism that would result in an accident outside of the area affected by the sleeve.

Any hypothetical accident as a result of potential tube or sleeve degradation in the repaired portion of the tube is bounded by the existing SGTR analysis. The SGTR analysis accounts for the installation of sleeves and the impact on current plugging level analyses. The sleeve design does not affect any other component or location of the tube outside of the immediate area repaired.

The current primary to secondary leakage limit ensures that SG tube integrity is maintained in the event of an MSLB [main steam line break] or LOCA [loss-of-coolant accident]. The limit will provide for leakage detection and a plant shutdown in the event of the occurrence of an unexpected single crack resulting in excessive tube leakage. The leakage limit also provides for early detection and a plant shutdown prior to a postulated crack reaching critical crack lengths for MSLB conditions.

Inservice inspections are performed following sleeve installation to ensure proper weld fusion has occurred to maintain structural integrity. The post installation inspection also serves as baseline data to be used for comparison during future inspections. Periodic eddy current inspections monitor the pressure retaining portions of the sleeve and parent tube for degradation. Eddy current techniques will be employed that are sensitive to axial and circumferential degradation.

Increasing the sample size of tubes repaired using either sleeving process during each scheduled inservice inspection will increase the monitoring of these tubes for any further degradation. The improved monitoring and evaluation of the tube and the sleeves assures tube structural integrity is maintained or the tube is removed from service.

Corrosion testing of typical sleeve-tube configurations was performed to evaluate local stresses, sleeve life, and resistance to primary and secondary side corrosion. The tests were performed on stress relieved and as-welded (non-stress relieved) sleeve-tube joints. Using the corrosion test data in conjunction with finite element analyses of the local stress, the stress relieved joint life was determined to be in excess of 40 years. The ABB/CE TIG welded sleeve operating experience in the industry has shown no sleeve failures due to service induced degradation in sleeves that were installed with acceptable inspection results. This experience includes the stress relieved and as-welded sleeve configurations. All sleeves will be stress relieved as specified in the topical report.

Removal of the kinetically welded sleeve process as an approved SG tube repair methodology and not completing the additional corrosion testing necessary to establish the design life for the kinetically welded sleeve in the presence of a crevice will not create the possibility of a new or different type of accident from any accident previously evaluated.

Repair of an SG tube with a kinetically welded sleeve would not have provided a mechanism that resulted in an accident outside of the area affected by the sleeve. Any hypothetical accident as a result of potential tube or sleeve degradation in the repaired portion of the tube would have been bounded by the existing SGTR analysis. The SGTR analysis accounts for the installation of sleeves and the impact on current plugging level analyses. The sleeve design does not affect any other component or location of the tube outside of the immediate area repaired. Furthermore, there are currently no kinetically welded sleeves installed in either plant.

Therefore, the proposed changes do not create the possibility of a new or different type of accident from any accident previously evaluated.

3. Does the change involve a significant reduction in a margin of safety?

The TIG welded sleeving repair of degraded steam generator tubes has been shown by analysis to restore the integrity of the tube bundle to its original design basis condition. The safety factors used in the design of the sleeves for the repair of degraded tubes are consistent with the safety factors in the ASME Boiler and Pressure Vessel Code Section III used in steam generator design. The design of the ABB/CE SG sleeves has been verified by testing to preclude leakage during normal and postulated accident conditions.

The portion of the installed sleeve assembly which represents the reactor coolant pressure boundary can be monitored for the initiation and progression of sleeve/tube wall degradation, thus satisfying the requirement of RG 1.83. The portion of the SG tube bridged by the sleeve joints is effectively removed from the pressure boundary, and the sleeve then forms the new pressure boundary. The sleeve enhances the safety of the plant by reestablishing the protective boundaries of the steam generator. Keeping the tube in service with the use of a sleeve instead of plugging the tube and removing it from service increases the heat transfer efficiency of the steam generator. During each scheduled inservice inspection, each sleeve inspected and found to have unacceptable degradation shall be removed from service.

The effect on the design transients and the accident analyses have been revised based on the installation of sleeves equal to the tube plugging level coincident with the minimum reactor coolant flow rate. Evaluation of the installation of sleeves was based on the determination that LOCA evaluations for the licensed minimum reactor coolant flow bound the combined effect of tube plugging and sleeving up to an equivalent of the actual plugging limit. Sleeving results in a fractional amount of the plugging limitation of one tube and is a preferable alternative when considering core margins based on minimum reactor coolant system flow rates. The sleeving installation will result in a resistance to primary coolant flow through the tube. The primary coolant flow through the ruptured tube is reduced by the influence of the installed sleeve; therefore, the consequences to the public due to an SGTR event have not increased.

As SG sleeve removes an indication of a possible leak source from the reactor coolant system (RCS) pressure boundary, eliminating the potential of a primary-to-secondary leak. The structural integrity of the tube is maintained by the sleeve and sleeve-to-tube joint.

Installation of either tube sheet or tube support plate sleeves will increase the protective boundaries of the steam generators and will not reduce the margin of safety.

Removal of the kinetically welded sleeve process as an approved SG tube repair methodology will not result in a reduction in the margin of safety. There are currently no kinetically welded sleeves installed in either plant. SG tube integrity will be maintained by applying an alternate NRC approved repair methodology or removing the SG tube from service by plugging.

Therefore, the proposed changes do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, PA 15001

Attorney for licensee: Jay E. Silberg, Esquire, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John F. Stolz

Duquesne Light Company, et al., Docket Nos. 50-334 and 50-412, Beaver Valley Power Station, Unit Nos. 1 and 2, Shippingport, Pennsylvania

Date of amendment request: March 10, 1997

Description of amendment request: The proposed amendment would revise Technical Specifications 3.4.5, ''Steam Generators,'' and associated Bases to allow repair of steam generator tubes by installation of sleeves with the Electrosleeving process developed by Framatome Technologies, Inc. (FTI).

Basis for proposed no significant Hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The Electrosleeve configuration has been designed and analyzed in accordance with the requirements of the ASME [American Society of Mechanical Engineers] Code. The applied stresses and fatigue usage for the Electrosleeve are bounded by the limits established in the ASME Code. Minimum material property values are used for the structural and plugging limit analysis. Mechanical testing has shown that the structural strength of nickel Electrosleeves under normal, upset, and faulted conditions provides margin to the acceptance limits. These acceptance limits bound the most limiting (3 times normal operating pressure differential) burst margin recommended by Regulatory Guide 1.121. Leakage testing has shown that the Electrosleeve is essentially leaktight during all plant conditions.

The Electrosleeve nominal wall thickness depth-based plugging limit is determined using the guidance of Regulatory Guide 1.121 and the pressure stress equation of Section III of the ASME Code. The limiting requirement of Regulatory Guide 1.121 for the Electrosleeve, which applies to part through wall degradation, is the minimum acceptable wall thickness to maintain a safety factor of three against tube failure under normal operating conditions. A bounding set of design and transient loading input conditions was used for the minimum wall thickness evaluation in the generic evaluation. Evaluation of the minimum acceptable wall thickness for normal, upset and postulated accident condition loading per the ASME Code indicates these conditions are bounded by the design minimum wall thickness.

Bounding tube wall degradation growth rate per cycle and nondestructive examination uncertainty has been assumed for determining the Electrosleeve technical specification plugging limit. Electrosleeve wall degradation extent determined by nondestructive examination, which would require plugging Electrosleeved tubes, is developed using the guidance of Regulatory Guide 1.121 and is defined in FTI Topical Report BAW-10219P, Revision 1, to be 20% throughwall of the nominal sleeve wall thickness.

The effect of Electrosleeving and plugging will remain below the plugging limit assumed in the UFSAR [Updated Final Safety Analysis Report]. The proposed change will not increase the consequences of these accidents.

The results of the analyses and testing demonstrate that the Electrosleeve is an acceptable means of maintaining tube integrity. Further, per Regulatory Guide 1.83 recommendations, the Electrosleeved tube can be monitored through periodic inspections with present NDE [nondestructive examination] techniques. These measures demonstrate that installation of Electrosleeves spanning degraded areas of the tube will restore the tube to a condition consistent with its original design basis.

Since the main steamline break post-accident primary-to-secondary leakage is not increased by the presence of Electrosleeves, the consequences of an accident previously evaluated in the UFSAR are not increased. Conformance of the Electrosleeve design with the applicable sections of the ASME Code and results of the leakage and mechanical tests support the conclusion that installation of Electrosleeves does not increase the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

Electrosleeving will not adversely affect any plant component. Stress and fatigue analysis of the repair has shown that the ASME Code and Regulatory Guide 1.121 criteria are not exceeded. Implementation of Electrosleeving maintains overall tube bundle structural and leakage integrity at a level consistent with that of the original tubing during all plant conditions. Leak and mechanical testing of Electrosleeves support the conclusions of the calculations that each Electrosleeve retains both structural and leakage integrity during all conditions. Electrosleeving of tubes does not provide a mechanism resulting in an accident outside of the area affected by the Electrosleeves. Any accident resulting from potential tube or Electrosleeve degradation in the repaired portion of the tube is bounded by the existing tube rupture accident analysis.

Implementation of Electrosleeving will reduce the potential for primary-to-secondary leakage while not significantly impacting available primary coolant flow area in the event of a LOCA. By effectively isolating degraded areas of the tube through repair, the potential for steamline break leakage is reduced. These degraded intersections now are returned to a condition consistent with the Design Basis. While the installation of an Electrosleeve reduces primary coolant flow, the reduction is far below that caused by plugging. Greater primary coolant flow area is maintained through Electrosleeving versus plugging. Therefore, the possibility of a new or different kind of accident from any accident previously evaluated is not created.

3. Does the change involve a significant reduction in a margin of safety?

The Electrosleeve repair of degraded steam generator tubes has been shown by analysis to restore the integrity of the tube bundle consistent with its original design basis condition. The tube/Electrosleeve operational and faulted condition stresses are bounded by the ASME Code requirements and the Electrosleeved tubes are leaktight. The safety factors used in the design of Electrosleeves for the repair of degraded tubes are consistent with the safety factors in the ASME Code used in steam generator design. The portions of the installed Electrosleeve assembly which represent the reactor coolant pressure boundary can be monitored for the initiation and progression of Electrosleeve/tube wall degradation, thus satisfying the requirements of Regulatory Guide 1.83. The portion of the tube bridged by the Electrosleeve is effectively removed from the pressure boundary, and the Electrosleeve then forms the new pressure boundary. The areas of the Electrosleeved tube assembly which require inspection are defined in Framatome Technologies Inc. Topical Report BAW-10219P, Revision 1.

In addition, since the installed Electrosleeve represents a portion of the pressure boundary, a baseline inspection of these areas is required prior to operation with Electrosleeves installed. The effect of sleeving on the design transients and accident analyses has been reviewed based on the installation of Electrosleeves up to the level of steam generator tube plugging coincident with the minimum reactor coolant flow rate and UFSAR and has been found acceptable.

It is concluded that the proposed license amendment request does not result in a significant reduction in the margin of safety as defined in the UFSAR or technical specifications.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, PA 15001

Attorney for licensee: Jay E. Silberg, Esquire, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John F. Stolz

Northeast Nuclear Energy Company, et al., Docket No. 50-336, Millstone Nuclear Power Station, Unit No. 2, New London, Connecticut

Date of amendment request: March 27, 1997

Description of amendment request: The proposed changes to the Technical Specifications (TSs) would modify the limiting condition for operation (LCO) and surveillance requirements (SR) for the ultimate heat sink. The ultimate heat sink for Millstone Unit No. 2 is the Long Island Sound that transfers heat from safety-related systems during normal and accident conditions. Specifically, TS LCO 3.7.11 would be changed to indicate that the ultimate heat sink is operable at a water temperature of less than or equal to 75 °F instead of an average value. TS SRs 4.7.11.a and .b would also delete the use of average when verifying the water temperature and delete the reference to a specific monitoring location, the Unit No. 2 intake structure. These proposed changes do not change the ultimate heat sink temperature limit, which remains at a maximum of 75 °F.

The TS Bases 3/4.7.11 would also be modified to reflect the above changes and to identify the various locations that the ultimate heat sink temperature can be measured.

Basis for proposed no significant Hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed changes do not involve an SHC [significant hazards consideration] because the changes would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes remove the reference to a monitoring location where the temperature of the ultimate heat sink is measured and eliminate the use of an average ultimate heat sink temperature. The instruments used provide information to the operators which will permit them to ensure that the plant is operated within the design basis of the plant. The subject instruments will provide an accurate representation of the ultimate heat sink temperature. This role is passive; thus, these instruments cannot initiate or mitigate any accident.

The locations used to monitor the ultimate heat sink temperature will be maintained in the Bases. This is a licensee controlled document which is maintained under the requirements of 10CFR50.59. The details being removed from the Technical Specifications are not assumed to be an initiator of any analyzed event. Since any changes to the relocated details will be evaluated per 10CFR50.59, any possible increase in the probability or consequences of an accident previously evaluated will be addressed.

The proposed changes do not revise the ultimate heat sink temperature limit of 75 °F. The current analysis is based on the ultimate heat sink temperature limit of 75 °F. Therefore, there is no effect on the consequences of any accident previously evaluated.

Thus, the license amendment request does not impact the probability of an accident previously evaluated nor does it involve a significant increase in the consequences of an accident previously evaluated.

2. Created the possibility of a new or different kind of accident from any previously evaluated.

The proposed changes remove the reference to a monitoring location where the temperature of the ultimate heat sink is measured and eliminate the use of an average ultimate heat sink temperature. The instruments used provide information to the operators which will permit them to ensure that the plant is operated within the design basis of the plant. The subject instruments will provide an accurate representation of the ultimate heat sink temperature. This role is passive, thus, these instruments cannot initiate or mitigate any accident.

The proposed changes will not alter the plant configuration (no new or different type of equipment will be installed) or require any new or unusual operator actions. They do not alter the way any structure, system, or component functions and do not alter the manner in which the plant is operated. The proposed changes do not introduce any new failure modes. They will not alter assumptions made in the safety analysis and licensing basis.

The locations used to monitor the ultimate heat sink temperature will be maintained in the Bases. This is a licensee controlled document which is maintained under the requirements of 10CFR50.59. Thus, adequate control of information will be ensured.

Therefore, the changes will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Involve a significant reduction in a margin of safety.

The proposed changes remove the reference to a monitoring location where the temperature of the ultimate heat sink is measured and eliminate the use of an average ultimate heat sink temperature. They do not change the ultimate heat sink temperature limit of 75 °F, which is assumed by the current analysis. Therefore, there is no effect on the consequences of any accident previously evaluated and no significant impact on offsite doses associated with previously evaluated accidents. Thus, there is no significant reduction in the margin of safety for the design basis accident analysis. The license amendment request does not result in a reduction of the margin of safety as defined in the Bases for Technical Specification 3.7.11. The instruments used provide information to the operators which will permit them to ensure that the plant is operated within the design basis of the plant. The subject instruments will provide an accurate representation of the ultimate heat sink temperature. The proposed changes do not alter the way any structure, system, or component functions and do not alter the manner in which the plant is operated. They do not have any impact on the protective boundaries (e.g., fuel matrix and cladding, reactor coolant system pressure boundary, and primary and secondary containment), or on the safety limits for these boundaries.

The locations used to monitor the ultimate heat sink temperature will be maintained in the Bases. The Bases are a licensee controlled document which is maintained under the requirements of 10CFR50.59. Since any future changes to this license controlled document will be evaluated per the requirements of 10CFR50.59, any possible reduction (significant or insignificant) in a margin of safety will be addressed.

Thus, the license amendment request 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: Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, CT 06360, and the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, CT 06385

Attorney for licensee: Lillian M. Cuoco, Esq., Senior Nuclear Counsel, Northeast Utilities Service Company, P.O. Box 270, Hartford, CT 06141-0270NRC Deputy Director: Phillip F. McKee

Northeast Nuclear Energy Company (NNECO), et al., Docket No. 50-423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

Date of amendment request: March 31, 1997

Description of amendment request: The proposed amendment would modify Technical Specification Surveillance Requirement 4.7.1.2.1.b which requires the testing of the auxiliary feedwater motor-driven and turbine-driven pumps on recirculation flow at least once per 92 days. The proposed amendment would also makes changes to the appropriate Bases section.

Basis for proposed no significant Hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

NNECO has reviewed the proposed changes in accordance with 10CFR 50.92 and has concluded that the changes do not involve a significant hazards consideration (SHC). The bases for this conclusion is that the three criteria of 10CFR 50.92(c) are not satisfied. The proposed changes do not involve [an] SHC because the changes would not:

1. Involve a significant increase in the probability or consequence of an accident previously evaluated.

The proposed changes to Technical Specification Surveillance 4.7.1.2.1.b to increase the required test parameter for the motor driven pumps from 1460 psid to 1468 psid and replacing the current parameters for the motor driven and turbine driven pumps from differential pressure measured in psid [pounds per square inch differential] to total head measured in feet are consistent with equipment design criteria and does not significantly increase the probability of an accident previously evaluated.

The proposed changes to increase the required test parameter for the motor driven pumps from 1460 psid to 1468 psid and replacing the current parameters for the motor driven and turbine driven pumps from differential pressure measured in psid to total head measured in feet provides the necessary assurance that the pumps will function as required in accident analyses and does not significantly increase the consequence of an accident previously evaluated.

The moving of the reference to Specification 4.0.5 in order to clarify that it applies to the testing of the motor driven and turbine driven pumps and the modifications to the bases section are administrative and do not involve a significant increase in the probability or consequence of an accident previously evaluated.

Therefore, the proposed changes do not involve a significant increase in the probability or consequence of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes to Technical Specification Surveillance 4.7.1.2.1.b to increase the required test parameter for the motor driven pumps from 1460 psid to 1468 psid and replacing the current parameters for the motor driven and turbine driven pumps from differential pressure measured in psid to total head measured in feet does not change the operation of the auxiliary feedwater system or any of its components during normal or accident evaluations.

The moving of the reference to Specification 4.0.5 in order to clarify that it applies to the testing of the motor driven and turbine driven pumps and the modifications to the bases section are administrative and do not create the possibility of a new or different kind of accident from any accident previously evaluated.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Involve a significant reduction in a margin of safety.

The proposed change to Technical Specification Surveillance 4.7.1.2.1.b to increase the referenced total head of the motor

driven auxiliary feedwater pumps during surveillance testing provides an acceptable margin between the required surveillance and design pump performance to provide assurance that the pumps will operate consistent with system evaluations and does not involve a significant reduction in a margin of safety.

The change in the referenced units from differential pressure measured in psid to total head measured in feet for the motor driven auxiliary and turbine driven auxiliary feedwater pumps during surveillance testing is to account for the effect of water density on pump performance during each test and does not involve a significant reduction in a margin of safety.

The moving of the reference to Specification 4.0.5 in order to clarify that it applies to the testing of the motor driven and turbine driven pumps and the modifications to the bases section are administrative and do not involve a significant reduction in a margin of safety.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

In conclusion, based on the information provided, it is determined that the proposed changes do not involve an SHC.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, Connecticut, and the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, Connecticut

Attorney for licensee: Lillian M. Cuoco, Esq., Senior Nuclear Counsel, Northeast Utilities Service Company, P.O. Box 270, Hartford, CT 06141-0270NRC Deputy Director: Phillip F. McKee

Northeast Nuclear Energy Company (NNECO), et al., Docket No. 50-423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

Date of amendment request: March 31, 1997

Description of amendment request: The proposed amendment would separate the required testing of motor-operated valve thermal overload protection into two new surveillances.

Basis for proposed no significant Hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

NNECO has reviewed the proposed change in accordance with 10CFR50.92 and has concluded that the change does not involve a significant hazards consideration (SHC). The bases for this conclusion is that the three criteria of 10CFR50.92(c) are not satisfied. The proposed change does not involve a SHC because the change would not:

1. Involve a significant increase in the probability or consequence of an accident previously evaluated.

The proposed changes to the surveillance testing of the motor-operated valve thermal overload protection are consistent with equipment design criteria and performing surveillance testing does not significantly increase the probability of an accident previously evaluated. The proposed changes to the surveillance testing provides the necessary assurance that the motor operated valve thermal overload protection will function as required and does not involve a significant increase in the consequence of an accident previously evaluated.

Therefore, the proposed changes do not involve a significant increase in the probability or consequence of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes to the surveillance testing of the motor-operated valve thermal overload protection does not change the operation of any system or system component during normal or accident evaluations.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Involve a significant reduction in a margin of safety.

The proposed changes to the surveillance testing of the motor-operated valve thermal overload protection are administrative in that the changes to the surveillance only clarify that following maintenance on the motor starter, a channel calibration is required only on that valve. The surveillance continues to require periodic representative sample testing.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

In conclusion, based on the information provided, it is determined that the proposed change does not involve an SHC.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, Connecticut, and the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, Connecticut

Attorney for licensee: Lillian M. Cuoco, Esq., Senior Nuclear Counsel, Northeast Utilities Service Company, P.O. Box 270, Hartford, CT 06141-0270NRC Deputy Director: Phillip F. McKee

Public Service Electric & Gas Company, Docket Nos. 50-272 and 50-311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of amendment request: March 4, 1997

Description of amendment request: The amendments would modify the Emergency Core Cooling System (ECCS) surveillance test acceptance criteria in Technical Specification 3/4.5.2 for the Centrifugal Charging (CH) and the Safety Injection (SI) pumps. The changes to the specified flow values would account for system alignments that effect the suction pressure to the pumps. In the recirculation mode, increased flow occurs when the CH and SI pumps take suction from the discharge of the Residual Heat Removal pumps.

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 evaluations performed by Westinghouse determined that, with the proposed changes, the subject pumps remain operable and the safety analyses criteria remain valid.

Previous conclusions under LCR [License Change Request] 91-03 evaluating the consequences of the LOCA [loss-of-coolant-accident] considered in the Salem Units 1 & 2 licensing basis remain unchanged. With respect to the LOCA, the Peak Cladding Temperature (PCT) continues to conform to the 10CFR50.46 guidelines of less than 2200*F. Evaluation of LOCA mass and energy releases previously found acceptable remain valid. Decreasing the acceptance window to accommodate the potential of an increase to pump runout flow, assures that the current limits on pump runout flows continue to be met. This change ensures pump integrity is maintained during the accident. The reduction of the flow by throttling valves to compensate for the potential suction boost remains within the current analyses and therefore more conservative values are being proposed. Additionally, the proposed change balances the pump flows more appropriately by differentiating between the hot and cold leg alignments. Flow to the reactor core is unaffected by the very slight reduction in the upper flow limits. Since the design limitations continue to be met and the integrity of the reactor coolant system pressure boundary is not challenged, offsite dose assumptions and calculations remain valid. Further, the ECCS is post-accident mitigation system and probability of an accident is not increased by this proposed change. Lastly, the correction of double use of the word ''the'' in Salem Unit 1 Technical Specification section 4.5.2.h.1.a is of editorial nature.

Based on the above information, the proposed changes do not increase the risk or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated. No new single failures are initiated. The proposed changes will therefore not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed change addresses suction boost by changing the Technical Specification surveillance acceptance criteria. The typographical correction is of editorial nature.

3. The proposed change does not involve a significant reduction in a margin of safety. The evaluation of LOCA accident analysis previously performed by Westinghouse continues to be met and verifies that, with the proposed changes to the TS, plant operations will be maintained within the bounds of safe, analyzed conditions as defined in the UFSAR [Updated Final Safety Analysis Report] and that conclusions presented in the UFSAR remain valid. The peak cladding temperatures (PTC) remains unchanged as no effective differences in the operating parameters have occurred. The typographical correction is of editorial nature. The proposed changes will therefore not reduce the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Salem Free Public library, 112 West Broadway, Salem, NJ 08079

Attorney for licensee: Mark J. Wetterhahn, Esquire, Winston and Strawn, 1400 L Street, NW, Washington, DC 20005-3502

NRC Project Director: John F. Stolz

Southern Nuclear Operating Company, Inc., Docket Nos. 50-348 and 50-364, Joseph M. Farley Nuclear Plant, Units 1 and 2, Houston County, Alabama

Date of amendments request: March 7, 1997

Description of amendments request: The proposed amendments would allow operability testing for the containment isolation valves listed in Table 3.6-1 of the Technical Specifications during a defueled status. These proposed changes are technically consistent with the requirements of NUREG-1431, Revision 1, ''Westinghouse Standard Technical Specifications,'' issued on April 7, 1995.

Basis for proposed no significant Hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

[1. Involve a significant increase in the probability or consequences of an accident previously evaluated.]

The proposed changes do not significantly increase the probability or consequences of an accident previously evaluated in the FSAR [Final Safety Analysis Report]. The proposed changes have no impact on the probability of an accident. The containment isolation valves will continue to require operability testing. Allowing the testing to be performed when the unit is in a defueled status will have no impact on any accidents previously evaluated. The net effect of these changes is not significant and, as a result, does not involve a significant increase in the consequences of an accident previously evaluated.

[2. Create the possibility of a new or different kind of accident from any accident previously evaluated.]

The proposed changes to the Technical Specifications do not increase the possibility of a new or different kind of accident than any accident already evaluated in the FSAR. No new limiting single failure or accident scenario has been created or identified due to the proposed changes. Safety-related systems will continue to perform as designed. The proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

[3. Involve a significant reduction in a margin of safety.]

The proposed changes do not involve a significant reduction in the margin of safety. Although, as a result of these proposed changes, the containment isolation valves could be tested for operability while the unit is in a defueled state, there is no impact in the accident analyses. These proposed changes are technically consistent with the requirements of NUREG-1431, Revision 1 which has already received the requisite review and approval of the NRC staff. Thus the proposed changes do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Houston-Love Memorial Library, 212 W. Burdeshaw Street, Post Office Box 1369, Dothan, Alabama 36302

Attorney for licensee: M. Stanford Blanton, Esq., Balch and Bingham, Post Office Box 306, 1710 Sixth Avenue North, Birmingham, Alabama 35201

NRC Project Director: Herbert N. Berkow

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of amendment request: August 22, 1996, as supplemented on March 28, 1997 (TS 96-02)

Description of amendment request: The proposed changes would revise Section 3.6.5 of the Sequoyah Technical Specifications (TS) and associated Bases to lower the minimum TS ice basket weight of 1,155 pounds to 1,071 pounds. This would reduce the overall weight of ice required in the ice condenser from 2,245,320 pounds to 2,082,024 pounds. The TVA license amendment request also proposed to extend the chemical analysis surveillance interval for the ice condenser ice bed from 12 months to 18 months based on the provisions of Generic Letter 93-05.

Basis for proposed no significant Hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Operation of Sequoyah Nuclear Plant (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 [Technical Specifications] to revise Surveillance Requirement (SR) 4.6.5.1.d to lower SQN's minimum TS basket weight from 1,155 pounds (lbs) to 1,071 lbs, thus lowering the overall ice condenser weight from 2,245,320 lbs to 2,082,024 lbs.

The ice condenser system is provided to absorb thermal energy release following a loss-of-coolant accident (LOCA) or high energy line break (HELB) and to limit the peak pressure inside containment. The current containment analysis for SQN is based on a minimum of 993 lbs of ice per basket evenly distributed throughout the ice condenser at the end of an 18-month refueling cycle. The revised containment analysis shows that for the predicted sublimation rate of 15 percent for 18 months, an average basket weight of 922 lbs at the end of the 18-month period would ensure containment design pressure is not exceeded.

Based on TVA's evaluation and the revised containment analysis, TVA considers the reduction of ice weight to be acceptable for satisfying the safety function of the ice condenser for an 18-month ice weighing interval. Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

TVA is also proposing to extend the surveillance interval as it pertains to the ice bed chemical analysis. Based on test results, both at SQN and the industry, the average boron concentration and pH changes are minimal; therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Elimination of the temperature at which the pH of the ice bed is determined is an administrative change. Future testing will be accomplished in accordance with American Society for Testing and Materials Standards recommendations. Therefore, this change cannot increase the probability of an accident and the consequences of an accident will not increase.

2. Create the possibility of a new or different kind of accident from any previously analyzed.

TVA's request to lower the TS limit for ice weight at the start of the surveillance interval will not result in a new or different kind of accident from that previously analyzed in SQN's Final Safety Analysis

Report. SQN's ice condenser serves to limit the peak pressure inside containment following a LOCA. TVA has evaluated the revised containment pressure analysis for SQN (Enclosure 4, Westinghouse WCAP-12455, Revision 1) and determined that sufficient ice would be present at all times to keep the peak containment pressure below SQN's containment design pressure of 12 pounds per square inch gage (psig). Therefore, this change would not result in a new or different kind of accident from any previously analyzed.

The proposed reduced testing frequency of the chemical composition of the ice bed does not change the manner in which the plant is operated. Additionally, the ice condenser is a passive system that reacts to an accident, but does not support plant operation on a daily basis. The reduced testing frequency of the ice bed chemical composition does not generate any new accident precursors; therefore, the possibility of a new or different kind of accident from any previously analyzed is not created.

Elimination of the temperature at which the pH of the ice bed is determined is an administrative change. This change cannot create the possibility of a new or different kind of accident.

3. Involve a significant reduction in a margin of safety.

The ice condenser system is provided to absorb thermal energy release following a LOCA and to limit the peak pressure inside containment. The current ice condenser analysis for SQN is based on a minimum of 993 lbs of ice per basket. The revised containment analysis changes the minimum ice weight assumed in the analysis to 922 lbs per basket.

The revised containment analysis shows that using an average basket weight of 1,071 lbs and a sublimation allowance of 15 percent, all bays would have an average basket weight of 922 lbs at the end of the 18-month surveillance interval. The revised analysis utilizes new mass and energy releases (refer to Westinghouse WCAP-10325-P-A), which substantially delays ice-bed meltout and limits the initial containment peak pressure to approximately 7.15 psig during the blowdown phase. The ice-bed meltout delay allows the second containment pressure peak, which is driven mainly by the decay heat, to be limited to approximately 11.45 psig, which is below the containment design pressure of 12 psig.

Based on TVA's evaluation and the revised containment analysis, TVA considers the reduction of the average basket weight to be acceptable for satisfying the safety function of the ice condenser for the current 18-month interval. Therefore, the proposed change does not involve a significant reduction in the margin of safety.

The proposal to extend the surveillance from 12 to 18 months does not change the boron concentration or pH requirements. Experience at Duke Power Company, as stated in NUREG-1366, indicates that these parameters do not change appreciably when verified every 9 months. SQN has a similar experience with a 12-month interval. Since the boron concentration and the post-LOCA pH requirements remain essentially the same, there is no reduction in the margin of safety.

Elimination of the temperature at which the pH of the ice bed is determined is an administrative change. Future testing will be accomplished in accordance with ASTM recommendations. The difference between the pH values determined at the current TS specified temperature and the temperature currently recommended by the ASTM standards is insignificant. Therefore, there is no reduction in the margin of safety.

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 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

Virginia Electric and Power Company, Docket Nos. 50-280 and 50-281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia

Date of amendment request: September 12, 1996

Description of amendment request: The proposed change to the Technical Specifications is administrative in nature in that it would add the NRC standard fire protection license condition to each unit's Operating License and relocate the fire protection requirements from the Technical Specifications to the Updated Final Safety Analysis Report (UFSAR).

Basis for proposed no significant Hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Specifically, operation of Surry Power Station with the proposed amendment will not:

1. Involve a significant increase in either the probability of occurrence or consequences of any accident or equipment malfunction scenario that is important to safety and which has been previously evaluated in the UFSAR. The requirements of the Fire Protection Program have not been changed by theproposed amendment. Relocation of the Fire Protection Program requirements into the UFSAR and station procedures does not decrease any portion of the program. The same fire protection requirements exist as before the change.

2. Create the possibility of a new or different type of accident than those previously evaluated in the safety analysis report. The requirements of the Fire Protection Program have not been changed by the proposed amendment. This is an administrative change to relocate the Fire Protection Program requirements from the Technical Specifications to the UFSAR and station procedures. Consequently, the possibility of a new or different kind of accident from any accident previously evaluated has not been created.

3. Involve a significant reduction in a margin of safety. Implementation of the Fire Protection Program requirements is assured by the UFSAR and station procedures. Since the rogram is being retained intact, there is no reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 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: Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

Attorney for licensee: Michael W. Maupin, Esq., Hunton and Williams, Riverfront Plaza, East Tower, 951 E. Byrd Street, Richmond, Virginia 23219

NRC Project Director: Mark Reinhart, Acting

Wisconsin Electric Power Company, Docket Nos. 50-266 and 50-301, Point Beach Nuclear Power Plant, Unit Nos. 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of amendment request: January 16, 1997

Description of amendment request: The proposed amendments (Point Beach Nuclear Plant (PBNP) Technical Specifications (TS) Change Request (TSCR) 191) would revise the minimum boron concentration required in the refueling water storage tank(s)(RWST), boric acid storage tanks (BAST), and safety injection (SI) accumulators during normal operation; the minimum boron concentration of primary coolant during refueling conditions; and the minimum boron concentration in the reactor when positive reactivity could be added and/or boron dilution could occur and containment integrity is not intact. These changes are necessary to accommodate the planned extension of the operating cycle from 12 months to 18 months. The licensee proposes to change TS 15.3.2, ''Chemical and Volume Control System,'' TS 15.3.3, ''Safety Injection and Residual Heat Removal Systems,'' TS 15.3.6, ''Containment System,'' TS 15.3.8, ''Refueling,'' and associated Bases.

Basis for proposed no significant Hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

1. Operation of this facility under the proposed Technical Specifications will not create a significant increase in the probability or consequences of an accident previously evaluated.

The probabilities of accidents previously evaluated are based on the probability of initiating events for these accidents. Initiating events for accidents previously evaluated are described in the PBNP FSAR [final safety analysis report].

In effect, the proposed changes will result in: (1) higher boron concentrations of primary coolant during refueling, and (2) higher boron inventories in the RWSTs, BASTs, and SI accumulators. These changes do not require hardware changes or changes to the operation of accident-mitigating equipment. These changes relate to the performance capability of particular accident mitigation systems; equipment that is not postulated to cause accidents. Therefore, these proposed changes do not cause an increase in the probabilities of any accidents previously evaluated.

The consequences of accidents previously evaluated in the PBNP FSAR are determined by the results of analyses that are based on initial conditions of the plant, the type of accident, transient response of the plant, and the operation and failure of equipment and systems.

In effect, the proposed changes will result in: (1) higher boron concentrations of primary coolant during refueling, and (2) higher boron inventories in the RWSTs, BASTs, and SI accumulators. These increased boron concentrations do not increase the probability that engineered safety features equipment will fail, nor do these changes affect the capability of this equipment to operate as required for the accidents previously evaluated in the PBNP FSAR. These changes do not require hardware changes or changes to the operation of accident-mitigating equipment.

The consequential effects of a lower containment spray pH will not affect the capability of the containment spray to remove elemental iodine during design basis LOCA [loss-of-coolant accident] accidents. Also, the consequential reduction in containment sump water pH will not affect the fluid's capability to retain elemental iodine, nor will it adversely increase the potential corrosion rates for materials inside containment if the sump water is sprayed into containment during the recirculation phase of a LOCA.

Another consequence of injecting a higher concentration boric acid solution into the core during a LOCA may be an abbreviated onset to boron precipitation in the post-LOCA core. An incremental change in the boron injection concentration would not have significant effect on the postulated onset, but each core reload safety evaluation will continue to verify that the existing emergency operating procedures accommodate the potential for boron precipitation.

Therefore, this proposed license amendment does not affect the consequences of any accident previously evaluated in the PBNP FSAR, because the factors that are used to determine the consequences of accidents are not changed.

2. Operation of this facility under the proposed Technical Specifications change will not create the possibility of a new or different kind of accident from any previously evaluated.

New or different kinds of accidents can only be created by new or different accident initiators or sequences. New and different types of accidents (different from those that were originally analyzed for Point Beach) have been evaluated and incorporated into the licensing basis for PBNP. Examples of different accidents that have been incorporated into the PBNP licensing basis include anticipated transients without scram and station blackout.

The changes proposed by this TSCR do not create any new or different accident initiators or sequences because these changes to minimum boron concentrations will not cause failures of equipment or accident sequences different than the accidents previously analyzed. No new equipment interfaces are created, and no new materials or fluids are introduced. The incremental increase in boron concentrations will not create a failure mechanism not previously known and evaluated. Therefore, these proposed TS changes do not create the possibility of an accident of a different type than any previously evaluated in the PBNP FSAR.

3. Operation of this facility under the proposed Technical Specifications change will not create a significant reduction in a margin of safety.

The margins of safety for Point Beach are based on the design and operation of the reactor and containment and the safety systems that provide their protection. Plant safety margins are established through Limiting Conditions for Operation, Limiting Safety System Settings and Safety Limits specified in the Technical Specifications. The proposed Technical Specification changes to refueling water storage tank (RWST), SI accumulator, and BAST boron inventory requirements have all been evaluated to preserve the shutdown capability described in the associated bases (boration from just critical, hot zero or full power, peak xenon with control rods at the

insertion limit, to xenon-free cold shutdown with the highest worth control rod assembly fully withdrawn). Similarly, the proposed TS change to the minimum boron concentration of the primary coolant system for refueling operations have been evaluated to preserve the subcriticality margin described in the associated TS bases (i.e., 5% [delta] k/k in the cold condition with all rods inserted).

Because there are no changes to any of these margins, the proposed license amendment does 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 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Joseph P. Mann Library, 1516 Sixteenth Street, Two Rivers, Wisconsin 54241

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW., Washington, DC 20037

NRC Project Director: John N. Hannon

Wisconsin Electric Power Company, Docket Nos. 50-266 and 50-301, Point Beach Nuclear Power Plant, Unit Nos. 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of amendment request: January 21, 1997

Description of amendment request: The proposed amendments (Point Beach Nuclear Plant (PBNP) Technical Specifications (TS) Change Request 195) would revise TS Section 15.6.11, ''Radiation Protection Program,'' to update all references to 10 CFR Part 20, ''Standards for Protection Against Radiation,'' to restore consistency between 10 CFR Part 20 regulations and the PBNP TS.

Basis for proposed no significant Hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

1. Operation of the Point Beach Nuclear Plant in accordance with the proposed amendments will not create a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendments are administrative in nature, providing consistency between the Point Beach licenses and Commission regulations. The amendments do not affect the operation or maintenance of any PBNP structure[,] system or component. In addition, the regulations and proposed changes provide more conservative determinations of high radiation areas, thereby potentially resulting in lower personnel radiation exposures during normal operation and post accident. The consequences of an accident related to personnel radiation exposures may be reduced.

2. Operation of the Point Beach Nuclear Plant in accordance with the proposed amendments will not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed amendments are administrative only and do not affect the operation or maintenance of any structure[,] system or component at Point Beach Nuclear Plant. No new systems or components are introduced. Therefore, no new accident initiators or sequences result from any previously evaluated.

3. Operation of the Point Beach Nuclear Plant in accordance with the proposed amendments will not create a significant reduction in a margin of safety.

The proposed amendments are administrative and reflect regulatory requirements that are more conservative than those presently reflected in the PBNP Technical Specifications. These more conservative requirements result in more conservative designation of high radiation areas thereby providing additional margins of safety related to the control of radiation exposures to personnel. No structure[,] system or component at PBNP at PBNP is changed[,] thereby maintaining the margins of safety for the operation of the Point Beach Nuclear Plant.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Joseph P. Mann Library, 1516 Sixteenth Street, Two Rivers, Wisconsin 54241

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW., Washington, DC 20037

NRC Project Director: John N. Hannon

Wisconsin Electric Power Company, Docket Nos. 50-266 and 50-301, Point Beach Nuclear Power Plant, Unit Nos. 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of amendment request: January 24, 1997

Description of amendment request: The proposed amendments (Point Beach Nuclear Plant (PBNP) Technical Specifications (TS) Change Request (TSCR) 193) would revise TS 15.5.4, ''Fuel Storage,'' to increase fuel assembly enrichment limits to 5.0 w/o U-235 while maintaining Keff in the storage pools (spent fuel pool and new fuel storage racks) less than 0.95.

Basis for proposed no significant Hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

1. Operation of this facility under the proposed Technical Specifications will not create a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes do not involve a change to structures, systems, or components which would affect the probability or consequences of an accident previously evaluated in the PBNP Final Safety Analysis Report (FSAR). The only relevant concern with respect to increasing enrichment limits in the spent fuel pool and new fuel storage racks is one of criticality. The proposed changes use the same criticality limit used in the current Technical Specifications. Therefore, margin to safe operation of Units 1 and 2 is maintained. The probability and consequences of an accident previously evaluated are dependent on this criticality limit. Because the limit will not change, the probability and consequences of those accidents previously evaluated will not change.

2. Operation of this facility under the proposed Technical Specifications change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes do not involve a change to plant design. The proposed increase in spent fuel pool and new fuel storage racks fuel assembly enrichment limits maintains the margin to safe operation of Units 1 and 2 because the criticality limit for the spent fuel pool and new fuel storage racks will not change. These changes do not affect any of the parameters or conditions that contribute to the initiation of any accidents. Because the criticality limit remains the same, these changes have no effect on plant operation, design, or initiation of any accidents. Therefore, the proposed changes will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Operation of this facility under the proposed Technical Specifications change will not create a significant reduction in a margin of safety.

The proposed changes maintain the margin to safe operation of Units 1 and 2. The margin of safety is based on the criticality limit of the spent fuel pool and the new fuel storage racks. Because this limit will not change, the margin of safety will not be affected. Therefore, the proposed changes will not create 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: Joseph P. Mann Library, 1516 Sixteenth Street, Two Rivers, Wisconsin 54241

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW., Washington, DC 20037

NRC Project Director: John N. Hannon

Wisconsin Electric Power Company, Docket Nos. 50-266 and 50-301, Point Beach Nuclear Power Plant, Unit Nos. 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of amendment request: February 12, 1997, as supplemented on March 11, 1997

Description of amendment request: The proposed amendments (Point Beach Nuclear Plant (PBNP) Technical Specifications (TS) Change Request 196) would relocate turbine overspeed protection specifications, limiting conditions for operation, surveillance requirements, and associated bases from TS Section 15.3.4, ''Steam and Power Conversion System,'' and Section 15.4.1, ''Operational Safety Review,'' to the Final Safety Analysis Report (FSAR) in accordance with Generic Letter 95-10, ''Relocation of Selected Technical Specifications Requirements Related to Instrumentation.''

Basis for proposed no significant Hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

1. Operation of Point Beach Nuclear Plant in accordance with the proposed amendments will not result in a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendments administratively relocate turbine overspeed protection Specifications to the Point Beach Final Safety Analysis Report (FSAR). The Specifications will be transferred verbatim, except for the turbine load limit with the crossover steam dump system inoperable, which has already been evaluated under 10 CFR 50.59 and will be conservatively reduced. In addition, the regulatory requirements of 10 CFR 50.55a, ''Codes and Standards, '' will still apply to the relocated Specifications. Therefore, operation of Point Beach Nuclear Plant in accordance with the proposed amendments cannot create an increase in the probability or consequences of an accident previously evaluated.

2. Operation of Point Beach Nuclear Plant in accordance with the proposed amendments will not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed amendments administratively relocate Specifications to the FSAR and in one case result in a more conservative operating limit. Therefore, operation of Point Beach Nuclear Plant in accordance with the proposed amendments cannot create a new or different kind of accident from any accident previously evaluated.

3. Operation of Point Beach Nuclear Plant in accordance with the proposed amendments will not create a significant reduction in a margin of safety.

The proposed changes are administrative in nature. There is no physical change to the facility, its systems, or its operation, except for the conservative reduction of the turbine load limit with the crossover steam dump system inoperable which has already been justified via 10 CFR 50.59. Therefore, operation of PBNP in accordance with the proposed amendments cannot result in a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Joseph P. Mann Library, 1516 Sixteenth Street, Two Rivers, Wisconsin 54241

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW., Washington, DC 20037

NRC Project Director: John N. Hannon

Wolf Creek Nuclear Operating Corporation, Docket No. 50-482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: February 17, 1997; supersedes March 24, 1995, as supplemented by letter dated August 16, 1995, amendment request.

Description of amendment request: This amendment request proposes to revise Technical Specification 1.7, ''Containment Integrity,'' Technical Specification 3/4.6.1, ''Containment Integrity,'' and Technical Specification 3/4.6.3, ''Containment Isolation Valves.'' These proposed changes would relocate Technical Specification Table 3.6-1, ''Containment Isolation Valves,'' to the Wolf Creek Generating Station (WCGS) procedures. This proposed change is in accordance with the guidance provided in Generic Letter 91-08, ''Removal of Component Lists from Technical Specifications,'' dated May 6, 1991. In addition, this request proposes that the August 16, 1996, supplemental submittal that provided an additional footnote allowing an increased outage time for certain component cooling water system valves be withdrawn. The determination that the additional footnote is not required supersedes the staff's proposed no significant hazards consideration determination evaluation for the requested changes that was published on September 27, 1995 (60 FR 49949).

Basis for proposed no significant Hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes simplify the technical specifications, meet the regulatory requirements for control of containment isolation, and are consistent with the guidelines of GL 91-08. The procedural details of Technical Specification Table 3.6-1 have not been changed, but only relocated to a different controlling document. The proposed changes are administrative in nature, should result in improved administrative practices, and do not affect plant operations.

The probability of occurrence of a previously evaluated accident is not increased because this change does not introduce any new potential accident initiating conditions. The consequences of an accident previously evaluated is not increased because the ability of containment to restrict the release of any fission product radioactivity to the environment will not be degraded by this change.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed 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, this proposed change will not create the possibility of a new or different kind of accident from any previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The administrative change to relocate Technical Specification Table 3.6-1 to appropriate plant procedures does not alter the basic regulatory requirements for containment isolation and will not adversely affect containment isolation capability for Coordinator credible accident scenarios. Adequate control of the content of the table is assured by existing plant procedures.

The proposed relocation of Technical Specification Table 3.6-1 does not alter current technical specification requirements for containment isolation valve operability. The LCO and Surveillance Requirements would be retained in the revised technical specifications. Therefore, the proposed change will not affect the meaning, application, and function of the current technical specification requirements for the valves in Table 3.6-1.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room locations: Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law Library, Topeka, Kansas 66621

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, N.W., Washington, D.C. 20037

NRC Project Director: William H. Bateman

Wolf Creek Nuclear Operating Corporation, Docket No. 50-482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: March 18, 1997

Description of amendment request: This license amendment request revises Technical Specification Surveillance Requirement 4.5.2.c to clarify when a containment entry visual inspection is required. This proposed change to reduce the visual inspection requirement to at least once daily is in accordance with the guidance provided in Generic Letter 93-05, ''Line-Item Technical Specifications Improvements to Reduce Surveillance Requirements for Testing During Power Operation.''

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.

Implementing the proposed change could potentially increase the chances of loose debris (trash, rags, clothing, etc.) being left in containment for some period of time greater than would be allowed under current surveillance requirements. However, the proposed change also clarifies that the visual inspection must be performed at least once daily. Therefore, the period of time that debris could be left uncontrolled inside containment would still be less than 24 hours. Based on work controls placed on material entry/exit into containment and personnel training on housekeeping controls inside containment, and the results of past surveillances, it is unlikely that a significant amount of debris would be left uncontrolled inside containment for this period of time. Also, based on containment sump design, relatively small amounts of debris would not be sufficient to cause a significant amount of blockage of the sump screens.

The probability of occurrence of a previously evaluated accident is not increased because the reduced frequency of the visual inspection does not cause a significant impact on the possibility of containment sump screen blockage. Therefore containment sump operability is not affected by the proposed change. In addition, the proposed change will not result in any changes to the design or operation of any plant systems or components.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change decreases the frequency of performing a visual inspection for loose debris in containment, but does not result in a change to the design or operation of any plant system or component. The purpose of the inspection is to ensure that there is no loose debris, left in containment following a containment entry, that could potentially block the containment sump screens during LOCA conditions. Delaying this inspection until the last containment entry each day will not result in a significant amount of debris being left in containment, based on housekeeping practices controlling the entry/removal of trash and material into/from containment; training of employees to increase awareness of material control in radiologically-controlled areas; and retaining the requirement to perform a visual inspection at least once per day when containment entries are made (during periods when containment integrity is established), thereby ensuring that trash and debris can be identified and removed on a daily basis (on days containment entries are made).

Based on the above, this proposed change will not create the possibility of a new or different kind of accident from any previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The purpose of performing a visual inspection of areas affected by a containment entry is to ensure any debris or trash generated by the activity during the containment entry is identified and removed from containment. This ensures that no trash or debris is left in containment that could be transported to and block the containment sump screens during LOCA conditions. Based on current material control and housekeeping practices imposed on containment entry/exit, and past inspection results, reducing the surveillance requirement to a once per day basis, on days containment entries are made, would not result in a significant amount of trash or debris being left in containment following completion of the entry, and any such material would be identified and removed prior to the end of the day. The amount of trash or debris that could be left in containment for a 24 hour period would be significantly less than the amount that would be required to cause sump screen blockage sufficient to affect sump performance. Therefore, the proposed change will not result in a significant reduction in the margin of safety of any plant system or equipment.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room locations: Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law Library, Topeka, Kansas 66621

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, N.W., Washington, D.C. 20037

NRC Project Director: William H. Bateman

Wolf Creek Nuclear Operating Corporation, Docket No. 50-482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: March 18, 1997

Description of amendment request: This license amendment request revises Technical Specification Section 5.3.1, Fuel Assemblies, to allow the use of an alternate zirconium based fuel cladding material, ZIRLO. Wolf Creek Nuclear Operating Corporation (WCNOC) is planning to insert Westinghouse fuel assemblies containing ZIRLO fuel rod cladding during the ninth refueling outage, which is currently scheduled to begin in late September 1997.

Basis for proposed no significant Hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The methodologies used in the accident analysis remain unchanged. The proposed changes do not change or alter the design assumptions for the systems or components used to mitigate the consequences of an accident. Use of ZIRLO fuel cladding does not adversely affect fuel performance or impact nuclear design methodology. Therefore accident analyses are not impacted.

The operating limits will not be changed and the analysis methods to demonstrate operation within the limits will remain in accordance with NRC approved methodologies. Other than the changes to the fuel assemblies, there are no physical changes to the plant associated with this technical specification change. A safety analysis will continue to be performed for each cycle to demonstrate compliance with all fuel safety design basis.

VANTAGE 5H with IFMs fuel assemblies with ZIRLO clad fuel rods meet the same fuel assembly and fuel rod design bases as other VANTAGE 5H with IFMs fuel assemblies. In addition, the 10 CFR 50.46 criteria are applied to the ZIRLO clad rods. The use of these fuel assemblies will not result in a change to the reload design and safety analysis limits. The clad material is similar

in chemical composition and has similar physical and mechanical properties as Zircaloy-4. Thus, the cladding integrity is maintained and the structural integrity of the fuel assembly is not affected. ZIRLO cladding improves corrosion performance and dimensional stability. No concerns have been identified with respect to the use of an assembly containing a combination of Zircaloy-4 and ZIRLO clad fuel rods. Since the dose predictions in the safety analyses are not sensitive to fuel rod cladding material, the radiological consequences of accidents previously evaluated in the safety analysis remain valid.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident or malfunction of equipment important to safety previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

VANTAGE 5H with IFMs fuel assemblies with ZIRLO clad fuel rods satisfy the same design bases as those used for other VANTAGE 5H with IFMs fuel assemblies. All design and performance criteria continue to be met and no new failure mechanisms have been identified. Since the original design criteria are met, the ZIRLO clad fuel rods will not be an initiator for any new accident or malfunction of equipment important to safety. The ZIRLO cladding material offers improved corrosion resistance and structural integrity.

The proposed changes do not affect the design or operation of any system or component in the plant. The safety functions of the related structures, systems or components are not changed in any manner, nor is the reliability of any structure, system or component reduced. The changes do not affect the manner by which the facility is operated and do not change any facility design feature, structure or system. No new or different type of equipment will be installed. Since there is no change to the facility or operating procedures, and the safety functions and reliability of structures, systems and components are not affected, the proposed changes do not create the possibility of a new or different kind of accident or malfunction of equipment important to safety from any accident or malfunction of equipment important to safety previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

Use of ZIRLO cladding material does not change the VANTAGE 5H with IFMs reload design and safety limits. The use of these fuel assemblies will take into consideration the normal core operating conditions allowed in the Technical Specifications. For each cycle reload core, the fuel assemblies will be evaluated using NRC approved reload design methods, including consideration of the core physics analysis peaking factors and core average linear heat rate effects.

The use of Zircaloy-4, ZIRLO or stainless steel filler rods in fuel assemblies will not involve a significant reduction in the margin of safety because analyses using NRC approved methodologies will be performed for each configuration to demonstrate continued operation within the limits that assure acceptable plant response to accidents and transients. These analyses will be performed using NRC approved methods that have been approved for application to the fuel configuration.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room locations: Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law Library, Topeka, Kansas 66621

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, N.W., Washington, D.C. 20037

NRC Project Director: William H. Bateman

Previously Published Notices Of Consideration Of Issuance Of Amendments To Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, And Opportunity For A Hearing

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Carolina Power & Light Company, et al., Docket Nos. 50-325 and 50-324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of amendments request: March 27, 1997

Description of amendments request: The proposed amendments would revise the Technical Specifications for the Brunswick Steam Electric Plant Units 1 and 2 to eliminate certain instrumentation response time testing requirements in accordance with NRC-approved BWR Owners Group Topical Report NEDO-32291-A, ''System Analysis for the Elimination of Selected Response Time Testing Requirements.''Date of publication of individual notice in **Federal Register:** April 1, 1997 (62 FR 15542)

Expiration date of individual notice: May 1, 1997

Local Public Document Room location: University of North Carolina at Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403-3297

Southern Nuclear Operating Company, Inc., Docket No. 50-348, Joseph M. Farley Nuclear Plant, Unit No. 1, Houston County, Alabama

Date of amendment request: March 25, 1997

Description of amendment request: The proposed amendment would modify Technical Specification 3/4.4.9, ''Specific Activity,'' and associated Bases to reduce the limit associated with dose equivalent iodine-131. The steady-state dose equivalent iodine-131 limit would be reduced by 40 percent from .5 [micro]Curie/gram to .3 [micro]Curie/gram.

Date of publication of individual notice in **Federal Register:** April 4, 1997 (62 FR 16201)

Expiration date of individual notice: May 5, 1997

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia 31513

Notice Of Issuance Of Amendments To Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental

assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document rooms for the particular facilities involved.

Commonwealth Edison Company, Docket Nos. 50-237 and 50-249, Dresden Nuclear Power Station, Units 2 and 3, Grundy County, Illinois

Date of application for amendments: February 19, 1997, as supplemented April 3, 1997.

Brief description of amendments: The amendments would delete the 24/48 Volt direct current (Vdc), batteries, battery chargers and distribution systems from the Technical Specifications (TSs) for Unit 3, by adding a footnote to indicate that these TSs are only applicable to Unit 2. All safety-related loads associated with the 24/48 Vdc batteries for Unit 3 will be relocated to other safety-related battery systems which are in the TSs.

Date of issuance: April 10, 1997

Effective date: Immediately, to be implemented within 30 days.

Amendment Nos.: 156 and 151

Facility Operating License Nos. DPR-19 and DPR-25: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 5, 1997 (62 FR 10088). The April 3, 1997, submittal provided additional clarifying information that 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 April 10, 1997. No significant hazards consideration comments received: No

Local Public Document Room location: Morris Area Public Library District, 604 Liberty Street, Morris, Illinois 60450

Consolidated Edison Company of New York, Docket No. 50-247, Indian PointNuclear Generating Unit No. 2, Westchester County, New York

Date of application for amendment: August 14, 1996, as supplemented September 13, 1996

Brief description of amendment: The amendment revises Technical Specification Sections 3.3 and 6.9.1.9; and the basis of Section 3.3, 3.6 and 3.10. The changes incorporate the best estimate approach into the licensing basis for the Indian Point Unit No. 2 loss-of-coolant accident analysis.

Date of issuance: March 31, 1997

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment No.: 188

Facility Operating License No. DPR-26: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 29, 1997 (62 FR 4344) The September 13, 1996, supplemental letter did not change the initial proposed no significant hazards consideration.The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 31, 1997.No significant hazards consideration comments received: No

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610

Consolidated Edison Company of New York, Docket No. 50-247, Indian PointNuclear Generating Unit No. 2, Westchester County, New York

Date of application for amendment: February 14, 1997, as supplemented March 12, 1997.

Brief description of amendment: The amendment revises Technical Specification Section 4.13-2 to allow a one-time extension of the interval for steam generator tube inspection. Specifically, the date for commencement of the steam generator tube inspection is extended from April 14, 1997 to May 2, 1997.

Date of issuance: April 9, 1997

Effective date: As of the date of issuance to be implemented by April 14, 1997.

Amendment No.: 189

Facility Operating License No. DPR-26: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 4, 1997 (62 FR 9816) The March 12, 1997, supplemental letter provided clarifying information that did not change the initial proposed no significant hazards consideration. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 9, 1997.No significant hazards consideration comments received: No

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610

Consumers Power Company, Docket No. 50-155, Big Rock Point Plant, Charlevoix County, Michigan

Date of application for amendment: November 7, 1996

Brief description of amendment: The amendment revised Technical Specification 4.2.9, Service and Instrument Air System, to add an additional air compressor.

Date of issuance: April 2, 1997

Effective date: Effective the date of issuance.

Amendment No.: 118

Facility Operating License No. DPR-6: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 18, 1996 (61 FR 66706) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 2, 1997.No significant hazards consideration comments received: No.

Local Public Document Room location: North Central Michigan College, 1515 Howard Street, Petoskey, Michigan 49770

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: January 3, 1997, as supplemented by letter dated March 20, 1997

Brief description of amendments: The amendments revise Technical Specification Tables 3.3-2, 3.3-4, 3.3-5, 4.3-2 and Bases Sections 3/4.3.1 and 3/4.3.2 to eliminate the safety injection signal on low steam line pressure.

Date of issuance: April 3, 1997

Effective date: For Unit 1, as of the date of issuance to be implemented before startup from the next refueling outage; For Unit 2, as of the date of issuance to be implemented before startup from the current refueling outage

Amendment Nos.: 158 and 150

Facility Operating License Nos. NPF-35 and NPF-52: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 29, 1997 (62 FR 4345) The March 20, 1997, letter provided clarifying information that did not change the scope of the original January 3, 1997, application and the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 3, 1997.No significant hazards consideration comments received: No

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730

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 for amendments: February 5, 1997

Brief description of amendments: The amendments reflect replacement of the existing source and intermediate range nuclear instrumentation with a new source range and wide range nuclear instrumentation system that provides more channels and continuous coverage from the Source Range to above the Power Range.

Date of issuance: March 31, 1997

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment Nos.: 223, 223, 220

Facility Operating License Nos. DPR-38, DPR-47, and DPR-55: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 26, 1997 (62 FR 8796) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 31, 1997.No significant hazards consideration comments received:

Local Public Document Room location: Oconee County Library, 501 West South Broad Street, Walhalla, South Carolina 29691

Entergy Operations, Inc., Docket No. 50-382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: October 16, 1996

Brief description of amendment: The amendment changes the Appendix A Technical Specifications by revising Table 4.3-1 to expand the applicability for Core Protection Calculator (CPC) operability and to allow the use of a cycle independent shape annealing matrix in the CPCs.

Date of issuance: April 11, 1997

Effective date: April 11, 1997, to be implemented within 60 days

Amendment No.: 125

Facility Operating License No. NPF-38: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 12, 1997 (62 FR 6575) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 11, 1997No significant hazards consideration comments received: No.

Local Public Document Room location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, LA 70122

Entergy Operations, Inc., Docket No. 50-382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: December 2, 1996 as supplemented by letter dated February 4 and March 14, 1997

Brief description of amendment: The amendment changes the Technical Specifications to reflect the approval for the licensee to use of the new Containment Leakage Rate Testing Program as required by 10 CFR Part 50 Appendix J, Option B for Waterford Steam Electric Station, Unit 3.

Date of issuance: April 10, 1997

Effective date: April 10, 1997

Amendment No.: 124

Facility Operating License No. NPF-38: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 15, 1997 (62 FR 2189) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 10, 1997.No significant hazards consideration comments received: No.

Local Public Document Room location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, LA 70122

Florida Power and Light Company, et al., Docket No. 50-335, St. Lucie Plant, Unit No. 1, St. Lucie County, Florida

Date of application for amendment: December 9, 1996

Brief description of amendment: This amendment modifies technical specifications for selected cycle-specific reactor physics parameters to refer to the St. Lucie Unit 1 Core Operating Limits Report for limiting values.

Date of issuance: April 1, 1997

Date of issuance: April 1, 1997

Effective date: April 1, 1997

Amendment No.: 150

Facility Operating License No. NPF-16: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 15, 1997 (62 FR 2189) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 1, 1997. No significant hazards consideration comments received: No.

Local Public Document Room location: Indian River Junior College Library, 3209 Virginia Avenue, Fort Pierce, Florida 34954-9003

Northeast Nuclear Energy Company, et al., Docket No. 50-423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

Date of applications for amendment: June 20, 1995, as supplemented August 30, 1995, and January 17, 1996

Brief description of amendment: The amendment relocates the applicable requirements of Technical Specification (TS) 3.6.3 for the main steam line isolation valves (MSIVs) to TS 3.7.1.5, ''Main Steam Line Isolation Valves.'' In addition, the Applicability section of TS 3.7.1.5 is revised to indicate that Specification 3.7.1.5 is applicable in Mode 1 and in Modes 2, 3, and 4, except where all MSIVs are closed and deactivated (i.e., in Modes 2, 3, and 4, TS 3.7.1.5 is applicable only if the MSIVs are open). Also, the Action Statement for the Limiting Condition for Operation 3.7.1.5 has been revised using the guidance of the Improved Standard Technical Specifications for Westinghouse plants (NUREG-1431). The amendment also deletes a license requirement to submit responses to and to implement requirements of Generic Letter 83-28, because the requirement has been completed. Generic Letter 83-28 pertains to the Salem anticipated transient without scram event. In addition, the amendment incorporates TS Bases submitted by Northeast Nuclear Energy Company by letters dated June 20, 1995, February 5, 1996, and March 21 and 26, 1997. Since all four Bases changes affect Section B 3/4.7 of the TS, the NRC staff is using them in a group to avoid errors in revising the TS.

Date of issuance: April 10, 1997

Effective date: As of the date of issuance, to be implemented within 60 days.

Amendment No.: 136

Facility Operating License No. NPF-49: Amendment revised the Technical Specifications and License Condition.

Date of initial notice in **Federal Register:** August 2, 1995 (61 FR 39445) and February 28, 1996 (61 FR 7555)The August 30, 1995, letter provided clarifying information that did not change the scope of the June 20, 1995, application and the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 10, 1997.No significant hazards consideration comments received: No.

Local Public Document Room location: Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike,

Norwich, Connecticut and the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, Connecticut 06385

Northeast Nuclear Energy Company, et al., Docket Nos. 50-245, 50-336, and 50-423, Millstone Nuclear Power Station, Unit Nos. 1, 2, and 3, New London, Connecticut

Date of application for amendments: February 3, 1997

Brief description of amendments: The amendments revise Section 6, ''Administrative Controls,'' of the Millstone Unit Nos. 1, 2, and 3 Technical Specifications to reflect organizational changes that have been implemented in the Nuclear Division.

Date of issuance: April 10, 1997

Effective date: As of the date of issuance to be implemented within 60 days.

Amendment Nos.: 99, 206, and 135

Facility Operating License Nos. DPR-21, DPR-65, and NPF-49: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 26, 1997 (62 FR 8800) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 10, 1997.No significant hazards consideration comments received: No

Local Public Document Room location: Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, Connecticut 06360, and the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, Connecticut 06385

Pennsylvania Power and Light Company, Docket Nos. 50-387 and 50-388 Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of application for amendments: November 18, 1996

Brief description of amendments: These amendments change the Technical Specifications for Susquehanna Steam Electric Station (SSES), Units 1 and 2 by increasing the maximum isolation times for reactor core isolation cooling inboard warm-up line isolation valves from 3 seconds to 12 seconds, high pressure core injection inboard warm-up line siolation valves from 3 seconds to 6 seconds and reactor recirculation process sample line isolation valves from 2 seconds to 9 seconds.

Date of issuance: April 7, 1997

Effective date: Both units, as of date of issuance, to be implemented within 30 days.

Amendment Nos.: 164 and 135

Facility Operating License Nos. NPF-14 and NPF-22: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 15, 1997 (61 FR 2191) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 7, 1997. No significant hazards consideration comments received: No

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, PA 18701

Pennsylvania Power and Light Company, Docket No. 50-388, Susquehanna Steam Electric Station, Unit 2, Luzerne County, Pennsylvania

Date of application for amendment: March 17, 1997

Brief description of amendment: The amendment modifies the Design Features Section 5.3.1 of the Technical Specifications to reflect the Atrium-10 design and would include a Siemens Power Corporation topical report in Section 6.9.3.2 to reflect mechanical design criteria for this fuel. This change would allow this fuel to be loaded into the core only under Operational Condition 5 (refueling) and does not permit startup or power operation using the Atrium-10 fuel.

Date of issuance: April 9, 1997

Effective date: As of date of issuance to be implemented within 30 days.

Amendment No.: 136

Facility Operating License No. NPF-22: This amendment revised the Technical Specifications. Public comments requested as to proposed no significant hazards consideration: Yes (62 FR 14167) March 25, 1997. That notice provided an opportunity to submit comments on the Commission's proposed no significant hazards consideration determination. No comments have been received. The notice also provided for an opportunity to request a hearing by April 24, 1997, but indicated that if the Commission makes a final no significant hazards consideration determination any such hearing would take place after issuance of the amendment. The Commission's related evaluation of the amendment, finding of exigent circumstances, and final determination of no significant hazards consideration are contained in a Safety Evaluation dated April 9, 1997.

Attorney for licensee: Jay Silbert, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington DC 20037.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, PA 18701

Southern Nuclear Operating Company, Inc., Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50-321 and 50-366, Edwin I. Hatch Nuclear Plant, Units 1 and 2, Appling County, Georgia

Date of application for amendments: September 19, 1996, as supplemented December 17, 1996, January 23 and 31, March 21 and April 4, 1997

Brief description of amendments: The amendments revise the surveillance requirements addressing the reactor vessel pressure and temperature limits.

Date of issuance: April 4, 1997

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment Nos.: 206 and 147

Facility Operating

Local Public- Document -Room locations: ments revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 2, 1997 (62 FR 128) The December 17, 1996, January 23 and 31, March 21, 1997, and April 4, 1997, letters provided clarifying information that 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 April 4, 1997.No significant hazards consideration comments received: No

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia 31513

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: October 18, 1996 as supplemented March 12, March 17, April 4, and April 9, 1997 (TS 96-05)

Brief description of amendments: The amendments change the Technical Specifications (TS) by revising TS 3/4.4.5 and 3.4.6.2 and associated Bases to permanently incorporate requirements for steam generator tube inspections and repair in the Sequoyah Nuclear Plant, Units 1 and 2 TS.

Date of issuance: April 9, 1997

Effective date: As of the date of issuance to be implemented no later than 45 days of its issuance.

Amendment Nos.: 222 and 213

Facility Operating License Nos. DPR-77 and DPR-79: Amendments revise the technical specifications and license conditions.

Date of initial notice in **Federal Register:** February 11, 1997 (62 FR 6276) The March 12, March 17, April 4, and April 9, 1997, letters provided clarifying information that did not change the scope of the October 18, 1996, application and the initial proposed no significant hazards consideration determination.The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 9, 1997.No significant hazards consideration comments received: None

Local Public Document Room location: Chattanooga-Hamilton County Library, 1101 Broad Street, Chattanooga, Tennessee 37402

Notice Of Issuance Of Amendments To Facility Operating Licenses And Final Determination Of No Significant Hazards Consideration And Opportunity For A Hearing (Exigent Public Announcement Or Emergency Circumstances)

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing.

For exigent circumstances, the Commission has either issued a **Federal Register** notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its no significant hazards consideration determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendment. By May 23, 1997, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and at the local public document room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order. required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a

supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses. Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-001, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 248-5100 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to **(Project Director)**: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-001, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

Union Electric Company, Docket No. 50-483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of application for amendment: April 1, 1997

Brief description of amendment: The amendment revises Technical Specification Table 3.3-3 to correct administrative errors associated with the start logic of the turbine driven auxiliary feedwater pump.

Date of issuance: April 2, 1997

Effective date: April 2, 1997

Amendment No.: 119

Facility Operating License No. NPF-30: The amendment revised the Technical Specifications.Public comments requested as to proposed no significant hazards consideration: No.The Commission's related evaluation of the amendment, finding of emergency circumstances, and final determination of no significant hazards consideration are contained in a Safety Evaluation dated April 2, 1997.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 200379

Local Public Document Room location: Callaway County Public Library, 710 Court Street, Fulton, Missouri 65251.

NRC Project Director: William H. Bateman

Dated at Rockville, Maryland, this 16th day of April, 1997.

For the Nuclear Regulatory Commission

Jack W. Roe,

Director ,Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation

[Doc. 97–10334 Filed 4–22–97; 8:45 am]

BILLING CODE 7590–01–F

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application to Withdraw From Listing and Registration; (Donnelly Corporation, Class A Common Stock, $0.10 Par Value) File No. 1–9716

April 17, 1997.

Donnelly Corporation (''Company'') has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to Section 12(d) of the Securities Exchange Act of 1934 (''Act'') and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified security (''Security'') from listing and registration on the American Stock Exchange, Inc. (''Amex'' or ''Exchange'').

The reasons cited in the application for withdrawing the Security from listing and registration include the following:

The Company has complied with Rule 18 of the Amex by filing with such Exchange a certified copy of preambles and resolutions adopted by the Company's Board of Directors authorizing the withdrawal of its common stock from listing on the Amex and by setting forth in detail to such Exchange the reasons for such proposed withdrawal, and the facts in support thereof. The Company became listed for trading on the New York Stock Exchange, Inc. (''NYSE'') pursuant to a Registration Statement on Form 8–A effective March 6, 1997.

In making the decision to withdraw its common stock from listing on the Amex, the Company considered: (a) that the Company believes that the NYSE will offer the Company's shareholders more liquidity over time than is presently available on the Amex; (b) that the Company believes that listing on the NYSE will offer greater visibility for the Company and its stock potential for greater institutional ownership; (c) that as the Company becomes an increasingly international company, it believes there will be advantages to having its stock listed on the NYSE, and (d) many of the companies which it regards as peers or leaders in its industry are listed on the NYSE.

Any interested person may, on or before May 8, 1997, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on

the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

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

Jonathan G. Katz,

Secretary.

[FR Doc. 97–10436 Filed 4–22–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38520; File No. 4–208]

Intermarket Trading System; Notice of Filing of Proposed Twelfth Amendment to the ITS Plan Relating To Amending the Pre-Opening Application, Deleting Text That Is No Longer Applicable, and To Make Technical Amendments

April 17, 1997.

Pursuant to Rule 11Aa3–2 under the Securities Exchange Act of 1934 (''Act''), notice is hereby given that on January 31, 1997, the Intermarket Trading System (''ITS'') submitted to the Securities and Exchange Commission (''Commission'') an amendment (''Twelfth Amendment'') to the restated ITS Plan.[1] The purpose of the amendment is to amend the Pre-Opening Application, to delete text that, by its terms, is no longer applicable, and to make several technical amendments to the Plan. The Commission is publishing this notice to solicit comments on the amendment from interested persons.

The ITS is a communications and order routing network linking eight national securities exchanges and the electronic over-the-counter (''OTC'') market operated by the National Association of Securities Dealers, Inc. (''NASD''). The ITS was designed to facilitate intermarket trading in exchange-listed equity securities based on current quotation information emanating from the linked markets.

Participants to the ITS Plan include the American Stock Exchange, Inc. (''Amex''), the Boston Stock Exchange, Inc. (''BSE''), the Chicago Board Options Exchange, Inc. (''CBOE''), the Chicago Stock Exchange, Inc. (''CHX''), the Cincinnati Stock Exchange, Inc. (''CSE''), the NASD, the New York Stock Exchange, Inc. (''NYSE''), the Pacific Stock Exchange, Inc. (''PSE''), and the Philadelphia Stock Exchange, Inc. (''PHLX'').

I. Description of the Amendment

The purpose of the amendment is to trigger the use of the Pre-Opening whenever an ''indication of interest'' (i.e., an opening price range) is sent to the Consolidated Tape System (''CTS'') prior to the opening or reopening of trading in a System security, to delete text that, by its terms, is no longer applicable, and to make technical revisions to update the rules. The amended language is as follows.

To cause Section 1(4) to read as follows:

(4) (''CAES'') means the ''Computer Assisted Execution System'', the computerized order routing and execution facility, as from time to time modified or supplemented, that is operated by The Nasdaq Stock Market, Inc. (''Nasdaq''), a wholly-owned subsidiary of the NASD, and that is supervised and surveilled by the NASD and made available to NASD members by Nasdaq. CAES is not part of the System.

To cause Section 1(5) to read in full as follows:

(5) ''CAES Supervisory Center'' means the premises of Nasdaq at which is located the ITS supervisory station that monitors the ITS/CAES Third Market as described in section 5(a)(i).

To cause Section 1(11) to read in full as follows:

(11) ''Exchange (Participant's) Market'' means the floor(s) of an Exchange Participant, except that, in the case of the CSE, ''Exchange (Participant's) Market'' means in addition to the premises on which NSTS terminals are located, NSTS and ITS stations located in the NSTS Supervisory Center.

To cause Section 1(17) to read in full as follows:

(17) ''ITS/CAES security (stock)'' means a security (stock) (a) that is a System security, (b) that is a 19c–3 security and (c) as to which one or more ITS/CAES Market Makers are registered as such with the NASD for the purposes of the Applications. When used with reference to a particular ITS/CAES Market Maker, ''ITS/CAES security'' means any such security (stock) as to which the particular ITS/CAES Market Maker is so registered.

To delete Section 1(24):

(24) ''NASD Pilot Phase.'' [Deleted]

To delete Section 1(27A):

(27A) ''NSTS/ITS Automated Linkage Commencement Date.'' [Deleted]

To cause Section 5(b)(ii) to read in full as follows:

(ii) *Selection of System Securities.* The System is designed to accommodate trading in any Eligible Security in the case of Exchange Participants and, in the case of any ITS/CAES Market Maker, trading in the one or more ITS/CAES securities in which he is registered as such with the NASD for the purposes of the Applications. The particular securities that may be traded through the System at any time (''System securities'') shall be selected by the Operating Committee. The Operating Committee may add or delete System securities as it deems appropriate and may delay the commencement of trading in any Eligible Security if capacity or other operational considerations shall require such delay. ITS/CAES securities may be traded by Exchange Participants and ITS/CAES Market Makers as provided in the ITS Plan and other System securities may be traded by Exchange Participants as provided in the ITS Plan.

To cause the first paragraph of Section 6(a)(i)(B) to read in full as follows:

(B) *Furnishing of Quotations.* As to each System security that is traded on its floor or otherwise in its Exchange Market, each Exchange Participant shall furnish, or cause to be furnished, to each ''receiving Participant Market'' as defined below, or to a person acting therefor, the current bid-asked quotation emanating from its trading floor or otherwise from its Exchange Market. The NASD, as to each ITS/CAES security, agrees to collect, or cause to be collected, from each ITS/CAES Market Maker registered as such with the NASD for the purposes of the Applications each current bid price and each current offer price as made by such ITS/CAES Market Maker, each such bid and offer to be accompanied by size. For each ITS/CAES security, the NASD or its agent (1) shall select the best bid price and the best offer price from the bid prices and offer prices so collected and (2) shall furnish, or cause to be furnished, to each Receiving Participant, or to a person acting therefor, such best bid price and best offer price, together with the sum of the sizes accompanying the bids and offers at the best bid price and best offer price (the ''ITS/CAES BBO''). As to any System security, a Participant Market is a ''receiving Participant Market'' if (1) it is an Exchange Market in which the security is traded or (2) it is the ITS/CAES Third Market and the security is an ITS/CAES security in which one or more ITS/CAES Market Makers are registered as such with the NASD for the purposes of the Applications.

[1] The ITS is a National Market System (''NMS'') plan approved by the Commission pursuant to Section 11A of the Act and Rule 11Aa3–2. Securities Exchange Act Release No. 19456 (January 27, 1983), 48 FR 4938.

To cause the second paragraph of Section 6(a)(ii) to read in full as follows:

If a trade involves the CSE, the commitment to trade or a response thereto destined for or originating from the CSE will leave and enter the System through the NSTS Switch. In the foregoing example, a trade involving the CSE would occur as follows. Assume that the stock in question is also one of the stocks traded in the CSE's Exchange Market. Assume also that the continuously updated quotation display at the appropriate NYSE trading post shows that the best offer from other Participant Markets is one of 40⅛ on the CSE, rather than on the PSE. Having learned this information, the NYSE member may decide to attempt to buy the 100 shares for his customer from the 40⅛ offer on the CSE. By using an ITS station located on the NYSE trading floor, the broker would send, or cause to be sent, to NSTS a commitment to buy 100 shares of the stock at 40⅛.

To cause Section 6(b)(i) to read in full as follows:

(b) *Technical Matters.* (i) *Commitment Information, Expiration.* A commitment to trade shall, at a minimum:

(A) include the number or symbol which identifies both (1) one clearing member if originating in an Exchange Market or, if originating with an ITS/CAES Market Maker, the ITS/CAES Market Maker or the broker-dealer through whom he clears System trades and (2) the clearing corporation through which the trade shall be settled,

(B) direct the commitment to a particular Participant Market,

(C) specify the security which is the subject of the commitment,

(D) designate the commitment as either a commitment to buy or a commitment to sell,

(E) specify the amount of the security to be bought or sold, which amount shall be for one unit of trading or any multiple thereof,

(F) specify (1) a price equal to the offer or bid price then being furnished by the destination Participant Market, which price shall represent the price at or below which the security is to be bought or the price at or above which the security is to be sold, respectively, (2) a price at the clean-up price in the case of a commitment to trade sent in compliance with a Participant's block trade policy adopted pursuant to section 8(d)(iii) or (3) that the commitment is a commitment to trade ''at the market'',

(G) designate the commitment ''short'' or ''short exempt'' whenever it is a commitment to sell short; this will permit the short sale rule as in effect in the destination Participant Market to apply, and

(H) specify the time period during which the commitment shall be irrevocable (if the time period is not specified in the commitment, the longer of the two available options shall be assumed by ITS).

The commitment shall be irrevocable for that time period following acceptance by the System as is chosen by the sender of the commitment. ITS provides two time period options, known as ''T–1'' (one minute) and ''T–2'' (two minutes). The sender of the commitment may designate which of the two options is to apply. The Operating Committee may from time to time change the length of the time period of either or both options.

To cause the first paragraph of Section 6(b)(v) to read in full as follows:

(v) *Response Validation; Partial Executions.* Each response to a commitment to trade must also be validated by the System when entered. The CID must compare with that of the original commitment. The response, if an execution, must represent the contra side of the original commitment. The response must (A) identify as the contra side one or more clearing members, (B) indicate that all of the one or more clearing members (or the rest of the clearing members, if one or more, but not all, clearing members are identified in the response) will be identified to the System through a subsequent ''names later'' message. If an execution is reported, the size executed must be equal to or smaller than the committed size. The execution price must equal or better the committed price. The validation process also assures that the commitment associated with the response has not been previously executed and has not expired through passage of time.

To cause the second paragraph of Section 7(a) to read in full as follows:

The Pre-Opening Application applies in two instances. First, it applies whenever a market maker in any Participant Market, in arranging an opening transaction in his market in a System stock, anticipates that the opening transaction will be at a price that represents a change from the stock's ''previous day's consolidated closing price'' of more than the ''applicable price change''. Second, it applies whenever an ''indication of interest'' (i.e., an anticipated opening price range) is sent to the CTA Plan Processor as required or permitted by the CTA Plan or a Participant Market's rules.

To delete Section 7(d):

(d) *Commencement of Revised Pre-Opening Application.* [Deleted]

To cause Section 8(a) (ii) and (iii) to read in full as follows:

(ii) *CSE.* No ITS station shall be located on the CSE floor except at the NSTS Supervisory Center, where it shall be accessible only to CSE employees. The components of NSTS other than NSTS terminals located on the CSE floor or on the premises of a particular NSTS User shall be accessible only to employees of the CSE or its facilities manager. Each NSTS terminal located otherwise than on the CSE floor or in the NSTS Supervisory Center shall be accessible only to and under the control of the NSTS User on whose premises the station is located and to his employees. The CSE shall assure that only Designated Dealers to whom a security is assigned receive pre-opening notifications in the security.

(iii) *NASD.* Each ITS/CAES station shall be accessible only to the ITS/CAES Market Maker on whose premises the station is located and to his employees. The ITS station located at the CAES Supervisory Center, and components of CAES and of any other NASD-sponsored facility linked to the System other than those located on the premises of ITS/CAES Market Makers, shall be accessible only to employees of the NASD or its subsidiaries.

To cause the first paragraph of Section 8(b) to read in full as follows:

(b) *Participant Trading Rules.* The trading rules applicable in destination Participant Markets shall apply to commitments to trade received in such market and executions of commitments therein. For example, if a commitment to sell marked ''short'' is received in the NYSE, the commitment can result in an execution only in accordance with the short sale rule as in effect on the NYSE. A commitment to sell marked ''short'' and sent to the BSE can result in an execution only in accordance with the short sale rule as in effect on the BSE.

To cause Section 8(e)(iv)(A)(3) to read in full as follows:

(3) The calculation components are:

A =''NSTS/ITS-Outgoing Agency Interest''; i.e., the number of shares entered in NSTS by NSTS Users during the calculation quarter that are reformatted by NSTS as commitments to trade and routed through the NSTS/ITS automated linkage to and executed in another Participant Market. Excluded from A are shares sent (a) as obligations to trade included in pre-opening responses, (b) pursuant to the CSE block trade policy adopted as anticipated by section 8(d)(iii) or (c) for the proprietary accounts of Approved Dealers in stocks assigned to them or in which they are registered.

B =''NSTS-Originating Agency Interest''; i.e., the number of shares entered in NSTS by NSTS Users during the calculation quarter that are either executed in NSTS or reformatted by NSTS as commitments to trade and routed through the NSTS/ITS automated linkage to and executed in another Participant Market. Excluded from B are shares entered in NSTS for the proprietary accounts of Approved Dealers in stocks assigned to them or in which they are registered that are either (e) executed in NSTS as a consequence of trading either with

a commitment to trade received from another Participant Market or with shares entered in NSTS for the account of another Approved Dealer in stocks assigned to him or in which he is registered or (f) reformatted by NSTS as commitments to trade and routed through the NSTS/ITS automated linkage to and executed in another Participant Market.

CC =''NSTS/ITS-Incoming Dealer Executions (Constant Constant)''; i.e., a constant that equals one-fourth of the number of shares entered and executed in NSTS for the proprietary accounts of Approved Dealers and Contributing Dealers in stocks assigned to them or in which they are registered against commitments to trade received from other Participant Markets in 1985.

IC =''NSTS/ITS-Incoming Dealer Executions (Incremental Constant)''; i.e., the larger of (h) CC and (i) one-half CC plus one-half of the number of shares entered and executed in NSTS during the calculation quarter for the proprietary accounts of Approved Dealers in stocks assigned to them or in which they are registered against commitments to trade received from other Participant Markets.

The CSE may elect to participate ''manually'' as to all or some stocks during all or part of a calendar quarter by arranging for CSE employees, acting on behalf of NSTS Users, to use either (j) the NSTS terminal located in the NSTS Supervisory Center to enter into NSTS interest that can result in the generation of commitments to trade and responses or (k) the ITS station located in the NSTS Supervisory Center as described in the sixth paragraph of section 6(a)(ii). If it does so during the calculation quarter, shares in those stocks executed during any period of ''manual'' participation are excluded from A, B and IC in calculating the Applicable Share Ceiling (but not in calculating the CSE/CTA Level) for the calculation quarter. Any development costs incurred to accommodate ''manual'' participation as described in clause (k) benefit the CSE alone for the purposes of section 11(a)(iii)(B).

To cause Section (8)(e)(iv)(A)(6) to read in full as follows:

(6) Subsections (1) and (5) shall not apply so long as the CSE/CTA Level has never exceeded 1.25 percent unless, first, the NSTS/ITS-Outgoing Agency Interest (''A'') has exceeded its Applicable Share Ceiling during any calendar quarter (a ''nominal excess'') and, second, during the first ''Periodic Review'' (referred to below) that follows both the nominal excess and April 1, 1986, the CSE fails reasonably to justify the nominal excess and thereby to rebut the presumption that subsections (1) and (5) should apply thereafter in view of the occurrence of the nominal excess.

To cause the first sentence of Section 8(e)(iv)(B) to read in full as follows:

(B) *Periodic Reviews.* During the calendar quarter following each anniversary of April 1, 1986, the Participants shall assess whether to amend the ITS Plan to adjust the Applicable Share Ceilings, their application, any component of their calculation and the consequences of exceeding them.

To cause Section 8(f)(v) to read in full as follows:

(v) *Nasdaq Clearing Corporation Arrangement.* In order to enable the NASD to perform its settlement obligations as provided in section 9(d), Nasdaq shall maintain an arrangement with a registered clearing corporation meeting the criteria of section 5(b)(i) that provides that such clearing corporation shall book to an account of Nasdaq each side of System trade that (A) is identified as attributable to the ITS/CAES Third Market but (B) is not identified as constituted by one or more ITS/CAES Market Makers or clearing members acting on his or their behalf.

To delete Section 8(f)(vi):

(vi) *CAES Modifications for Short Commitments.* [Deleted]

To cause Section 8(f)(vii) to read in full as follows:

(vii) *Nasdaq Representation.* The NASD represents that Nasdaq, the operator of CAES, is a wholly-owned subsidiary of the NASD. The NASD shall cause Nasdaq to operate CAES in a manner consistent with the ITS Plan and to fulfill Nasdaq's obligations under the ITS Plan.

To delete Section 10(d):

(d) *NASD Pilot Phase.* [Deleted]

To delete Section 10(e)(ii) (A) and (B):

(ii) *CSE Linkage.* (A) *Capacity Relief.* [Deleted]

(B) Terminal Interface Development Costs. [Deleted]

To delete Section (a)(x) of Exhibit A:

(x) ''Trading Halt'' [Deleted]

To cause Section (b)(i)(B) of Exhibit A to read in full as follows:

(B) *Tape Indications*—If the CTA Plan or the Exchange's rules require or permit that an ''indication of interest'' (i.e., an anticipated opening price range) in a security be furnished to the consolidated last sale reporting system prior to the opening of trading, or the reopening of trading following a halt or suspension in trading in one or more Eligible Listed Securities, then the furnishing of an indication of interest in such situations shall, without any other additional action required of the specialists, (1) initiate the Pre-Opening process, and, (2) if applicable, substitute for and satisfy the requirements of paragraphs (b)(i)(A)(1), (b)(i)(A)(2)(I) and (b)(i)(A)(2)(II). (While the furnishing of an indication of interest to the consolidated last sale reporting system satisfies the notification requirements of this rule, a specialist should also transmit the indication through the System in the format of a standardized pre-opening administrative message.) In any such situation, the specialist shall not open or reopen the security until not less than three minutes after his transmission of the opening or reopening indication of interest. For the purposes of paragraphs (b)(ii)(A), (b)(ii)(B), (b)(iii) and (c), ''pre-opening notification'' includes an indication of interest furnished to the consolidated last sale reporting service.

To cause Section (b)(ii)(B) of Exhibit A to read in full as follows:

(B) Pre-Opening Responses from Open Markets—An Exchange specialist must accept only those pre-opening responses sent to the Exchange by market makers in other Participant markets prior to the opening of their markets for trading in the security.* Following a halt or suspension in trading on the Exchange, a specialist must accept only those pre-opening responses sent by market makers to the Exchange from other Participant markets that halted trading in the security contemporaneously with the Exchange and that had not resumed trading in the security at the time the pre-opening response is sent

In the event that one or more market makers from Participant markets that have already opened trading in a security or, with respect to a halt or suspension in trading, either did not halt trading in a security contemporaneously with the Exchange, or has already resumed trading in a security, respond to a pre-opening notification in that security, the specialist need not, but may in his discretion, accept such responses for the purpose of inclusion in the opening or reopening transaction. In the event that a Participant market opens or, with respect to a halt or suspension in trading, resumes trading in a security subsequent to a market maker in that Participant market sending a pre-opening response but prior to the opening or reopening transaction on the Exchange, the market maker who sent the pre-opening response to the Exchange must confirm the pre-opening response by sending an administrative message through the System stating that the response remains valid; if the market maker fails to so confirm the pre-opening response, the specialist need not, but may in his discretion, accept the original response for the purpose of inclusion in the opening or reopening transaction.

* For the purposes of this section, the market in a security is opened (or reopened) with either a trade or quotation, if trades are being reported to the Consolidated Tape and quotes are being disseminated on the Consolidated Quotation System.

To cause Section (c)(ii) of Exhibit A to read in full as follows:

(ii) *Responses When the Exchange is Open*—Notwithstanding paragraph (c)(i), an Exchange specialist who has received a pre-opening notification in any Eligible Listed Security in which he is registered as a specialist should not send a pre-opening response to the originator of such notification if (A) the market for trading in the security is open on the Exchange or (B) the Participant market from which the notification emanated had declared a halt or suspension in trading in such security, and the Exchange either had not halted trading in the security contemporaneously with the Participant Market or had resumed trading during the halt or suspension in trading. [*]

* **Note:** The NASD shall implement a comparable provision in its rules to conform the restrictions on responses by ITS/CAES Market Makers to the provisions of paragraph (b)(ii)(B) above.

To cause Section (c)(v) of Exhibit A to read in full as follows:

(v) *Use of System before Opening or Reopening*—No Exchange member, whether acting as principal or agent, shall send an obligation to trade, commitment to trade or order in any security from the Exchange through the System to any other Participant market prior to the opening of trading in the security in the Participant market (or prior to the resumption of trading in the security in the Participant market following the initiation of a halt or suspension in trading in the security) until a pre-opening notification in the security has been issued from the other Participant market or, if no pre-opening notification is required, until the market in the security has opened in such other Participant market.

To cause Section (c)(vii) of Exhibit A to read in full as follows:

(vii) *Request for Participation Reports*—The ITS Plan anticipates that an Exchange member who has sent one or more obligations to trade in response to a pre-opening notification will request a report through the System as to his participation if he does not receive a report as required promptly following the opening. If, on or following trade date, he does request a report through the System as to his participation before [4:00 p.m. eastern time *], and he does not receive a response by [9:30 a.m. eastern time **] on the next trading day, he need not accept a later report. If he fails to so request a report, he must accept a report until [4:00 p.m. eastern time *] on the third trading day following the trade (i.e., on T+3). The Exchange does not intend this paragraph (c)(vii) to relieve him of the obligation, when he does not receive a report as soon as he reasonably should expect to have received it.

II. 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, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the ITS. All submissions should refer to File No. 4–208 and should be submitted by May 14, 1997.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–10517 Filed 4–22–97; 8:45 am]

BILLING CODE 8010–01–M

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Collection Requests

This notice lists information collection packages that will require submission to the Office of Management and Budget (OMB), in compliance with PL. 104–13 effective October 1, 1995, The Paperwork Reduction Act of 1995.

Questionnaire for Children Claiming SSI Benefits—0960–0499. The information collected on form SSA–3881 is used by the Social Security Administration to evaluate disability in children who apply for supplement security income payments. The respondents are individuals who apply for supplement security income benefits for a disabled child.

Number of Respondents: 151,667.

Frequency of Response: 1.

Average Burden Per Response: 20 minutes.

Estimated Annual Burden: 151,667 hours.

Written comments and recommendations regarding the information collection(s) should be sent within 60 days from the date of this publication, directly to the SSA Reports Clearance Officer at the following address: Social Security Administration, DCFAM, Attn: Judith T. Hasche, 6401 Security Blvd., 1–A–21 Operations Bldg., Baltimore, MD 21235.

In addition to your comments on the accuracy of the agency's burden estimate, we are soliciting comments on the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology.

To receive a copy of any of the forms or clearance packages, call the SSA Reports Clearance Officer on (410) 965–4123 or write to her at the address listed above.

Dated: April 6, 1997.

Judith T. Hasche,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 97–10428 Filed 4–22–97; 8:45 am]

BILLING CODE 4190–29–P

SOCIAL SECURITY ADMINISTRATION

Privacy Act of 1974, As Amended; Computer Matching Program (SSA/Railroad Retirement Board (RRB)—SSA Match Number 1006)

AGENCY: Social Security Administration.

ACTION: Notice of Computer Matching Program.

SUMMARY: In accordance with the provisions of the Privacy Act, this notice announces a computer matching program that SSA plans to conduct with RRB.

DATES: SSA will file a report of the subject matching program with the Committee on Governmental Affairs of the Senate, the Committee on Government Reform and Oversight of the House of Representatives and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). The matching program will be effective as indicated below.

ADDRESSES: Interested parties may comment on this notice by either telefax to (410) 966–2935, or writing to the Associate Commissioner for Program

Support, 4400 West High Rise Building, 6401 Security Boulevard, Baltimore, MD 21235. All comments received will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: The Associate Commissioner for Program Support as shown above.

SUPPLEMENTARY INFORMATION:

A. General

The Computer Matching and Privacy Protection Act of 1988 (Pub. L. 100–503), amended the Privacy Act (5 U.S.C. 552a) by establishing conditions under which computer matching involving the Federal government could be performed and adding certain protections for individuals applying for and receiving Federal benefits. Section 7201 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508), further amended the Privacy Act regarding protections for such individuals. The Privacy Act, as amended, regulates the use of computer matching by Federal agencies when records in a system of records are matched with other Federal, State, or local government records. Among other things, it requires Federal agencies involved in computer matching programs to:

(1) Negotiate written agreements with the other agency or agencies participating in the matching programs;

(2) Obtain Data Integrity Board approval of the match agreements;

(3) Furnish detailed reports about matching programs to Congress and OMB;

(4) Notify applicants and beneficiaries that their records are subject to matching; and

(5) Verify match findings before reducing, suspending, terminating, or denying an individual's benefits or payments.

B. SSA Computer Matches Subject to the Privacy Act

We have taken action to ensure that all of SSA's computer matching programs comply with the requirements of the Privacy Act, as amended.

Dated: April 16, 1997.

John J. Callahan,

Acting Commissioner of Social Security.

Notice of Computer Matching Program, Railroad Retirement Board (RRB) With Social Security Administration (SSA)

A. Participating Agencies

SSA and RRB.

B. Purpose of the Matching Program

To identify supplemental security income recipients and applicants who receive annuities payable by the RRB. For such individuals, the income received due to benefits payable by the RRB may affect eligibility for or the amount of SSI benefits.

C. Authority for Conducting the Matching Program

Sections 1631(e)(1)(B) and 1631(f) of the Social Security Act (42 U.S.C. 1383(e)(1)(B) and 1383(f)).

D. Categories of Records and Individuals Covered by the Match

The RRB will provide SSA with an electronic data file containing annuity payment information from its system of records entitled Checkwriting Integrated Computer Operation Benefits Payment Master. SSA will then match the RRB data with information maintained in its Supplemental Security Income Record.

E. Inclusive Dates of the Match

The matching program shall become effective no sooner than 40 days after notice of the matching program is sent to Congress and the Office of Management and Budget (OMB), or 30 days after publication of this notice in the **Federal Register**, whichever date is later. The matching program will continue for 18 months from the effective date and may be extended for an additional 12 months thereafter, if certain conditions are met.

[FR Doc. 97–10474 Filed 4–22–97; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF STATE

[Public Notice 2532]

Bureau of Political-Military Affairs; Determination Under the Arms Export Control Act

Pursuant to Section 654(c) of the Foreign Assistance Act of 1961, as amended, notice is hereby given that the Under Secretary of State for Arms Control and International Security Affairs has made a determination pursuant to Section 81 of the Arms Export Control Act and has concluded that publication of the determination would be harmful to the national security of the United States.

Dated: April 10, 1997.

Thomas E. McNamara,

Assistant Secretary of State for Political-Military Affairs.

[FR Doc. 97–10454 Filed 4–22–97; 8:45 am]

BILLING CODE 4710–25–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Clark County, NV

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this Notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Clark County, Nevada.

FOR FURTHER INFORMATION CONTACT: *Daryl James, P.E.,* Supervisor, Environmental Services Division, Nevada Department of Transportation, 1263 South Stewart Street, Carson City, NV 89712, Telephone: 702–888–7686; *John T. Price,* Division Administrator, Federal Highway Administration, Nevada Division, 705 North Plaza St., Suite 220, Carson City, NV 89701, Telephone: 702–687–1205.

SUPPLEMENTARY INFORMATION: The Federal Highway Administration (FHWA), the Nevada Department of Transportation (NDOT), in cooperation with the City of Las Vegas, the City of North Las Vegas, Regional Transportation Commission, and Clark County, is considering improvements to the transportation system serving the Northwest Region of Las Vegas. These improvements include: widening US 95, a freeway management system for US 95, high occupancy vehicle lanes on US 95 and Summerlin Parkway, new arterial street connections, arterial street improvements, enhanced bus service, and transportation demand management measures. The proposed improvements have been adopted as the ''locally preferred alternative'' as a result of a Major Investment Study for the Northwest Region.

Rapid growth has occurred in the Las Vegas Valley over the past several years. The growth has added to the existing heavy demand on the regional transportation system. Substantial growth is expected to continue, with a major portion of the new development occurring in the western and northern portions of the area. The proposed improvements are considered necessary to provide for existing and projected travel demand in the Northwest Region of Las Vegas and enhance safety and operational efficiency.

Alternatives to be considered will include the ''locally preferred alternative'' as developed through the Major Investment Study process and the no-build option.

Letters describing the proposed action and soliciting comments will be sent to appropriate federal, state, and local agencies, and to private organizations and citizens who have previously expressed or are known to have interest in this proposal. A scoping meeting will be held at the time and place noted below:

Scoping Meeting

Date: Wednesday, May 7, 1997.

Time: 1:30 p.m.

Place: Charleston Heights Art Center, 800 S. Brush Street, Las Vegas, NV.

A public hearing will also be held. Public notice will be given of the time and place of the hearing. The public hearing will be held after the draft EIS is available for review.

To ensure that the full range of issues related to this proposed action is addressed and any significant impacts are identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA or the NDOT at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued: April 16, 1997.

John T. Price,

Division Administrator, Federal Highway Administration, Carson City, Nevada.

[FR Doc. 97–10467 Filed 4–22–97; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Petitions for Waivers of Compliance and Notice of Hearing

In accordance with Title 49 Code of Federal Regulations (CFR) Sections 211.9 and 211.41, notice is hereby given that the Federal Railroad Administration (FRA) has received requests for waivers of compliance with certain requirements of the Federal railroad safety regulations. The individual petitions are described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being sought and the petitioner's arguments in favor of relief.

Union Pacific Railroad, FRA Waiver Petition Nos. WPS–97–1, WPS–97–2

Union Pacific seeks a permanent waiver of compliance from certain provisions of 49 CFR Part 214, Railroad Workplace Safety, Subpart C, Roadway Worker Protection. Union Pacific specifically seeks relief from 49 CFR 214.329, *Train Approach Warning Provided by Watchmen/Lookouts,* which requires that ''Roadway workers in a roadway work group who foul any track outside of working limits shall be given warning of approaching trains by one or more watchmen/lookouts * * *'' Union Pacific wishes to use an automatic train approach warning system (TAWS) and automatic highway-rail grade crossing warning devices in place of watchmen/lookouts for the provision of train approach warning for roadway workers who foul a track outside of working limits at certain equipped locations, and under specific conditions.

FRA published, on December 16, 1996, a Final Rule amending 49 CFR 214 by adding Roadway Worker Protection Standards. The amendment became effective on January 15, 1997. The Rule requires that Class I railroads, including Union Pacific, be in compliance by March 15, 1997. The regulation mandates clearly defined methods of protection against moving trains and railroad equipment for railroad employees who perform certain maintenance and inspection duties on and near railroad tracks.

Union Pacific, a Class I railroad, has requested a waiver to permit the use of two different types of systems to provide train approach warning. The first system for which a waiver is requested is the automatic UP Train Approach Warning System (TAWS). According to UP, the TAWS has been in place at control points on much of UP's heaviest tonnage routes since 1978. It has become part of the UP standard package at all new control points installed on UP. UP states that there have been no recorded instances where TAWS failed to perform its intended function of illuminating a blue rotating light and sounding an audible alarm one minute prior to the approach of a train to alert a roadway worker.

UP avers that the TAWS, properly utilized, is more effective than a watchman/lookout, providing a longer warning time and not being susceptible to distraction or fatigue. Information provided by UP indicates that the TAWS is an integral part of the signal and train control system, incorporating the same level of reliability and principles of fail-safe design.

The second system for which waiver is requested is the automatic highway-rail grade crossing warning device. UP states that these devices have been in use for many years to provide warning to motorists of the approach of trains to highway-rail grade crossings. UP states that these devices are designed to provide at least 20 seconds warning of the approach of a train to the crossing, and that they meet the requirements for sufficient warning time for roadway workers to move to a place of safety not less than 15 seconds before the arrival of a train. UP has not stated specifically whether all or some, or which, types of automatic highway-rail grade crossing warning devices would be subject to the waiver petition. UP did state that a roadway worker must be able to both see and hear the activation of the device, thus implying that only devices with both audible and visual warning features would be subject to this petition. UP has included with the petition a set of detailed rules and instruction for the operation and use of both types of devices for the purpose of providing warning of approaching trains to roadway workers.

Norfolk Southern Railway Company, FRA Waiver Petition No. WPS–97–3

Norfolk Southern Railway Company (NS), a Class I railroad company, seeks a permanent waiver of compliance from certain provisions of 49 CFR Part 214, Railroad Workplace Safety, Subpart C, Roadway Worker Protection. NS specifically seeks a waiver of 214.337(c)(3), which states:

(c) Individual train detection may be used to establish on-track safety only: * * *

(3) On track outside the limits of a manual interlocking, a controlled point, or a remotely controlled hump yard facility; * * *.

NS requests that FRA grant relief to NS by allowing the NS Roadway Worker Protection Program to permit a lone worker performing inspection and minor correction work to use individual train detection for providing on-track safety only: [a] at those locations within manual interlockings, controlled points and remotely controlled hump yards where suitable visibility, noise, hearing, and adjacent track conditions; and [b] only in connection with inspection and minor correction work activities which do not interfere with the safe passage of trains and engines.

NS avers that the requested waiver will not compromise the safety of roadway workers who utilize its provisions, and that, if the waiver is not granted, that safety will be hindered rather than improved by hindering

incidental inspections which are presently being performed over and above the requirements of the Federal Railroad Administration. NS further avers that, if the requested waiver is not granted, NS will incur substantially increased operating costs without achieving any economic or safety benefits.

NS has included with its petition proposed language for its Roadway Worker Protection Program which would be adopted should FRA grant the petition, and a statement of costs associated with the subject provision of the Rule.

Southeastern Pennsylvania Transportation Authority, FRA Waiver Petition No. WPS–97–4

Southeastern Pennsylvania Transportation Authority (SEPTA), a publicly owner passenger railroad, seeks a temporary waiver of compliance from one provision of 49 CFR Part 214, Railroad Workplace Safety, Subpart C, Roadway Worker Protection. SEPTA specifically seeks relief from 49 CFR 214.305, *Compliance dates*. SEPTA states that allowing only 90 days to come into compliance from the date of the Final Rule's publication does not give ample time to file waiver requests, receive responses from FRA, modify on-track safety program drafts in accordance with FRA's response, modify on-track safety manuals, modify training programs, and train railroad and contractor employees. SEPTA specifically request that the compliance date be extended not to exceed 120 days, after notification of FRA's waiver determination.

SEPTA also seeks a permanent waiver of compliance from the following additional provisions of 49 CFR Part 214, Railroad Workplace Safety, Subpart C, Roadway Worker Protection:

49 CFR 214.337, *On track safety procedures for lone workers,* subsection (c)(3), to permit lone workers to use individual train detection in the limits of interlockings and controlled points;

49 CFR 214.327, *Inaccessible track,* to permit the use of train approach warning on non-controlled tracks in yards; and

49 CFR 214.319, *Working limits,* generally, to permit the use of restricted speed in conjunction with a portable whistle sign as one means of providing protection for roadway workers on both controlled and non-controlled track.

Northern Indiana Commuter Transportation District, FRA Waiver Petition No. WPS–97–5

Northern Indiana Commuter Transportation District (NICD), a publicly owner passenger railroad, seeks a temporary waiver of compliance from one provision of 49 CFR Part 214, Railroad Workplace Safety, Subpart C, Roadway Worker Protection. NICD specifically seeks relief from 49 CFR 214.305, *Compliance dates*, in which NICD seeks an extension of the compliance date from March 15, 1997 to June 15, 1997. NICD states that the additional time is needed to train approximately 200 employees on its roadway worker protection program,

NICD seeks a permanent waiver of compliance with the following provisions of 49 CFR Part 214, Railroad Workplace Safety, Subpart C, Roadway Worker Protection:

49 CFR 214.319, *Working limits,* in which NICD wishes to allow the use of restricted speed as an alternative means of providing on-track safety protection. NICD avers that it has in the past used slow speeds on adjacent tracks to provide additional protection for roadway workers engaged in large scale maintenance or renewal projects on out-of-service tracks.

49 CFR 214.327, *Inaccessible track,* in which NICD wishes to allow the use train approach warning as prescribed in 49 CFR 214.329, in lieu of establishing working limits through the use of inaccessible track in Shops Yard, Michigan City, Indiana.

49 CFR 214.329, *Train approach warning provided by watchmen/ lookouts,* in which NICD wishes to allow watchmen/lookouts to perform functions other than that of watching for the approach of trains, while a roadway work group is utilizing definite train location for on-track safety until ten minutes before the departure of a scheduled train at the nearest station.

49 CFR 214.331, *Definite train location,* in which NICD wishes to continue to use the provisions of this section without a phase-out date as called for in section 214.331 (b).

49 CFR 214.323, *Foul time,* in which NICD wishes to allow the Superintendent of Transportation or his designee to issue foul time, rather than the train dispatcher or control operator.

NICD includes with its petition examples of situations in which each of the requested waivers would be used on its property.

New Jersey Transit Rail Operations, FRA Waiver Petition No. WPS–97–6

New Jersey Transit Rail Operations (NJTRO), a publicly owned passenger railroad, seeks a temporary waiver of compliance from a provision of 49 CFR Part 214, Railroad Workplace Safety, Subpart C, Roadway Worker Protection. NJTRO seeks relief from 49 CFR 214.305, which states:

Each program adopted by a railroad shall comply not later than the date specified in the following schedule: * * *

(a) For each Class I railroad (including National Railroad Passenger Corporation) and each railroad providing commuter service in a metropolitan or suburban area, March 15, 1997.* * *

NJTRO requests that the compliance date be extended to July 15, 1997. NJTRO avers that the requested extension will allow NJTRO to fully train and qualify its employees, and will minimize the financial and operational impact associated with the original compliance date. NJTRO has attached to its petition a copy of its rules for the protection of trains.

Long Island Rail Road, FRA Waiver Petition No. WPS–97–7

The Long Island Rail Road (LIRR), a publicly owned passenger railroad, seeks a temporary waiver of compliance from one provision of 49 CFR Part 214, Railroad Workplace Safety, Subpart C, Roadway Worker Protection. LIRR seeks relief from 49 CFR 214.305, *Compliance dates,* by requesting an extension of the compliance date from March 15, 1997 to June 15, 1997. LIRR states that the additional time is needed to fully integrate professional training for approximately 1,475 employees who will require training in its roadway worker protection program.

LIRR also seeks a permanent waiver of compliance from the following additional provisions of the 49 CFR Part 214, Railroad Workplace Safety, Subpart C, Roadway Worker Protection:

49 CFR 214.337 *On track safety procedures for lone workers,* subsection (c) (3), to permit lone workers to use individual train detection in the limits of its 39 interlockings which incorporate only two tracks.

49 CFR 214.327 *Inaccessible track,* in conjunction with a waiver of 49 CFR 214.337 to permit the use of individual train detection by lone workers in its 28 non-hump yards with a maximum train speed of 15 miles per hour, and in conjunction with a waiver of 49 CFR 214.319, *Working limits, generally,* to permit the use of train approach warning by roadway work groups in the same 28 yards.

49 CFR 214.319 *Working limits, generally,* to permit the use of restricted speed as one means of providing protection for roadway workers on both controlled and non-controlled track, and

49 CFR 214.343, *Training and qualification, general,* and 49 CFR

214.353, Training and qualification of roadway workers who provide on-track safety for roadway work groups to permit the examination and qualification of such employees every three years rather than annually as required in the current Rule.

Alaska Railroad Corporation, FRA Waiver Petition No. WPS–97–8

The Alaska Railroad Corporation (ARRC), a publicly owner passenger railroad, seeks a temporary waiver of compliance from one provision of 49 CFR Part 214, Railroad Workplace Safety, Subpart C, Roadway Worker Protection. ARRC seeks relief from 49 CFR 214.305, *Compliance dates,* by requesting an extension of the compliance date from March 15, 1997 to January 1, 1998. ARRC states that additional time is needed to permit it to replace its present method of train operation by time table and train orders with a positive train separation system. ARRC avers that to implement a roadway worker protection program based on informational lineups at this time, and then to replace that system within the year might serve to confuse its roadway workers. ARRC plans to have the positive train separation system in place by October 15, 1997, and to implement a method of exclusive track occupancy for protection of roadway workers after that date.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number WPS–97–1) and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, FRA, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590. Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9:00 a.m.—5:00 p.m.) at FRA's temporary docket room located at 1120 Vermont Avenue, N.W., Room 7051, Washington, D.C. 20005.

FRA has determined that a public hearing is necessary before making a final decision on these petitions. Accordingly, a public hearing is hereby set for 9:00 a.m. on May 22, 1997, at The Westin, 1400 M Street, N.W., Vista Ballroom A, Washington, D.C. 20005. Interested parties are invited to present oral statements at this hearing.

The hearing will be informal and conducted in accordance with Rule 25 of FRA's *Rules of Practice* (49 CFR 211.25) by a representative designated by FRA. FRA's representative will make an opening statement outlining the scope of the hearing, as well as any additional procedures for the conduct of the hearing. The hearing will be non-adversarial proceeding in which all interested parties will be given the opportunity to express their views regarding this waiver petition, without cross-examination. After all initial statements have been completed, those persons wishing to make a brief rebuttal will be given an opportunity to do so in the same order in which initial statements were made.

Issued in Washington, D.C. on April 15, 1997.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 97–10501 Filed 4–22–97; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB No. MC–F–20906]

Capital Motor Lines, et al.—Pooling—Greyhound Lines, Inc.

AGENCY: Surface Transportation Board.

ACTION: Notice of proposed pooling application.

SUMMARY: Applicants, Capital Motor Lines, d/b/a Capital Trailways, of Montgomery, AL, and Colonial Trailways, of Mobile, AL (collectively, Capital), and Greyhound Lines, Inc. (Greyhound), of Dallas, TX, jointly seek approval under 49 U.S.C. 14302 of an operations and revenue pooling agreement to govern their motor passenger and express transportation services between Mobile and Birmingham, AL, and between Mobile and New Orleans, LA.

DATES: Comments on the proposed agreement are due by May 23, 1997, and, if comments are filed, applicants' rebuttal is by June 12, 1997.

ADDRESSES: Send an original and 10 copies of comments referring to STB No. MC–F–20906 to: Surface Transportation Board, Office of the Secretary, Case Control Unit, Room 713, 1925 K Street, N.W., Washington, DC 20423–0001. Also, send one copy of comments to applicants' representatives: Dennis N. Barnes, 1800 M Street, N.W. (#600N), Washington, DC 20036–5869; and Fritz R. Kahn, Suite 750 West, 1100 New York Avenue, N.W., Washington, DC 20005–3934.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 565–1600. [TDD for the hearing impaired: (202) 565–1695.]

SUPPLEMENTARY INFORMATION: Under the proposed pooling arrangement, applicants seek approval to pool portions of their services over routes which they both operate and to share the revenues derived from their operations over these routes.

Applicants are competitors on certain intercity routes between Mobile and Birmingham and between Mobile and New Orleans. Because their competing services operate at nearly the same times of day with buses that are only partially loaded, applicants assert that their operations are inefficient, costly, and, as a consequence, that they are unable to compete effectively with Amtrak, airlines, and private automobiles.

Applicants assert that there is substantial intermodal competition between points on the affected routes to protect the public and that the proposed revenue pooling agreement does not threaten to produce an unreasonable restraint on competition. They state that Amtrak operates daily passenger train service between Mobile and Montgomery, Mobile and Birmingham, Montgomery and Birmingham, and Mobile and New Orleans. Additionally, they indicate that the affected points receive daily connecting air flights from Delta Air Lines, Northwest Air Lines, and US Airways. Numerous interstate highways connect these points, as well, making private automobile travel relatively quick and inexpensive.

The proposed pooling of services, according to applicants, will enable them to increase their passenger load per bus. This, in turn, will reduce their unit costs and make their services more competitive. Additionally, they emphasize that the proposed pooling arrangement will permit them to schedule service more evenly throughout the day, affording the traveling public a greater choice of departure times and enhancing the convenience of bus travel.

Applicants state that they are not domiciled in Mexico and are not owned or controlled by persons of that country. In addition, they assert that approval of the pooling agreement will not significantly affect either the quality of the human environment or the conservation of energy resources. In fact, they claim that it will result in the conservation of fuel and, hence, the reduction of emissions.

Copies of the application may be obtained free of charge by contacting applicants' representatives. In the alternative, the pooling application may be inspected at the offices of the Surface Transportation Board, Room 755, during normal business hours. A copy of this notice will be served on the Department of Justice, Antitrust Division, 10th Street & Pennsylvania Avenue, N.W., Washington, D.C. 20530.

Decided: April 15, 1997.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 97–10525 Filed 4–22–97; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33116]

Wisconsin Central Ltd.—Acquisition Exemption—Lines of Union Pacific Railroad Company

AGENCY: Surface Transportation Board.

ACTION: Notice of exemption.

SUMMARY: The Board, under 49 U.S.C. 10502, exempts from the prior approval requirements of 49 U.S.C. 10902 the acquisition by Wisconsin Central Ltd. (WCL), a Class II railroad, of two rail lines: (1) The ''Hayward Line'' between Hayward and Hayward Junction, WI, and (2) the ''Wausau Pocket'' between Kelly and Wausau-Schofield, WI, totaling 17.8 miles in central Wisconsin, from Union Pacific Railroad Company. The Board also finds that the employee protective arrangement proposed by WCL, as modified by the Board, meets the requirements of 49 USC 10902(d).

DATES: The exemption will be effective May 23, 1997. Petitions to stay must be filed by May 5, 1997. Petitions to reopen must be filed by May 13, 1997.

ADDRESSES: Send pleadings, referring to STB Finance Docket No. 33116 to: (1) Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001; and (2) petitioner's representative: Janet H. Gilbert, General Counsel, Wisconsin Central Ltd., P.O. Box 5062, Rosemont, IL 60017–5062.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 565–1600. [TDD for the hearing impaired: (202) 565–1695.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: DC News & Data, Inc., 1925 K Street, N.W., Suite 210, Washington, D.C. 20006. Telephone (202) 289–4357. [Assistance for the hearing impaired is available through TDD services (202) 565–1695.]

Decided: April 16, 1997.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 97–10526 Filed 4–22–97; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Bureau of Transportation Statistics

Agency Information Collection; Activity Under OMB Review; Part 249 Preservation of Air Carrier Records

AGENCY: Bureau of Transportation Statistics (BTS), DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, Pub. L. 104–13, the Bureau of Transportation Statistics (BTS) invites the general public, industry and other Federal Agencies to comment on the continuing need and usefulness of DOT requiring certificated air carriers to preserve accounting records, consumer complaint letters, reservation reports and records, system reports of aircraft movements, etc.

DATES: Written comments should be submitted by June 23, 1997.

ADDRESSES: Comments should be directed to: Office of Airline Information, K–25, Room 4125, Bureau of Transportation Statistics, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590–0001.

COMMENTS: Comments should identify the OMB # 2138–0006 and submit a duplicate copy to the address listed above. Commenters wishing the Department to acknowledge receipt of their comments must submit with those comments a self-addressed stamped postcard on which the following statement is made: Comments on OMB # 2138–0006. The postcard will be date/time stamped and returned to the commenter.

FOR FURTHER INFORMATION CONTACT: Bernie Stankus, Office of Airline Information, K–25, Bureau of Transportation Statistics, 400 Seventh Street, SW., Washington, DC 20590–0001, (202) 366–4387.

SUPPLEMENTARY INFORMATION:

OMB Approval No. 2138–0006.

Title: Preservation of Air Carrier Records Part 249.

Form No.: None.

Type of Review: Extension of a currently approved recordkeeping requirement.

Respondents: Certificated air carriers and public charter operators.

Number of Respondents: 130 certificated air carriers; 350 public charter operators.

Total Annual Burden: 688 hours.

Needs and Uses: Part 249 requires the retention of such records as general and subsidiary ledgers, journals and journal vouchers, voucher distribution registers, accounts receivable and payable journals and ledgers, subsidy records documenting underlying financial and statistical reports to the Department, funds reports, consumer records, sales reports, auditors' and flight coupons, air waybills, etc. Depending on the nature of the document, it may be retained for a period of 30 days to 3 years. Public charter operators and overseas military personnel charter operators must retain documents which evidence or reflect deposits made by each charter participant and commissions received by, paid to, or deducted by travel agents, and all statements, invoices, bills and receipts from suppliers or furnishers of goods and services in connection with the tour or charter. These records are retained for 6 months after completion of the charter program.

Not only is it imperative that carriers and charter operators retain source documentation, but it is critical that we ensure that DOT has access to these records. Given DOT's established information needs for such reports, the underlying support documentation must be retained for a reasonable period of time. Absent the retention requirements, the documentary support for such reports may or may not exist for audit/validation purposes and the relevance and usefulness of carrier submissions would be impaired, since the data could not be verified to the source on a test basis.

Timothy E. Carmody,

Director, Office of Airline Information, Bureau of Transportation Statistics.

[FR Doc. 97–10482 Filed 4–22–97; 8:45 am]

BILLING CODE 4910–FE–P

DEPARTMENT OF TRANSPORTATION

Bureau of Transportation Statistics

Agency Information Collection; Activity Under OMB Review; Report of Extension of Credit to Political Candidates—Form 183

AGENCY: Bureau of Transportation Statistics (BTS), DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, Public Law 104–13, the Bureau of Transportation Statistics (BTS) invites the general public, industry and other Federal Agencies to comment on the continuing need and usefulness of BTS collecting reports from air carriers on the aggregated indebtedness balance of a political candidate or party for Federal office. The reports are required when the aggregated indebtedness is over $5,000 on the last day of a month.

DATES: Written comments should be submitted by June 23, 1997.

ADDRESSES: Comments should be directed to: Office of Airline Information, K–25, Room 4125, Bureau of Transportation Statistics, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590–0001.

COMMENTS: Comments should identify the OMB # 2138–0016 and submit a duplicate copy to the address listed above. Commenters wishing the Department to acknowledge receipt of their comments must submit with those comments a self-addressed stamped postcard on which the following statement is made: Comments on OMB # 2138–0016. The postcard will be date/time stamped and returned to the commenter.

FOR FURTHER INFORMATION CONTACT: Bernie Stankus, Office of Airline Information, K–25, Bureau of Transportation Statistics, 400 Seventh Street, S.W., Washington, DC 20590–0001, (202) 366–4387.

SUPPLEMENTARY INFORMATION:

OMB Approval No. 2138–0016.

Title: Report of Extension of Credit to Political Candidates—Form 183.

Form No.: 183.

Type of Review: Extension of a currently approved collection.

Respondents: Certificated air carriers.

Number of Respondents: 3.

Number of Responses: 20.

Estimated Time Per Response: 1 hour.

Total Annual Burden: 20 hours.

Needs and Uses: The Department uses this form as the means to fulfill its obligations under the Federal Election Campaign Act to collect data on the extension of unsecured credit to candidates for Federal office. Certificated air carriers submit this data.

Timothy E. Carmody,

Director, Office of Airline Information, Bureau of Transportation Statistics.

[FR Doc. 97–10500 Filed 4–22–97; 8:45 am]

BILLING CODE 4910–FE–P

DEPARTMENT OF THE TREASURY

Customs Service

Proposed Collection; Comment Request; Application for Allowance in Duties

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the Application for Allowance in Duties. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before June 23,1997, to be assured of consideration.

ADDRESS: Direct all written comments to U.S. Customs Service, Information Services Group, Room 6216, 1301 Constitution Ave., NW, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to U.S. Customs Service, Attn.: J. Edgar Nichols, Room 6216, 1301 Constitution Avenue NW, Washington, DC 20229, Tel. (202) 927–1426.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the Customs request for the Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Application for Allowance in Duties.

OMB Number: 1515–0022.

Form Number: Customs Form 4315.

Abstract: This collection is required by the Customs Service in instances of claims of damaged or defective merchandise on which an allowance in duty is made in the liquidation of the entry. The information is used to substantiate importers claims for such duty allowances..

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date..

Type of Review: Extension (without change).

Affected Public: Businesses, Individuals, Institutions.

Estimated Number of Respondents: 12,000.

Estimated Time Per Respondent: 8 minutes.

Estimated Total Annual Burden Hours: 1,600.

Estimated Total Annualized Cost on the Public: N/A.

Dated: April 16, 1997.

J. Edgar Nichols,

Team Leader, Information Services Group.

[FR Doc. 97–10437 Filed 4–22–97; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

Proposed Collection; Comment Request; Declaration for Free Entry of Unaccompanied Articles

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the Declaration for Free Entry of Unaccompanied Articles. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before June 23, 1997, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs Service, Information Services Group, Room 6216, 1301 Constitution Ave., NW, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to U.S. Customs Service, Attn.: J. Edgar Nichols, Room 6216, 1301 Constitution Avenue NW, Washington, D.C. 20229, Tel. (202) 927–1426.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Declaration for Free Entry of Unaccompanied Articles.

OMB Number: 1515–0053.

Form Number: N/A.

Abstract: The Declaration for Free Entry of Unaccompanied Articles, Customs Form 3299, is prepared by the individual or the broker acting as agent for the individual, or in some cases, the Customs officer. It serves as a declaration for duty-free entry of merchandise under one of the applicable provisions of the tariff schedule.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Businesses, Individuals, Institutions.

Estimated Number of Respondents: 10,000.

Estimated Time Per Respondent: 10 minutes.

Estimated Total Annual Burden Hours: 25,000.

Estimated Total Annualized Cost on the Public: N/A.

Dated: April 16, 1997.

J. Edgar Nichols,

Team Leader, Information Services Group.

[FR Doc. 97–10436 Filed 4–22–97; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

Proposed Collection; Comment Request; Serially Numbered Substantial Holders or Containers

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the Serially Numbered Substantial Holders or Containers. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before June 23, 1997, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs Service, Information Services Group, Room 6216, 1301 Constitution Ave., NW, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to U.S. Customs Service, Attn.: J. Edgar Nichols, Room 6216, 1301 Constitution Avenue NW, Washington, D.C. 20229, Tel. (202) 927–1426.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Serially Numbered Substantial Holders or Containers.

OMB Number: 1515–0101.

Form Number: N/A.

Abstract: The marking is used to provide for duty free entry of holders or containers which were manufactured in the United States and exported and returned without having been advanced in value or improved in condition by any process or manufacture. The regulations provide for duty free entry of holders or containers of foreign manufacture if duty has been paid before.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Businesses, Institutions.

Estimated Number of Respondents: 20.

Estimated Time Per Respondent: 4.5 hours.

Estimated Total Annual Burden Hours: 90.

Estimated Total Annualized Cost on the Public: N/A.

Dated: April 16, 1997.

J. Edgar Nichols,

Team Leader, Information Services Group.

[FR Doc. 97–10439 Filed 4–22–97; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

Proposed Collection; Comment Request; Drawback Entry Covering Rejected and Same Condition Merchandise

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the Drawback Entry Covering Rejected and Same Condition Merchandise. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before June 23, 1997, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs Service, Information Services Group, Room 6216, 1301 Constitution Ave., NW, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to U.S. Customs Service, Attn.: J. Edgar Nichols, Room 6216, 1301 Constitution Avenue NW, Washington, D.C. 20229, Tel. (202) 927–1426.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Drawback Entry Covering Rejected and Same Condition Merchandise.

OMB Number: 1515–0020.

Form Number: Customs Form 7539.

Abstract: This collection is used by an importer, filer, or any party at interest to establish the eligibility of Rejected and Same Condition Merchandise, substitution of Same Condition Merchandise or Destroyed Merchandise for return of duties paid. This collection is used by the claimant to provide the necessary information for Customs to approve the drawback claim.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Businesses, Individuals, Institutions.

Estimated Number of Respondents: 2,100.

Estimated Time Per Respondent: 2 hours.

Estimated Total Annual Burden Hours: 22,000.

Estimated Total Annualized Cost on the Public: N/A.

Dated: April 16, 1997.

J. Edgar Nichols,

Team Leader, Information Services Group.

[FR Doc. 97–10440 Filed 4–22–97; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Delegation Order 232 (Rev. 3)]

Issuance of Taxpayer Assistance Orders (TAOs)

Effective: April 16, 1997.

Authority: To issue Taxpayer Assistance Orders (TAOs), other than TAOs involving a principal residence, under IRC § 7811, as amended by § 102 of Pub. L. 104–168 (Taxpayer Bill of Rights 2).

Delegated to: Assistant Commissioner (International); Regional Commissioners; District Directors and Assistant Directors; Service Center Directors and Assistant Directors; Regional, Service Center, District, and International Taxpayer Advocates.

Redelegation: This authority may be redelegated to an Associate Taxpayer Advocate.

Authority: To issue Taxpayer Assistance Orders (TAOs), under IRC § 7811, to release a principal residence of a taxpayer levied upon or to cease any action regarding a principal residence.

Delegated to: Regional Commissioners, Assistant Commissioner (International), and the Regional and International Taxpayer Advocates.

Redelegation: This authority may not be redelegated.

The authority to modify or rescind a TAO is limited by IRC § 7811(c), as amended by § 102(b) of Pub. L. 104–168, to only the Commissioner, Deputy Commissioner, and Taxpayer Advocate.

Source of Authority: Treasury Order 150–10.

This order supersedes Del. Order 232 (Rev. 2).

Dated: April 16, 1997.

Lee R. Monks,

Taxpayer Advocate.

[FR Doc. 97–10413 Filed 4–22–97; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Minority Veterans, Notice of Meeting

The Department of Veterans Affairs (VA), in accordance with Public Law 103–446, gives notice that a series of meetings of the Advisory Committee on Minority Veterans will be held Monday, May 19, 1997, through Wednesday May 21, 1997, at various sites in Washington State. The purpose of the Advisory Committee on Minority Veterans is to advise the Secretary of Veterans Affairs on the administration of VA benefits and services for minority veterans and to assess the needs of minority veterans and evaluate whether VA compensation, medical and rehabilitation services, outreach, and other programs are meeting those needs. The Committee will make recommendations to the Secretary regarding such activities.

The meeting will be held over the three day period at the following locations: Monday, May 18, 1997, from 8:30 to 4:30 in Seattle, WA at the Henry Jackson Federal Building, room 3086A. Testimony will be received from VA Medical and Benefits Officials as well as from State Veterans Affairs Officials and invited veterans minority group representatives. The theme of this hearing will be ''Access to and the Delivery of VA Benefits and Services to Minority Veterans.'' On Tuesday, May 20, 1997, the Committee will divide into three subcommittees to hold meetings in Tacoma, WA, at the AMVETS Hall, from

9:30 a.m. to 3:30 p.m.; Veterans Hall, Seattle Center, from 9:30 a.m. to 4:00 p.m.; and Portland, OR, site to be determined. The Advisory Committee will conduct town hall meetings at the three sites on Tuesday to collect information from minority veteran group representatives and individual minority veterans. All sessions will be open to the public, up to the seating capacity of the meeting room. On Wednesday, May 21, the Committee will reconvene as a whole at the VA Puget Sound Health Care System, Seattle Division, room 104, to discuss findings from the three Subcommittee town hall meetings. The Committee will meet with the Northwest Interagency Policy Council for American Indian Veterans and the African American PTSD Group. Preliminary drafting of the annual report will begin during this meeting. It will be necessary for those wishing to attend to contact either of the following: Mr. Anthony Hawkins, Department of Veterans Affairs (phone (202) 273–6708); Mr. Jim Bouley, VA Regional Office Seattle, (phone (206) 220–6125); Ms. Frankie Manning, VA Puget Sound (phone (206) 764–2626); or Ms. Deborah Williams, VA Medical Center Portland (phone (503) 402–2903) prior to May 15, 1997. The Committee will accept appropriate written comments from interested parties on issues affecting minority veterans. Such comments should be referred to the Committee at anytime at the following address: Advisory Committee on Minority Veterans, Center for Minority Veterans (00M), U.S. Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420.

Dated: April 11, 1997.

By Direction of the Secretary:

Heyward Bannister,

Committee Management Officer.

[FR Doc. 97–10441 Filed 4–22–97; 8:45 am]

BILLING CODE 8320–01–M

DEPARTMENT OF VETERANS AFFAIRS

Persian Gulf Expert Scientific Committee, Notice of Meeting

The Department of Veterans Affairs (VA), in accordance with P.L. 92–463, gives notice that a meeting of the VA Persian Gulf Expert Scientific Committee will be held on:

Monday, June 16, 1997, at 8:30 a.m.–5:00 p.m.

Tuesday, June 17, 1997, at 8:30 a.m.–1:30 p.m.

The location of the meeting will be 810 Vermont Avenue, N.W., Washington, D.C., Room 230.

The Committee's objectives are to advise the Under Secretary for Health about medical findings affecting Persian Gulf era veterans.

At this meeting the Committee will review all aspects of patient care and medical diagnoses and will provide professional consultation as needed. The Committee may advise on other areas involving research and development, veterans benefits and/or training aspects for patients and staff.

All portions of the meeting will be open to the public except from 4:00 p.m. until 5:00 p.m. on June 16 and from 12:30 p.m. to 1:30 p.m. on June 17, 1997. During these executive sessions, discussions and recommendations will deal with medical records of specific patients and individually identifiable patient medical histories. The disclosure of this information would constitute a clearly unwarranted invasion of personal privacy. Closure of this portion of the meeting is in accordance with subsection 10(d) of P.L. 92–463, as amended by P.L. 94–409, and as cited in 5 U.S.C. 552b(c)(6).

The agenda for June 16 will begin with a panel discussion on Infectious Diseases and Persian Gulf Illnesses, followed by an update on the Spouses and Children of Persian Gulf Vets Examination Program. The first day's agenda will also cover a follow-up on VA Epidemiological Programs and another panel discussion on the Approaches to Unexplained Illnesses.

On June 17 the Committee will hear updates on the DoD Persian Gulf Veterans' Illnesses Investigative Team and on the VA Environmental Hazards Research Centers as well as the Committee's statements on Health Effects of Low-Level Chemical Warfare Nerve Agent Exposure.

Additional information concerning these meetings may be obtained from the Executive Secretary, Office of Public Health & Environmental Hazards, 810 Vermont Avenue, N.W., Washington, D.C. 20420.

Dated: April 3, 1997.

By Direction of the Secretary.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 97–10442 Filed 4–22–97; 8:45 am]

BILLING CODE 8320–01–M

Federal Register

Wednesday
April 23, 1997

Part II

Department of Housing and Urban Development

Youthbuild Program (Fiscal Year 1997); Funding Availability; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4197–N–01]

Notice of Funding Availability for the Youthbuild Program for Fiscal Year 1997

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice of Funding Availability for the Fiscal Year 1997.

SUMMARY: *Purpose.* This Notice of Funding Availability (NOFA) announces the availability of Fiscal Year (FY) 1997 program funds for grant assistance under the Youthbuild Program established by the Housing and Community Development Act of 1992. These funds will be awarded competitively. Only implementation grants will be funded. The body of this NOFA contains information on the following: the purpose of the NOFA, information regarding eligibility, available funding, the application process and selection criteria. Persons not employed by the Department may be used in reviewing and rating applications.

Available Funds. Up to $30 million.

Eligible Applicants. Eligible applicants are public or private non-profit agencies, state or local housing agencies or authorities, state or local units of general local government, Indian tribes or any entity eligible to provide education and employment training under other Federal employment training programs, as further defined in 24 CFR 585.4.

DATES: *Application Submission.* An original and two copies of the completed application for grant funds must be received in HUD Headquarters prior to 5:00 pm EST on June 23, 1997. Applications will be accepted at the following address: Processing and Control Unit, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh St., SW., Room 7255, Washington, DC 20410. Attn: Youthbuild. In addition, one copy of the completed application should be forwarded to the local HUD CPD field office. Please refer to the attached list for the address of the field office serving your jurisdiction.

Applications which are mailed prior to the deadline date but not received until after the deadline will be deemed to have been received by the date if postmarked no later than (three days prior) by the U.S. Postal Service. Express delivery items received after the deadline date will be deemed to have been received on time upon submission of documentary evidence that they were placed in transit with the express delivery service no later than the previous date. Applications may not be submitted by facsimile (FAX).

For a copy of the application package, contact: Community Connections at 1–800–998–9999, or through the Internet at gopher://comcon.org:75/11. Requests for application packages must refer to the Youthbuild program. The application package contains the required forms and instructions for completing a grant request. Requests for application packages for the current competition should be made immediately. Community Connections will distribute application packages as soon as they become available. Grant requests not made on 1997 application package forms will not be accepted.

FOR FURTHER INFORMATION CONTACT: Community Connections at 1–800–998–9999. Hearing- and speech-impaired persons should call the Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Information Collection Requirements

The information collection requirements contained in this NOFA have been approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), and assigned OMB control number 2506–0142. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

Promoting Comprehensive Approaches to Housing and Community Development

HUD is interested in promoting comprehensive, coordinated approaches to housing and community development. Economic development, community development, public housing revitalization, homeownership, assisted housing for special needs populations, supportive services, and welfare-to-work initiatives can work better if linked at the local level. Toward this end, HUD in recent years has developed the Consolidated Planning process designed to help communities undertake such approaches.

In this spirit, it may be helpful for applicants under this NOFA to be aware of other related HUD NOFAs that have recently been published or are expected to be published in the near future. By reviewing these NOFAs with respect to their program purposes and the eligibility of applicants and activities, applicants may be able to relate the activities proposed for funding under this NOFA to the recent and upcoming NOFAs and to the community's Consolidated Plan.

With respect to community and economic development, the following related NOFAs have been published: (1) The NOFA for the HUD-Administered Small Cities Community Development Block Grant Program—Development Grants for Fiscal Year 1997 and the Section 108 Loan Guarantee Program for Small Communities in New York State (December 3, 1996, at 61 FR 64196); and (2) the NOFA for the Community Outreach Partnership Centers (March 20, 1997, at 62 FR 13506). The following related NOFAs are expected to be published in the next few weeks: (1) The NOFA for the Tenant Opportunity Program—Economic Development and Supportive Services, and (2) the NOFA for Historically Black Colleges. To foster comprehensive, coordinated approaches by communities, HUD intends for the remainder of FY 1997 to continue to alert applicants to upcoming and recent NOFAs as each NOFA is published. In addition, a complete schedule of NOFAs to be published during the fiscal year and those already published appears under the HUD Homepage on the Internet, which can be accessed at http://www.hud.gov/nofas.html. Additional steps on NOFA coordination may be considered for FY 1998.

For help in obtaining a copy of your community's Consolidated Plan, please contact the community development office of your municipal government.

I. Program Purpose

The purposes of the Youthbuild program are (1) To provide economically-disadvantaged young adults with opportunities to obtain education, employment skills and meaningful on-site construction work experience as a service to their communities and a means to achieve self-sufficiency; (2) to foster the development of leadership skills and commitment to community; and (3) to expand the supply of permanent affordable housing for homeless and low- and very low-income persons by providing implementation grants for carrying out a Youthbuild program.

A. Authority

The Youthbuild program is authorized under subtitle D of title IV of the National Affordable Housing Act (the Act), as added by section 164 of the Housing and Community Development

Act of 1992 (Pub. L. 102–550, 106 STAT. 3723, 42 U.S.C. 12899). Implementing regulations are found in the Final Rule published in the **Federal Register** dated February 21, 1995, and codified in title 24 of the Code of Federal Regulations as part 585.

B. Funding Availability

This Notice announces the availability of up to $30 million in program funds. $1.5 million (five percent of the appropriation) of which is planned for technical assistance consistent with section 458(d) of the Act.

C. Objectives

The Youthbuild program is designed to help disadvantaged young adults who have dropped out of high school to (1) Obtain the education and employment skills necessary to achieve economic self-sufficiency and (2) develop leadership skills and a commitment to community development in low-income communities. Grant funds can be used to fund eligible services and activities as defined by the Act.

Another important objective of the Youthbuild program is to expand the supply of permanent affordable housing for homeless persons and members of low- and very low-income families. Providing disadvantaged young adults with meaningful on-site training experiences in housing construction and rehabilitation enables them to provide a service to their communities by helping to meet the housing needs of homeless and low-income families.

An additional purpose of the program is to give, to the greatest extent feasible, and consistent with existing Federal, State and local laws and regulation, job training, employment, contracting and other economic opportunities to low-income persons and business concerns. To that purpose, section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) is applicable to Youthbuild implementation grant recipients.

II. Overview of Youthbuild Implementation Grants

A. Type of Grants

HUD will award Youthbuild implementation grants only to eligible applicants for the purpose of carrying out Youthbuild programs in accordance with subtitle D of title IV of the Act. Applications will be selected in a competition in accordance with the grant selection process described in section V below.

B. Maximum Awards

Under the competition established by this NOFA, the maximum award for a Youthbuild grant is $700,000. HUD reserves the right to determine the maximum or minimum of any Youthbuild award per application, project, program or budget line item. No amendments will be made to awards under this competition that will increase previously approved grant amounts. In order to ensure reasonable geographic diversity, a jurisdiction may not receive more than $2.1 million.

C. Locational Considerations

Each application for a grant may only propose activities to carry out one Youthbuild program, i.e., to start a new Youthbuild program or to fund new classes of Youthbuild participants for an existing program. The same applicant organization may submit more than one application in the current competition if the proposed program's participant recruitment and housing areas are in different jurisdictions. HUD will not approve multiple applications for grants in the same jurisdiction unless HUD determines that the jurisdiction is sufficiently large to justify approval of more than one application.

D. Eligible Applicants

Eligible applicants are public or private non-profit agencies, State or local housing agencies or authorities, state or local units of general local government, Indian tribes or any entity eligible to provide education and employment training under other Federal employment training programs, as further defined in 24 CFR 585.4.

E. Youthbuild Program Components

Youthbuild programs receiving assistance under this NOFA must contain the three components described in items (1), (2) and (4) below. Other activities described in item (3) are optional.

(1) Educational and job training services.

(2) Leadership training, counseling and other support activities.

(3) Special activities such as entrepreneurial training, drivers' education, internships, programs for those with learning disabilities, and in-house staff training. (Optional)

(4) On-site training through actual housing rehabilitation and/or construction work. Each program must be structured so that 50 percent of each participant's time is spent in on-site training.

Refer to 24 CFR 585.3 for a detailed description of program components.

F. Eligible Participants

Participants in a Youthbuild program must be very low-income high school dropouts between the ages of 16 and 24, inclusive, at the time of enrollment. Up to 25 percent of participants may be above very low-income or high school graduates (or equivalent), but must have educational needs that justify their participation in the program.

G. Activities Used To Conduct a Youthbuild Program May Include

(1) Work and activities associated with the acquisition, rehabilitation or construction of the housing and related facilities to be used in the program;

(2) Relocation payments and other assistance required to comply with 24 CFR 585.308.

(3) Costs of ongoing training and technical assistance needs related to carrying out a Youthbuild program;

(4) Education, job training, counseling, employment and leadership development services and activities;

(5) Wages, benefits and need-based stipends for participants; and

(6) Administrative costs. Youthbuild funds for these costs should not exceed 20 percent of the total amount of Youthbuild assistance.

Refer to 24 CFR 585.305 for further details on eligible activities.

H. Resources From Other Federal, State, Local or Private Entities

Applicants are strongly encouraged to use existing housing and homeless assistance programs administered by HUD or other Federal, State, local or private housing programs as part of their Youthbuild program. Use of other non-Youthbuild funds available for vocational, adult and bilingual education programs or for job training under the JTPA Act and the Family Support Act of 1988 is also encouraged. The selection process described in this NOFA provides for applicants to receive points where grant applications contain firm commitments from Federal, State, local or private sources to provide resources to carry out Youthbuild activities.

I. Environmental Procedures and Standards

Applicants are strongly encouraged to select hazard-free and problem-free properties for their Youthbuild projects. Environmental procedures apply to HUD approval of grants when the applicant proposes to use Youthbuild funds to cover any costs for the lease, acquisition, rehabilitation or new construction of real property proposed for housing project development. Environmental procedures do not apply to HUD approval of applications when applicants propose to use their

Youthbuild funds solely to cover any costs for classroom and/or on-the-job construction training and support services.

For those applicants that propose to use their Youthbuild funds to cover any costs of the lease, acquisition, rehabilitation, or new construction of real property, the applicant shall submit all relevant environmental information in its application to support HUD decision-making in accordance with the environmental procedures and standards set forth in 24 CFR 585.307.

J. Grant Period

Funds awarded should be used within 30 months of the effective date of the grant agreement.

III. Selection Criteria for Youthbuild Applications

Due to an order of the U.S. District Court for the Northern District, Dallas Division, in *Walker* v. *HUD,* with respect to any application by the City of Dallas, Texas, HUD's evaluation of the quality of the application will consider the extent to which the applicant's proposed program for the use of Youthbuild funds will be used to eradicate the vestiges of racial segregation in the Dallas Housing Authority's programs, consistent with the Court's order (see paragraph 8 below).

HUD will review each application and assign points in accordance with the selection criteria described in this section. Each application may receive up to 100 points. In addition, applications may receive up to 5 points for Americorps participation (see paragraph 7 below), and 10 Empowerment Zone/Enterprise Community points (see paragraph 6 below).

(1) *Capability:* the qualification and experience of the applicant and participating parties. (Max. points: 25) The capability of the applicant and participating parties to implement a successful young adult education and training program within a reasonable time period and in a cost-effective manner as demonstrated through past performance. HUD will review and evaluate the information provided documenting Capability. In assigning points for this criterion, evidence in the application that demonstrates the following will be considered:

(a) Experience in implementing a comprehensive, integrated, multi-disciplinary program with the following components:

(i) Young adult education and training programs, including programs for low-income persons from economically-distressed neighborhoods.

(ii) Young adult leadership development training and related activities for young adults.

(iii) Young adult on-site training in housing construction or rehabilitation for the production of sound and affordable housing for the homeless and low-income families.

(b) The extent to which the applicant or participating parties have been successful in past education, training and employment programs and activities, including Federally-funded Youthbuild programs. Previous Youthbuild grant recipients must submit a performance narrative as outlined in the application package.

(c) The extent to which the applicant, including program director or principal person, or participating parties have demonstrated past ability to leverage other resources to cover administrative, educational and training costs and have demonstrated ability to implement creative and innovative cost-saving measures.

(d) The extent of prior program quality and cost-effectiveness.

(2) *Need:* the need for the proposed program, as determined by the degree of distress of the community. (Max. points: 20). In assigning points for this criterion, HUD will consider the relative degree of distress of the jurisdiction(s) from which participants will be recruited and in which the housing will be constructed or rehabilitated. HUD will also assign points by calculating the degree of need of the jurisdiction(s) in which the program will be located using the CDBG formula.

(3) *Program Quality and Feasibility:* comprehensiveness and effectiveness of the proposed Youthbuild program. (Max. points: 35). HUD will consider the overall quality and feasibility of the proposed program as measured by the principles and goals of the proposed program; whether proposed program activities meet the overall objectives of the Youthbuild program; whether the proposed program activities will be accomplished within a reasonable amount of time and in a cost effective manner; whether the proposed program activities are comprehensive and integrated; and the potential for success of the proposed program. Areas to be considered in the evaluation of the overall quality of proposed program area:

(a) Outreach, recruitment and selection activities: a description of the proposed: (i) outreach, recruitment (including specific steps to be taken to attract potential eligible participants who are unlikely to be aware of this program because of race, ethnicity, sex or disability) and selection strategies; (ii) special outreach efforts to recruit eligible young women and young women with dependent children, and persons receiving public assistance; and (iii) recruitment arrangements made with public agencies, courts, homeless shelters, local school systems, community-based organizations, etc.;

(b) Educational and job training services and activities: a description of the educational component of the program, including: (i) the types of instructional services to be provided; (ii) the number and qualification of program instructors and ratio of instructors to participants; (iii) realistic scheduling plan for classroom and on-the-job training: and (iv) reasonable payments of participants' wages, stipends, and incentives.

(c) Leadership development: a description of the leadership development training to be offered to participants including the strategies, activities and plans to build group cohesion and peer support.

(d) Support services: a description and documentation of counseling and referral services to be offered to participants, including the type of counseling, social services and/or need-based stipends to be provided (supported by letters of commitments from providers).

(e) Coordination and cost-efficiency: a description and documentation of how the Youthbuild program will benefit the maximum number of young adults by making use of other public and private resources, programs and services (in addition to those referenced above) which sufficiently reduce the cost burden to the Youthbuild program in the following areas: (i) education, job training, and child care; (ii) on-site housing construction/rehabilitation training; (iii) homeless and housing programs; (iv) apprenticeship programs of local building trade unions; and (v) administrative, overhead and salary costs.

(f) On-site training: a description of (i) the housing construction or rehabilitation activities to be undertaken by participants at the site(s) to be used for the on-site training component of the program, (ii) the qualification and number of on-site supervisors, (iii) the ratio of trainers to students, (iv) the ratio of students per site and (v) the amounts, reasonable wages and/or stipends to be paid to participants during on-site work.

(g) Job placement assistance: a description of the applicant's commitments, strategies and procedures for (i) participant placement in meaningful employment, enrollment in post-secondary education programs, job development, starting business enterprises, or other opportunities leading to economic independence; and

(ii) follow-up assistance and support activities to program graduates.

(h) Program evaluation: a description of a comprehensive evaluation plan that is designed to measure the success of the program.

(4) Program Resources: firm commitment of resources obtained from other Federal, State, local and private sources. (Max. points 10). In assigning points for this criterion, HUD will consider the level of non-housing resources obtained for cash or in-kind contribution to cover the following kinds of areas:

(a) Social services (i.e., counseling and training);

(b) Use of existing vocational, adult, bilingual educational courses;

(c) Donation of labor, resource personnel, supplies, materials, classroom and/or meeting space;

(d) other commitments.

(5) Housing Program Priority Points: 10 priority points will be assigned to all applications that contain evidence that housing resources from other Federal, state, local or private sources that are available to cover the cost, in full, for the following housing activities for the proposed Youthbuild program: acquisition, architectural and engineering fees, construction and rehabilitation. Applications that do not include proper documentation of commitment of non-Youthbuild resources or propose to use Youthbuild grant funds, in whole or in part, for any one of the housing activities listed above will not be entitled to the ten priority points.

Housing resources will not be used in evaluation of the program resources criterion.

Bonus Points

(6) Empowerment Zone/Enterprise Community: Up to 10 points will be assigned based on documentation that the proposed program will support the Strategic Plan for a federally designated urban or rural Empowerment Zone, Enterprise Community or Supplemental Empowerment Zone. Up to five points will be assigned based on documentation that the proposed program will support the Strategic plan for a Champion Community (applied for, but did not receive a designation). Application must receive a combined score of at least 50 points for selection criteria (1), (2), and (3) under Section III in order to be eligible for Empowerment Zone/Enterprise Community or Champion Community points.

(7) Americorps Participation Bonus: Up to 5 points may be assigned to Youthbuild applicants who provide evidence of application and/or selection as an Americorps program sponsor. Application must receive a combined score of at least 50 points for selection criteria (1), (2), and (3) under Section III in order to be eligible for Americorps points.

(8) Court-ordered Consideration: due to an order of the U.S. District Court for the Northern District of Texas, Dallas Division, with respect to any application by the City of Dallas, Texas, for HUD funds, HUD shall consider the extent to which the Youthbuild strategy for the Dallas area will be used to eradicate the vestiges of segregation in the Dallas Housing Authority's low-income housing programs. The City of Dallas should address the effect, if any, that vestiges of racial segregation in Dallas Housing Authority's low-income housing programs have on potential participants in the Youthbuild program and identify proposed actions for remedying those vestiges. HUD may add up to 2 points to the application score based on this consideration.

IV. Application Requirements

Applicants must complete and submit applications for Youthbuild grants in accordance with instructions contained in the FY 1997 Youthbuild application package. The application package will request information in sufficient detail for HUD to determine whether the proposed activities are feasible and meet all the requirements of applicable statutes and regulations. The application package requires a description of the applicant's and participating parties' experiences in young adult and housing programs, a description of the proposed Youthbuild program, a description and documentation of other public and private resources to be used for the program, including other housing resources, a schedule for the program, budgets, identification of housing sites(s) and demonstration of site access. The application package also contains necessary certifications to Federal requirements. Applicants must also certify that the proposed activities are consistent with the HUD-approved Consolidated Plan in accordance with 24 CFR part 91. Applicants should refer to the Youthbuild application package for further instructions.

V. Selection Process

In order to afford applicants every opportunity to submit a ratable application, while at the same time ensuring the fairness, integrity and timeliness of the selection process, HUD is adopting the following application submission and selection procedures:

a. Initial screening: During the period immediately following the application deadline, HUD will screen each application to determine eligibility. Applications will be rejected if they (1) Are submitted by ineligible applicants, (2) do not use the FY 1997 application package, (3) propose a program for which significant activities are ineligible, (4) there are any outstanding findings of noncompliance with civil rights statutes, Executive orders or regulation, as a result of formal administrative proceedings or the Secretary has issued a charge against the applicant under the Fair Housing Act, unless the applicant is operating under a conciliation or compliance agreement designed to correct the areas of noncompliance, (5) are submitted by applicants that have major unresolved audit or monitoring findings, or (6) has not submitted information necessary to qualify them for an award, i.e., environmental procedure information.

b. Rating and Ranking: Each eligible application will be rated based upon the criteria described in section III of this NOFA, with a maximum of 115 points assigned. Using the scores assigned, the application will be placed in rank order. Applications will be preliminarily selected for funding in accordance with their rank order.

If two or more applications have the same score and there are insufficient funds to fund all of them, the application(s) with the highest score for the Program Quality and Feasibility criterion shall be elected. In the event of a procedural error that, when corrected, would result in selection of an otherwise eligible applicant during the funding round under this NOFA, HUD may select that application when sufficient funds become available.

c. Clarification of Application Information: In accordance with the provisions of 24 CFR part 4, subpart B, HUD may contact an applicant to seek clarification of an item in the application, or to request additional or missing information, but the clarification or the request for additional or missing information shall not relate to items that would improve the substantive quality of the application pertinent to the funding decision. For the Youthbuild program, these clarification items include, but are not limited to: (1) Missing or unsigned program certifications or SF424; (2) failure to target the outreach and recruitment efforts to be used by the program to disadvantaged young adults between the ages of 16 and 24 years; (3) failure to structure the proposed program so that 50 percent of participant's time is devoted to

educational activities and 50 percent to on-site training; (4) incomplete documentation showing that the applicant has obtained access to the housing site(s); (5) failure to designate the housing to be produced for use by appropriate population; and (6) failure to identify the housing to be used for on-site training.

d. Potential Environmental Disqualification: HUD reserves the right to disqualify an application where one or more environmental thresholds are exceeded if it is determined that the environmental review cannot be conducted and satisfactorily completed by HUD within the HUD review period. (See 24 CFR 585.307.)

e. Reduction in Requested Grant Amount: HUD may approve an application for an amount lower than the amount requested by the applicant. In addition, HUD will adjust line items in the proposed grant budget within the amount requested if it determines that:

(1) The amount requested for one or more eligible activities is not supported in the application or is unreasonably related to the service or activity to be carried out;

(2) An activity proposed for funding does not qualify as an eligible activity and can be separated in the budget;

(3) The amount requested exceeds the total cost limitation established for a grant; or

(4) Insufficient funds remain for the entire request.

f. Notification of Approval or Disapproval: HUD will notify the selected applicants and the applicants that have not been selected. HUD's notification to a selected applicant of the amount of the grant award based on the approved application will constitute a preliminary approval by HUD, subject to HUD and recipient execution of the grant agreement to initiate program activities.

VI. Other Matters

a. *Environmental Impact.* This NOFA provides funding under, and does not alter the environmental provisions of, regulations in 24 CFR part 585, which has been published previously in the **Federal Register**. Accordingly, under 24 CFR 50.19(c)(5), this NOFA is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321). Grantees must comply with the regulations in 24 CFR part 585, including the environmental review procedures in 24 CFR 585.307.

b. *Family Executive Order.* The General Counsel as the Designated Official under Executive Order 12606, *The Family,* has determined that some of the policies contained in this NOFA will have a potential significant impact on the formation, maintenance and general well-being of the family. The expected expansion of the housing supply for homeless and low- and very low-income persons and the provision of opportunities to economically disadvantaged young adults to enhance their education and employment skills will provide a positive impact on the family maintenance and general well-being. However, since the impact on the family is beneficial and the program involves very little HUD discretion, no further review is necessary.

c. *Federalism Executive Order.* The General Counsel, as the Designated Official under section 7(a) of the Executive Order 12612, Federalism, has determined that the policies contained in this NOFA do not have ''Federalism'' implications because they do not have substantial direct effects on the States (including their political subdivisions), or on the distribution of power and responsibilities among the various levels of government.

d. *Section 102 of the HUD Reform Act—Accountability in the Provision of HUD Assistance.* Section 102 of the Department of Housing and Urban Development Reform Act of 1989 (HUD Reform Act) and the final rule codified at 24 CFR part 4, subpart A, published on April 1, 1996 (61 FR 1448), contain a number of provisions that are designed to ensure greater accountability and integrity in the provision of certain types of assistance administered by HUD. On January 14, 1992, HUD published, at 57 FR 1942, a notice that also provides information on the implementation of section 102. The documentation, public access, and disclosure requirements of section 102 are applicable to assistance awarded under this NOFA as follows:

Documentation and public access requirements. HUD will ensure that documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a five-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. In addition, HUD will include the recipients of assistance pursuant to this NOFA in its **Federal Register** notice of all recipients of HUD assistance awarded on a competitive basis.

Disclosures. HUD will make available to the public for five years all applicant disclosure reports (HUD Form 2880) submitted in connection with this NOFA. Update reports (also Form 2880) will be made available along with the applicant disclosure reports, but in no case for a period less than three years. All reports—both applicant disclosures and updates—will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15.

e. *Section 103 of the HUD Reform Act—Prohibition of Advance Disclosures of Funding Decisions.* HUD's regulation implementing section 103 of the HUD Reform Act, codified as 24 CFR part 4, applies to the funding competition announced today. The requirements of the rule continue to apply until the announcement of the selection of successful applicants.

HUD employees involved in the review of applications and in the making of funding decisions are restrained by part 4 from providing advance information to any person (other than persons authorized to receive such information) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted under 24 CFR part 4.

Applicants or employees who have ethics-related questions should contact the HUD Ethics Law Division (202) 708–3815 (voice), (202) 708–1112 (TTY). (These are not toll-free numbers.) For HUD employees who have specific program questions, the employee should contact the appropriate Field Office Counsel or Headquarters Counsel for the program to which the question pertains.

f. *Fair Housing and Equal Opportunity.* Applications must contain a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

g. *Prohibition Against Lobbying Activities.* The use of funds awarded under this NOFA is subject to the disclosure requirements and prohibition of section 319 of the Department of the Interior and Related Agencies Appropriations Act for Fiscal Year 1990 (31 U.S.C. 1352) and the implementing regulation at 24 CFR part 87. These authorities prohibit recipients of Federal contracts, grants, or loans from using appropriated funds for lobbying the

Executive or Legislative Branches of the Federal Government in connection with a specific contract, grant or loan. The prohibition also covers the awarding of contracts, grants, cooperative agreements, or loans unless the recipient has made an acceptable certification regarding lobbying. Under 24 CFR part 87 and 7 CFR part 1944, subpart G, applicants, recipients and subrecipients of assistance exceeding $100,000 must certify that no Federal funds have been or will be spent on lobbying activities in connection with the assistance.

Indian Housing Authorities (IHAs) established by an Indian tribe as a result of the exercise of the tribe's sovereign power are excluded from coverage of the Byrd Amendment, but IHAs established under State law are not excluded from the statute's coverage.

Required Reporting. A certification is required at the time application for funds is made that federally-appropriated funds are not being or have not been used in violation of section 319 and the *disclosure* will be made of payments for lobbying with other than federally-appropriated funds. Also, there is a standard disclosure form, SF–LLL, ''Disclosure Form to Report Lobbying'', which must be used to disclose lobbying with other than federally-appropriated funds at the time of application.

h. *Drug-Free Workplace.* The Drug-Free Workplace Act of 1988 (41 U.S.C. 701) requires grantees of Federal agencies to certify that they will provide drug-free workplaces. Each potential recipient under this NOFA must certify that it will comply with the drug-free workplace requirements of the Drug-Free Workplace Act of 1988 and HUD's implementing regulation at 24 CFR part 24, subpart F.

i. *Catalog of Federal Domestic Assistance.* The Catalog of Federal Domestic Assistance number is 14.243.

Dated: April 16, 1997.

Jacquie M. Lawing,

Acting Assistant Secretary for Community Planning and Development.

CPD Field Offices

CPD Division Director, Alabama State Office, Suite 300, 600 Beacon Parkway West, Birmingham, AL 35209–3144

CPD Division Director, Alaska State Office, Suite 401, 949 East 36th Avenue, Anchorage, AK 99508–4399

CPD Division Director, Arizona State Office, Two Arizona Center, Suite 1600, 400 North Fifth Street, Phoenix, AZ 85004–2361

CPD Division Director, Buffalo Area Office, Lafayette Court, 465 Main Street, Fifth Floor, Buffalo, NY 14203–1780

CPD Division Director, California State Office, 450 Golden Gate Avenue, San Francisco, CA 94102–3448

CPD Division Director, Caribbean Office, 159 Carlos Chardon Ave., San Juan, PR 00918–1804

CPD Division Director, Colorado State Office, First Interstate Tower North, 633 17th Street, Denver, CO 80202–3607

CPD Division Director, Connecticut State Office, First Floor, 330 Main Street, Hartford, CT 06106–1860

CPD Division Director, District of Columbia Office, Room 300, 820 First Street, NE., Washington, DC 20002–4205

CPD Division Director, Florida State Office, Suite 500, 1320 South Dixie Hwy., Coral Gables, FL 33164–2911

CPD Division Director, Georgia State Office, Russell Federal Building, 75 Spring Street, SW., Atlanta, GA 30303–3388

CPD Division Director, Hawaii State Office, 7 Waterfront Plaza, 500 Ala Moana Blvd., Honolulu, HI 96813–4918

CPD Division Director, Illinois State Office, 77 West Jackson Blvd., Chicago, IL 60604–3507

CPD Division Director, Indiana State Office, 151 North Delaware Street, Indianapolis, IN 46204–2526

CPD Division Director, Jacksonville Area Office, Southern Bell Tower, 301 West Bay Street, Jacksonville, FL 32202–5121

CPD Division Director, Kansas/Missouri State Office, Gateway Tower II, 400 State Avenue, Room 200, Kansas City, KS 66101–2406

CPD Division Director, Kentucky State Office, P.O. Box 1044, 601 W. Broadway, Louisville, KY 40201–1044

CPD Division Director, Knoxville Area Office, 710 Locust Street, Knoxville, TN 37902–2526

CPD Division Director, Los Angeles Area Office, 611 W. Sixth St., STE 800, Los Angeles, CA 90017

CPD Division Director, Louisiana State Office, 9th Floor, Hale Boggs, 501 Magazine Street, New Orleans, LA 70130–3099

CPD Division Director, Maryland State Office, City Crescent Building, 10 South Howard Street, Baltimore, MD 21201–2505

CPD Division Director, Massachusetts State Office, Room 531, 10 Causeway Street, Boston, MA 02222–1092

Manchester Office (CPD Division), Massachusetts State Office, Room 531, 10 Causeway Street, Boston, MA 02222–1092

CPD Division Director, Michigan State Office, Patrick McNamara Building, 477 Michigan Avenue, Detroit, MI 48226–2592

CPD Division Director, Minnesota State Office, 220 Second St. South, Minneapolis, MN 55401–2195

CPD Division Director, Mississippi State Office, Room 910, 100 West Capitol Street, Jackson, MS 39269–1096

CPD Division Director, Nebraska State Office, 10909 Mill Valley Road, Omaha, NE 68154–3955

CPD Division Director, New Hampshire State Office, Norris Cotton Federal Bldg., 275 Chestnut Street, Manchester, NH 03101–2487

CPD Division Director, New Jersey State Office, 13th Floor, One Newark Center, Newark, NJ 07102–5260

CPD Division Director, New Mexico State Office, 625 Truman Street, N.E., Albuquerque, NM 87110–6443

CPD Division Director, New York State Office, 26 Federal Plaza, New York, NY 07102–5260

CPD Division Director, North Carolina Office, Koger Building 2306 West Meadowview Road, Greensboro, NC 27407–3707

CPD Division Director, Ohio State Office, 200 North High Street, Columbus, OH 43215–2499

CPD Division Director, Oklahoma State Office, Suite 400, 500 Main Place, Oklahoma City, OK 73102

CPD Division Director, Oregon State Office, Suite 700, 400 Southwest Sixth Avenue, Portland, OR 97204–1632

CPD Division Director, Pennsylvania State Office, The Wannamaker Building, 100 Penn Square East, Philadelphia, PA 19107–3390

CPD Division Director, Pittsburgh Area Office, Sixth Floor 339 Sixth Avenue, Pittsburgh, PA 15222–2515

CPD Division Director, San Antonio Area Office, Washington Square, 800 Dolorosa Street, San Antonio, TX 78207

CPD Division Director, South Carolina State Office, Building 1835, 45 Assembly Street, Columbia, SC 29201–2480

CPD Division Director, St. Louis Area Office, Third Floor 1222 Spruce Street, St. Louis, MO 63103–2836

CPD Division Director, Texas State Office, 1600 Throckmorton, Fort Worth, TX 76113–2905

CPD Division Director, Virginia State Office, 3600 West Broad Street, Richmond, VA 23230–0331

CPD Division Director, Washington State Office, Suite 200, 909 1St Avenue, Seattle, WA 98104–1000

CPD Division Director, Wisconsin State Office, Suite 1380, 310 West Wisconsin Avenue, Milwaukee, WI 53203–2289

CPD Division Director, Arkansas State Office, TCBY Tower, 425 West Capitol Ave., Ste 900, Little Rock, AR 72201–3488

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Federal Register

Wednesday
April 23, 1997

Part III

Department of Agriculture

Cooperative State Research, Education, and Extension Service

Intent to Extend a Currently Approved Information Collection; Notice

DEPARTMENT OF AGRICULTURE

Cooperative State Research, Education, and Extension Service

Notice of Intent to Extend a Currently Approved Information Collection

AGENCY: Cooperative State Research, Education, and Extension Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Cooperative State Research, Education, and Extension Service's (CSREES) intention to request an extension for three years for a currently approved information collection in support of the CSREES Buildings and Facilities Grants Program.

DATES: Comments on this notice must be received by June 27, 1997, to be assured of consideration.

ADDITIONAL INFORMATION OR COMMENTS: Contact Sally J. Rockey, Deputy Administrator, Competitive Research Grants and Awards Management, CSREES, USDA, STOP 2240, 1400 Independence Avenue, S.W., Washington, D.C. 20250–2240, (202) 401–1766. E-mail: OEP@reeusda.gov.

SUPPLEMENTARY INFORMATION:

Title: CSREES/Buildings and Facilities Grants Program, Program Guidelines and Forms Package.

OMB Number: 0524–0029.

Expiration Date of Current Approval: August 31, 1997.

Type of Request: Extension of a currently approved information collection.

Abstract: The enabling legislation for the Research Facilities Program is contained in Pub. L. No. 88–74 (7 U.S.C. 390 *et seq.*) and the annual Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act provides funding to the CSREES for the support of construction grant projects. Project recipients (and funding levels for each) are identified in the annual House and Senate Conference Reports. Due to the high cost of constructing facilities, funding for each project normally is provided by Congress on an incremental basis over a period of several years.

Prior to the actual award of funds, targeted recipients are contacted and asked to submit information to CSREES relating to their projects. In the first year, the information collected from each prospective recipient is used by a team of subject-matter experts to conduct an on-site visit to determine the need for the proposed facility; results of the study are reported to Congress. Where funding is provided by Congress in subsequent years, applicants are not required to repeat information provided in a previous year—instead, CSREES requests updated information, focusing on any changes in construction plans, progress made in completing the facility, problems encountered, and current financial data. This information is used to determine grantee compliance with the purposes of the original grant award (or to approve minor changes necessitated by altered circumstances), determine whether the project is on schedule and within budget, and provide a means to justify further financial support. On a one-time basis, each grantee also is required to submit environmental information and a certificate of facility completion, both of which are included in the Program Guidelines or Forms Package.

The fundamental purposes of the forms included in the Forms Package are to facilitate the submission of proposals by applicant institutions; to ensure that information is supplied in an informative manner to enhance understanding by CSREES officials so that proposals can be processed more quickly; and to see that parallel information is received for each project to ensure equitable treatment for all recipients. The information is used by CSREES officials and outside reviewers to evaluate the technical, financial, and administrative merit of proposals and to respond to inquiries from Congress, the Department, and the grantee community. However, the forms are not designed to be statistical surveys or data collection instruments. The completion of the forms by potential recipients is a normal part of applying to CSREES for financial support. Without this information, CSREES would not be able to award these grant projects. This information collection is due to expire on August 31, 1997. CSREES intends to request an extension of three years. Upon approval, the following information will continue to be collected:

Table of Contents: A table of contents is optional; it is requested only for proposals of unusual length or complexity and provided at the discretion of the institution. It is used to facilitate the location of information by merit reviewers and CSREES officials.

Project Summary: This is a short summary of the project that focuses on the broad goals associated with the construction effort. It is required to enable CSREES to provide project-related information to Congress, the Department, and the general public in a timely fashion.

Project Description: Applicants are asked to provide brief information on the scope of the proposed project, factors that led to a need for the construction, ways in which financial assistance from CSREES will enhance programmatic activities to be carried out in the facility, benefits to be gained from commencing the project during the current fiscal year, a general description of the physical site upon which it is planned to erect the facility, a description of any preliminary work that has been performed to date, an outline of plans to obtain any required licenses or permits, a description of the facility as it is envisioned to be completed, capacity of existing utility systems to service the new space, an outline of any problems that could delay the start or completion of the project, procedures to be used in accomplishing project objectives, and a tentative schedule for completing major activities associated with the effort. This information provides merit reviewers and agency officials with an understanding of the applicant's need for undertaking the project and establishes a basis for possible Federal financial support. In addition, it is used to respond to Congressional requests for specific project information and to assist CSREES program officials in familiarizing themselves with the project prior to making pre-and post-award site visits.

Program Description: Information is requested on the programs that are proposed to be housed in the completed space, including new or enhanced programs, and the relevance of these programs to research and allied work in the food and agricultural sciences. This information is required to ensure compliance with Conference Report language, which requires that programs to be carried out in these facilities be complementary to overall Departmental programs. This information also is required to be sure that the proposed programs do not unnecessarily duplicate programs being conducted elsewhere within the institution's State or region.

Management Structure: This calls for description of the organizational management structure that is planned for the completed facility. The purpose of requesting such information is to ensure that viable management, integrated with the rest of the institution, will be in place so that the facility and the programs it is intended to house will function properly after the facility becomes operational. It also demonstrates the level of institutional

thought that has gone into planning the facility, thereby helping to justify Federal financial support to assist in constructing the facility.

Alternative: Applicants are asked to outline alternatives to the proposed facility that were considered by the institution prior to settling upon the one at hand. This information is used by merit reviewers and CSREES officials to determine whether or not the project being considered for funding is the best alternative vis-a-vis other options.

Contingency Plan: This is an outline of the institution's fallback plan to fund the facility from other sources in the event Federal funding is delayed, is reduced significantly, or is not forthcoming. It provides merit reviewers and CSREES officials with important information relating to the priority of the facility on the institution's master plan. (Is the facility of such high priority that the institution is committed to constructing it regardless of funding source, or will it abandon the project unless Federal funds are provided?)

Operating Costs: Applicants are asked to describe their plans for operating and maintaining the facility after construction has been completed, including the source(s) of operating funds. This is required in response to Congressional language requiring that recipients be willing and able to operate and maintain the facility with non-Federal funds after occupancy.

Biographical Information: A brief biographical sketch (or curriculum vitae) is required for key institutional personnel who are expected to be involved in the project. This information is needed to persuade merit reviewers and CSREES officials that institutional personnel assigned to planning and overseeing completion of the facility are qualified to do so. This sketch normally does not have to be written for the proposal being submitted—all project leaders develop and keep curricula vitae on file to be used as the need arises.

Administrative Certifications: Applicants are required by law or regulation to complete administrative certifications to assist in determining their eligibility for Federal funds.

Environmental Assessment: This information is requested, on a one-time basis, of all grantees prior to their being authorized to take irreversible action on a project (e.g., site clearing or groundbreaking). The information is necessary to assist CSREES in complying with the provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and implementing regulations promulgated by the Council on Environmental Quality at 40 CFR Parts 1500–1508, as adopted and supplemented by USDA at 7 CFR 1b and by CSREES at 7 CFR Part 3407. While there is no prescribed format that must be used in submitting this information, CSREES developed a suggested format to assist in focusing grantees' attention on salient issues that need to be addressed.

CSREES–850—*Grant Application—Facilities Project:* This form is the cover sheet of each application and provides base-line information relating to the applicant institution and the construction project for which funding is targeted. This information serves as part of CSREES' statistical data base for the dissemination of information to Congress, the Department, and other interested parties. In addition, the signatures at the bottom of the page provide legal assurance that the proposed project is sanctioned by top-level officials of the institution.

CSREES–851—*Budget—Facilities Project:* This form provides a breakdown of planning and construction funds requested from CSREES, as well as those that are intended to be provided from non-Federal funds. This information permits CSREES officials to review the applicant's proposed financial expenditure plan to evaluate the reasonableness and allowability of costs being proposed.

CSREES–852—*Current and Pending Support—Facilities Project:* This form requests a listing of all recent, current, and/or pending support for the construction or renovation of program facilities from a source external to the applicant institution. This information allows CSREES officials to determine whether or not the construction funding being requested duplicates (or overlaps with) similar construction projects funded by one or more other sponsors.

CSREES–853—*Program Certification—Facilities Project:* This form collects minimal information to ensure applicant compliance with the Food Disaster Protection Act of 1973, Pub. L. No. 93–234 (42 U.S.C. 4001–4128) and implementing regulations established by the Federal Emergency Management Agency (44 CFR Part 75); and the Coastal Barrier Resources Act, Pub. L. No. 97–348 (16 U.S.C. 3501 *et seq.*), as amended. This information is required by Federal Law. However, this form is not required for follow-on applications unless the construction site has changed.

CSREES–854—*Data Sheet—Facilities Project:* This form requests statistical information about the project (its purpose, size, cost, level of matching funds, schedule, and future funding needs). It is used to provide information to Congress and the Department, to facilitate monitoring efforts, and to determine project growth.

CSREES–860—*Certificate of Facility Completion:* This is a two-sided form that is required on a one-time basis but it is not submitted as part of the actual grant application. The first side is a certificate, prepared and signed by the design team, attesting to physical attributes of the facility; and the reverse of the form, completed by the grantee, is a certification of occupancy and list of programs to be housed in the new space. This information is required to provide a record of final inspection and acceptance of the facility by the owner and also to ensure that the programs for which the facility was constructed will actually occupy the facility during the period of Federal financial interest.

Estimate of Burden: Public reporting burden for: an initial grant proposal is estimated to average 22 hours per response; a follow-on application is estimated to average 10 hours per response; an environmental assessment is estimated to average 10 hours per response; and Form CSREES–860, Certification of Facility Completion, is estimated to average 2 hours per response.

Respondents: Organizations identified in the annual House and Senate Conference Reports.

Estimated Number of Responses per Respondent: The FY 1998 estimate on the number of responses per respondent is based on numbers associated with FY 1997 funding. As such, the estimated number of respondents are one initial proposal, 19 follow-on applications, 42 environmental assessments, and 14 for Form CSREES–860.

Estimated Total Annual Burden on Respondents: 300 hours, broken down by: 22 hours for the initial proposal (22 hours per one respondent); 190 hours for follow-on applications (10 hours per 19 respondents); 420 hours for the environmental assessment (10 hours per 42 respondents); and 28 hours for the Form CSREES–860 (two hours per 14 respondents).

Copies of this information collection can be obtained from Melanie Krizmanich, Policy and Program Liaison Staff, CSREES, (202) 401–1762. E-mail: OEP@reeusda.gov.

Comments: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used;

(c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to: Sally J. Rockey, Deputy Administrator, Competitive Research Grants and Awards Management, CSREES, USDA, STOP 2240, 1400 Independence Avenue, S.W., Washington, D.C. 20250–2240, (202) 401–1766. E-mail: OEP@reeusda.gov.

All responses to this notice will be summarized and included in the request for OMB approval. All comments also will become a matter of public record.

Done at Washington, DC, on this 15th day of April 1997.

B.H. Robinson,

Administrator, Cooperative State Research, Education, and Extension Service.

[FR Doc. 97–10448 Filed 4–22–97; 8:45 am]

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Federal Register

Wednesday
April 23, 1997

Part IV

Environmental Protection Agency

Regulatory Reinvention (XL) Pilot Projects; Notice

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5811–7]

Regulatory Reinvention (XL) Pilot Projects

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of modifications to project XL.

SUMMARY: This notice modifies EPA's existing guidance on Project XL and solicits new XL proposals. This notice clarifies EPA's definition of the three key project elements: superior environmental performance, regulatory flexibility and stakeholder involvement. It also describes changes intended to bring greater efficiency to the process of developing XL projects.

EFFECTIVE DATE: April 23, 1997.

ADDRESSES: Proposals submitted to Project XL should be sent to Regulatory Reinvention Pilot Projects, FRL–5197–9, Water Docket, Mail Code 4101, US EPA, 401 M Street, SW., Washington, DC, 20460. The docket does not accept faxes.

FOR FURTHER INFORMATION CONTACT: Christopher Knopes, Office of Policy, Planning and Evaluation, United States Environmental Protection Agency, Mall 3202, Mail Code 2129, 401 M Street, SW., Washington, DC, 20460. The telephone number for the Office is (202) 260–2220. The facsimile number is (202) 401–6637.

SUPPLEMENTARY INFORMATION: On March 16, 1995, President Clinton announced a portfolio of reinvention initiatives to be implemented by the Environmental Protection Agency as a part of its efforts to achieve greater public health and environmental protection at more reasonable cost. One of these reinvention priorities, Project XL, is a national pilot program to test new approaches for meeting environmental goals and responsibilities. Through a series of site-specific agreements with project sponsors, EPA expects to gather data and experiences that will help the Agency make sound decisions as we look for ways to improve the current regulatory system.

XL projects directly benefit the local environment, participating facilities and their communities. But those who do not participate in XL will also benefit from its lessons. EPA, working with state environmental agencies, intends to transfer successful approaches into the current system of environmental protection. Broader implementation of cleaner, cheaper and smarter ideas is the ultimate objective of Project XL.

This objective distinguishes XL from other approaches to regulatory change discussed in environmental policy circles, with names such as ''alternative compliance'' and ''alternative path.'' Like XL, these approaches seek to offer site-specific alternatives to the traditional system of environmental protection. But where XL tests ideas that, if successful, will change our national system of environmental protection, these approaches seek to customize the broader system to meet the needs of a specific location. Supporters of customization want their approach available to a large number of regulated facilities, and focus principally on the project's benefits to the local environment and participating facility itself. In contrast, the number of XL experiments is limited to 50, making it vital that each project creates lessons with broad application and potential benefits to the broader environment.

In a May 23, 1995, **Federal Register** notice (60 FR 27282, May 23, 1995), EPA describes Project XL as a program that offers a balanced set of benefits to the environment, the regulated community and the public. In that notice, the XL program was defined through eight criteria by which proposals are selected for participation. While all of these criteria are still important, the first three actually define Project XL: superior environmental performance, regulatory flexibility (termed Cost Savings and Paperwork Reduction in the original notice), and stakeholder involvement. These criteria are equal in stature and together provide the context for the experimental nature of the program.

Since the inception of Project XL, there have been requests for clarification of EPA's definitions of these three essential program elements. EPA recognizes the critical need to ensure that environmental regulatory agencies, potential project sponsors, and other interested stakeholders have a clear understanding of the concepts, definitions, and boundaries of Project XL. Today's notice clarifies the concepts, definitions, and boundaries of superior environmental performance, regulatory flexibility, and stakeholder involvement, and provides guidance on future program management. With today's notice, the learning opportunity afforded by Project XL will proceed with greater certainty and efficiency.

For projects that have already entered the program—where final project agreements (FPAs) are already being developed or have been approved—the guidance contained in this notice does not impose new requirements or procedures. While the guidance both on Superior Environmental Performance and on Flexibility present more fully developed definitions of these criteria, they build on approaches already being applied to projects in development and will generally be familiar to current XL participants. The Stakeholder guidance does recommend additional steps to ensure that projects garner broad community support. As these steps are based on considerable up-front decision-making within the stakeholder group, EPA does not expect that sponsors will be able to retroactively implement all of these steps into ongoing projects.

EPA seeks comment on all aspects of this notice on an ongoing basis. The guidance as defined in this notice is the result of Agency experience to date and ongoing dialogue with states, industry and various stakeholders. As Project XL is a continuously evolving program, EPA intends to continue dialogue, to receive and to review comments on the various aspects of the program, and to update and to revise this guidance as necessary.

Project XL conducts projects in four areas: facilities, sectors, federal facilities, and communities. Community-based projects differ substantially from the other types of XL projects. EPA recognized and addressed these distinctions by issuing a separate **Federal Register** notice to initiate the XL Communities program (60 FR 55569, November 11, 1995). In keeping with the recognition of communities' need for different approaches, EPA will clarify in the near future the applicability of this guidance to community XL projects.

This notice also includes a general solicitation for new proposals to Project XL. This solicitation lays out some areas that have been identified by the Agency or others in the environmental community as important to pursue in the quest for a more efficient and results-oriented regulatory system. EPA intends to pursue the identification of more specific priority areas for regulatory reinvention and project ideas that should help guide potential project sponsors, and to publish a future notice with the results. Today's notice also solicits new ideas from parties outside of the regulated community. The Agency is working on a process that will facilitate the development of ideas that may originate from these individuals, and will describe that process in a future notice.

EPA encourages facility, sector or federal facility project sponsors to utilize this opportunity to truly reinvent the way they conduct environmental management. While there are many

proposals that may meet the criteria for inclusion in Project XL, EPA looks to develop in Project XL those ideas that introduce fundamentally different ways of providing environmental protection and achieving stronger environmental results. Project XL offers good actors—environmental leaders and today's average performers alike—a tremendous opportunity to think ''outside the box'' of our current system and to find solutions to obstacles that limit environmental performance. EPA looks to leaders in the regulated and environmental communities to identify and develop dramatically different approaches to protecting the environment. For average performers, XL presents an opportunity to move into a position of environmental leadership and to create a path for others to do the same.

This notice includes revisions to the process by which an idea becomes an XL project. New emphasis is placed on pre-proposal planning and communication with stakeholders, EPA's internal management of projects, and close partnership with states. Also outlined are definite points at which information will be made widely available to the public during the project development and negotiation processes.

Evaluation is not covered in this notice, though it is an area that the Agency believes is critical to Project XL's success. Evaluation will occur at many levels—project specific (e.g., Did the project achieve its goals?), functional (e.g., Did the stakeholder process work?), process (e.g., How can we improve the process?), and programmatic (e.g., How do we take the lessons learned from these experiments and transfer the successes to improve our current system?). Each level of evaluation will involve collaborative efforts on the part of the Agency, states, other affected regulatory agencies, project sponsors and stakeholders. In some cases, outside groups may also be interested in evaluating aspects of projects or the program. At a minimum, project agreements will contain clear performance measures to help EPA and interested stakeholders verify progress with project goals, and then use the results to find better solutions to today's environmental management challenges.

Solicitation for New XL Project Proposals

Today EPA is renewing its invitation, first issued in the **Federal Register** on May 23, 1995, (60 FR 27282, May 23, 1995), for regulated facilities, sectors, and regulated federal facilities, and interested stakeholders, to submit XL pilot project proposals. The goal of implementing a total of approximately 50 projects remains. To date, EPA has approved 3 XL projects for implementation, has proposed approval of a fourth, and is developing 10 additional XL projects with state and local governments, project sponsors and stakeholders.

Potential Project Themes

EPA did not originally identify the specific types of proposals it hoped or expected to result from its May 23, 1995, solicitation, preferring instead to encourage others to respond with their own ideas. A September 11, 1996, **Federal Register** notice supplemented the general solicitation with an invitation for projects specifically aimed at creating innovative environmental technologies, and EPA retains a strong interest in proposals in this area. But the open invitation for all proposals still exists, and today's notice does not change EPA's general invitation for all kinds of ideas. Nevertheless, EPA does wish to describe several general themes that have been identified as important to pursue in the context of testing innovations for 21st century environmental protection. Many of these themes are based on the need to incorporate more incentives for pollution prevention in our system of environmental protection:

- Regulatory approaches that encourage source reduction and recycling of hazardous waste or materials produced or used during manufacturing or commercial operations, and the on-site reuse of wastes or by-products in production processes;
- Incentives for greater or continuous collection of emissions data, particularly for hazardous air pollutants, to enable performance-based approaches and to increase public understanding;
- Approaches that minimize the generation of wastes containing persistent, bio-accumulative, and toxic chemicals;
- Facility-wide emissions limits under the Clean Air Act that also incorporate continuous emissions reduction;
- Enhanced systems for data collection on employee health and exposure to environmental pollutants to aid company efforts to minimize work-related health problems;
- Regulatory mechanisms to encourage consideration of the environment throughout the entire life cycle of a product;
- Incorporation of environmental stewardship in the customer and supplier relationships of regulated facilities; and
- A multi-media closed-loop approach to environmental technology development.

EPA and state environmental agencies intend to identify more specific priority areas and additional themes in the near future, in an effort to inform potential project sponsors. Efforts will be made to seek the input of a wide range of interested parties, including other regulators, environmental and environmental justice groups, trade associations, and academic institutions with an interest in environmental policy. The results of these efforts will be published in the **Federal Register** and made available through other media.

Stakeholder Initiated Projects

Today's notice reaffirms EPA's interest in having stakeholders not directly connected with regulated facilities come forward with XL proposal ideas or to co-sponsor projects with companies. While the development of an XL proposal is more typically initiated by a regulated firm or co-sponsoring organization, it may also be initiated by EPA, by a state environmental agency, or by other non-regulated parties. EPA encourages stakeholders to bring their own ideas forward. Those stakeholders who wish to initiate projects may discuss the proposal concept with EPA or the state environmental agency; contact firms directly to discuss proposal concepts; or engage the assistance of EPA or the state environmental agency in identifying potential participants from among the regulated community. EPA will, upon the request of stakeholders who wish to initiate projects, consider using its own resources (e.g., the **Federal Register** and the Agency's Project XL Internet Web Site, www.epa.gov/ProjectXL) to identify potential participants from among regulated firms. Beyond its openness to stakeholder initiated proposals, EPA is developing a process to solicit themes and specific ideas from groups outside of the regulated community, and to turn those ideas into fruitful XL projects.

Superior Environmental Performance

In order to test innovative approaches to reinvent environmental protection for the 21st Century, Project XL offers potential project sponsors and co-sponsors the opportunity to develop and implement alternative strategies that produce superior environmental performance, replace specific regulatory requirements, and promote greater accountability to stakeholders. The May

23, 1995, **Federal Register** notice defining the XL program stated EPA's intent to approve only those projects that ''achieve superior environmental performance relative to what would have been achieved through compliance with otherwise applicable requirements.'' This notice further refines the definition of superior environmental performance to assist future applicants, stakeholders and those evaluating the program.

EPA is establishing a two tiered assessment of superior environmental performance for Project XL proposals. Tier 1 is a quantitative benchmark of the project against the environmental performance that would have occurred absent the program. It establishes a baseline of equivalence from which superior environmental performance can be measured. A project that is not at least equivalent, based on the factors discussed in Tier 1, can not be considered superior overall. Tier 2 is an examination of factors, both quantitative and qualitative, that lead EPA to judge that a project will produce a superior level of environmental performance that merits testing the innovation being proposed. This two tiered approach should aid EPA and others in evaluating proposal merits and deciding what should or should not be tested. It is not EPA's intent to suggest a hierarchy. Tier 1 and Tier 2 are both essential in determining whether a project is likely to achieve superior environmental performance.

Parenthetical examples are included throughout this notice. These are meant to aid the reader in understanding the general discussion, but not to signal EPA's preferences or requirements for specific XL projects.

These guidelines on superior environmental performance reflect EPA's experience with Project XL to date. Because the guidelines measure performance levels relative to today's system of environmental regulation, the results achieved through the use of these guidelines will be incremental improvements over the current system. EPA recognizes that these guidelines may be too limited in their definition of superior environmental performance in some cases, particularly where a project involves a radical departure from our current environmental regulatory system. In these cases, EPA encourages the sponsors to propose and provide a rationale for alternative definitions of superior environmental performance. EPA will consider these alternatives, as appropriate.

Tier 1: Is the Project Equivalent?

Tier 1 establishes an environmental performance benchmark for an XL project. This benchmark provides a reasonable estimate of what would have happened to the environment absent Project XL. It quantifies current performance levels and sets a baseline against which the project's anticipated environmental performance can be compared.

These benchmarks are expressed in terms of loadings to the environment. The term loadings is meant by EPA to incorporate a broad set of stressors to the environment, such as emissions of specific pollutants or generation of waste streams released to the environment by disposal.

- The project benchmark will be set at either the *current actual* environmental loadings or the *future allowable* environmental loadings, whichever is more protective.
- Where the project includes new facilities that have not yet been built or expansion of existing facilities for additional production of a current product or for new products that have not yet been produced, the benchmark will be set at the level of performance generally representative of industry practice, or the future allowable environmental loadings for such a facility or production process, whichever is more protective.
- These benchmarks may be on a per-unit of production basis or other comparable measure (e.g., volume of liquid hazardous waste generated per unit of product), as appropriate, to distinguish real environmental gains relative to what would happen absent XL from fluctuations in production.
- Except in outstanding site-specific circumstances, voluntary measures that are in place at the time the project is proposed and remain in place during the project (e.g., previous installation of on-site wastewater treatment not for compliance purposes) should be included in the benchmark. This distinction assumes that these voluntary measures would have been in place already and remained in place absent XL (e.g., include in the benchmark the effect of the pre-existing wastewater treatment system, as long as that system continues to operate).

EPA will also seek to benchmark the project from a pollution prevention perspective. While other Tier 1 benchmarks are expressed in terms of loadings to the environment, this benchmark may be expressed in terms of inputs to production (e.g., use of toxic chemicals, fresh water, or other natural resources). EPA will be most interested in inputs of specific environmental and/or stakeholder concern. EPA will compare the project's use of those inputs against the volume of the inputs that would be used absent Project XL. This attention to pollution prevention is meant to encourage projects that reduce the use of materials of environmental or public health concern, as well as projects that reduce ultimate loadings to the environment.

The project will be benchmarked against each environmental loading in each environmental medium (e.g., air, water, land). However, EPA will consider projects involving tradeoffs among loadings as part of a test of innovative environmental management. These projects may exceed the appropriate benchmark for one loading but fall short of it for another. To address the imprecision inherent in evaluating tradeoffs among environmental loadings and environmental media, projects of this type should demonstrate, with an adequate margin of safety, overall superior environmental performance over what would be achieved absent XL. Benefits should be measurable through an analytic methodology acceptable to regulatory agencies and to stakeholders. EPA will not approve projects that threaten ecological health or risk-based environmental standards (e.g., Water Quality Standards).

Tradeoffs may be allowed among different loadings that contribute to a single environmental outcome (e.g., VOC and NO_X emissions contributing to smog formation). In this case, project sponsors should evaluate the tradeoff using the best available analytic methodology. In these evaluations, however, project sponsors should consider the risk or benefits arising from situations in which one of these loadings might also contribute to other environmental outcomes (e.g., VOC emissions that also contain hazardous air pollutants).

Tradeoffs may also be allowed among different loadings that produce different environmental outcomes (e.g., waste minimization technology that reduces hazardous waste incineration but increases waterborne pollutant discharge) where there is a demonstrable net benefit to public health and the environment. Project sponsors should clearly define the various environmental outcomes and the project's effect on them. A project involving such tradeoffs may pose challenges beyond analytics. EPA will not approve projects that create a shifting of risk burden (e.g., diversion of hazardous air pollutant emissions from stacks to the work area, or lower net

level of remediation at a waste disposal site in a low income community). To the contrary, in entertaining projects that incorporate tradeoffs, it is EPA's intent to produce clear risk reduction.

Tier 2: Superior Environmental Performance

Tier 2 is an examination of factors that lead EPA to judge that a project will produce truly superior environmental performance. Although the weighting of factors in Tier 2 is necessarily subjective, the factors themselves should be expressed in quantitative terms wherever possible. Tier 2 factors include, but are not limited to:

- The increment by which the project exceeds the appropriate Tier 1 benchmarks.
- Pollution prevention upstream from end-of-pipe releases (e.g., a project that alters production processes to eliminate the need for toxic ingredients, instead of just disposing of toxic waste created).
- Environmental performance more protective than the best performance practices of facilities with comparable products or processes (e.g., closed loop production at a steel mill).
- Incorporation of continuous improvement towards ambitious quantitative environmental aspirations (e.g., project with a zero emissions goal).
- The extent to which the project produces clear reduction of risk.
- Historic demonstration of leadership in environmental performance of the facility (e.g., through voluntary measures taken prior to XL).
- Improvement in environmental conditions that are priorities to stakeholders, including issues not governed by EPA rules (e.g., habitat preservation, green space, parks or other protected areas, odors, noise).
- The extent to which the project substantially addresses community and public health priorities of concern to stakeholders, including issues not governed by EPA rules (e.g., identification of community health patterns, employee safety issues beyond those regulated by EPA).

Where projects involve areas regulated by agencies other than EPA or state environmental agencies, those other agencies should be brought into the process.

Accountability for Environmental Performance

Project documents should clearly distinguish among the different ways in which facilities may be held accountable for commitments to superior environmental performance. There are two broad types of accountable commitments: enforceable commitments and voluntary commitments. These should not be confused with broader corporate aspirations, which may be ambitious and set without prior knowledge of the means to achieve them.

- *Enforceable commitments* are those levels of performance which can be compelled by government. Failure to achieve these commitments constitutes grounds for government or citizen enforcement action, with all of the remedies generally available absent Project XL. XL Projects redefine compliance on a site-specific basis, and EPA will ensure a level of enforceability that is, in its own judgment, at least equivalent to the level which would be achieved absent the project. Each project will have an enforceable component, described in the final project agreement (FPA), but also contained in a legally binding document, such as a permit, rule-making, or administrative order.
- *Voluntary commitments* are those for which a facility may be held accountable through means other than injunctive relief, penalty or other conventional legal enforcement action. Failure to achieve these commitments is an appropriate basis for termination or modification of the XL project. Voluntary commitments will be contained in the FPA, which is not itself legally binding on the parties. Accordingly, both the FPA and associated legal implementing mechanisms should reserve EPA's discretion to terminate a project and to return the facility to compliance with otherwise applicable requirements where voluntary commitments have not been met.

Accountability for commitments—whether enforceable or voluntary—is most effective where project goals and results are transparent. Projects should include mechanisms to provide government and stakeholders with access to data sufficient to verify whether commitments have been met. In making decisions related to Project XL and other matters, EPA relies upon the statements and representations made by project sponsors. Federal laws intended to ensure the accuracy and truth of such statements apply. Project sponsors should know that failure to meet commitments or failure to act in good faith in reporting related to these commitments, will draw a strong response from the Agency.

The type of accountability appropriate for a particular commitment should be discussed within a project's stakeholder process and incorporated into the FPA. There may be cases, for example, where stakeholders believe that a particular commitment is critical to the success of a project and may wish accountability for that commitment to reflect this (e.g., by more detailed reporting of a voluntary commitment, or by incorporating that commitment into the enforceable component of the project).

Project XL is intended for good actors. Those companies and facilities with a history of violations of enforceable commitments pose additional issues to be factored into consideration of XL proposals and projects. EPA generally will not approve XL projects for facilities that are the subject of an on-going enforcement action unless the facility resolves outstanding compliance issues (e.g., through payment of penalties and, where applicable, completion of all injunctive relief and obligations under an administrative order or judicial decree) before participating in Project XL. Occasionally, a past or ongoing violation may be discovered in the course of project development. Such violations, if discovered and reported by the project sponsor during the course of project development, will be handled in accordance with EPA's Audit Policy.

Finally, enforceable and voluntary commitments should not be confused with corporate aspirations. Corporate aspirations are not commitments for which a facility should expect to be held accountable through government action or citizen enforcement. However, ambitious corporate aspirations (e.g., zero content of a priority pollutant in a facility's effluent, 100% reclamation of a raw material, or elimination of a potential toxic from use in production) are important drivers for superior environmental performance and will be assessed accordingly by EPA in the context of Tier 2, as discussed above. Corporate aspirations will be contained in the FPA as part of the project description and as elements that help to make up the project's superior environmental performance, but should be clearly distinguished from accountable commitments.

Historic Voluntary Controls

These guidelines aim to ensure that XL projects will achieve a better environmental outcome in the future than would have occurred absent the program. EPA recognizes, however, that future progress is often built on a foundation of historic environmental leadership. Many of the facilities that will participate in XL have already taken voluntary measures to achieve a level of environmental performance far better than is required by applicable regulations. EPA wishes here to offer guidance on the treatment of these pre-

existing voluntary measures in the context of evaluating the environmental performance of an XL project.

In the Tier 1 analysis discussed above, EPA seeks to benchmark the XL project against a reasonable estimate of what would have happened to the environment in its absence. In general, pre-existing voluntary measures should be included in this benchmark. EPA believes it reasonable to assume that voluntary measures that are in place at the time a project is proposed and remain in place during the project's life would also have remained in place without the project. The alternative assumption—that pre-existing voluntary measures are creditable to the XL project itself—could create a bank account from which a company could draw, potentially resulting in a lower level of environmental performance.

However, in outstanding site-specific circumstances, the potential negative effects of crediting a pre-existing voluntary measure to the XL project may be outweighed by other positive elements of superior environmental performance contained in the XL project (e.g., where a credit provided for performance in one environmental area is more than outweighed by superior performance in another area). In these cases, EPA would consider crediting the pre-existing voluntary control to the XL project.

In the Tier 2 analysis discussed above, EPA seeks to determine whether the net environmental performance achieved by the project beyond its benchmark is superior. Pre-existing voluntary measures play an important role in this determination. For example, facilities that have not implemented significant voluntary measures to control pollution prior to XL should be able to achieve a far greater environmental improvement via XL than those facilities that have implemented such measures. Facilities in the latter category may not be able to achieve additional improvements through end-of-pipe controls and may, thus, look to innovative, but untested, pollution prevention and technology strategies for additional environmental improvements. EPA recognizes the need to accommodate the uncertainties inherent in these strategies in project design.

Regulatory Flexibility

In order to test innovative approaches to reinvent environmental protection for the 21st Century, Project XL offers project sponsors and co-sponsors the opportunity to develop and implement alternative strategies that produce superior environmental performance, replace specific regulatory requirements, and promote greater accountability to stakeholders. This notice discusses further the ways in which the regulatory flexibility available in XL can enhance operations at participating facilities, to assist future applicants, stakeholders and those evaluating the program.

Regulatory flexibility and its potential to reduce costs and improve the operating efficiency of facilities is the principal reason for firms to voluntarily participate in Project XL. The success of Project XL depends on providing to participating regulated firms incentives that are significant and tangible. Projects that test truly innovative alternative strategies for environmental protection will in many cases require regulatory flexibility to overcome barriers to achieving objectives. Such flexibility will be necessary to create the opportunity for superior environmental performance, stakeholder accountability and other benefits. Where a project meets the other XL decision criteria, EPA will aggressively offer flexibility needed to produce superior environmental performance and promote greater accountability to stakeholders.

Sponsors should articulate the link in their project between the flexibility sought, the superior environmental performance expected, and other benefits. Where that link is strong (i.e., where flexibility and other benefits are factually or legally linked) the project's ideas are more likely to be applicable at other sites. The closer the factual link between the requested flexibility and anticipated environmental benefits, the more likely EPA is to approve the project. Recognizing the experimental nature of Project XL, EPA will use tools that ensure project sponsors who operate in good faith a smooth transition back to the traditional regulatory system, where projects do not meet expectations.

Tools for Creating Flexibility

EPA and state regulators have the tools under existing authority to provide appropriate flexibility from otherwise applicable regulatory requirements. These tools include alternative permits and existing waiver mechanisms, generally applicable interpretive statements, and site-specific rules that replace otherwise applicable requirements. Other tools may be identified as projects are developed. Ultimately, however, the selection and development of flexibility tools requires a case-by-case assessment.

The tools noted above provide a firm legal foundation for XL projects in cases where project sponsors, government and stakeholders construct a project that produces superior environmental performance, promotes greater accountability to stakeholders, and meets the other XL decision criteria. These tools are strongest when tailored to be only as broad as needed for implementing the project terms.

Flexibility provided in XL projects establishes new conditions that must be met by participating facilities. As discussed above, some, if not all, of these conditions will be legally binding and enforceable requirements. EPA and state environmental agencies will select tools that ensure that project sponsors, in exchange for meeting these new requirements, have protection from liability for non-compliance with previously and otherwise applicable requirements replaced by XL actions.

Specific statutory provisions may limit the scope of flexibility available to certain XL projects. To date, however, this concern generally has not been a real barrier to implementation of projects that meet the XL decision criteria.

Selection of Flexibility Tools for Specific Projects

The need to select tools to fit the conditions of a project is secondary to the creation of the project itself. Project sponsors and stakeholders, along with regulators, should first develop a project that incorporates superior environmental performance, flexibility and stakeholder accountability, and then seek tools that authorize the project they have created.

EPA has developed a hierarchy for the selection of flexibility tools to fit the conditions of a project. Investigation of tools should begin with exploration of the full range of discretion and flexibility available under the combination of existing federal and state regulatory and statutory mechanisms. Options may include use of existing statutory and regulatory variance and waiver mechanisms, deviation from existing practices and policies to the extent permitted by statute and regulation, flexible interpretations of regulatory requirements, and other such regulatory and statutory mechanisms. Under these kinds of approaches, some projects may be implemented, in whole or in part, through permit modifications or the issuance of new permits incorporating the terms of the project.

EPA expects that the flexibility tools needed for many projects will not be found within the range of discretion afforded by existing federal and state regulatory mechanisms. In these cases, site specific rule-making, which can authorize projects that do not fit within

existing regulatory requirements, should be explored. EPA wishes to emphasize that the creation of a site-specific rule need not delay a project or create additional resource burdens for project sponsors or stakeholders. The legal steps required in rule-making (e.g., public notice and comment) are already part of XL project development, whether or not a site-specific rule is used. The other formal steps typically encountered in national rule making (e.g., EPA's standard regulatory development process and review by the Office of Management and Budget) have been modified or tailored to fit the needs of Project XL.

EPA recognizes the possibility that specific statutory provisions may limit the scope of flexibility available to certain XL projects by limiting the authority of EPA or the states to promulgate site-specific rules. These situations must be addressed on a case-by-case basis among project sponsors, stakeholders and regulators. Options include modification of the project to avoid these issues and the use of carefully tailored compliance mechanisms.

Value of Flexibility

Firms participate in XL for many reasons. However, in general, firms that successfully develop and implement XL projects utilize the flexibility offered by the program to reap financial, competitive, and community benefits.

The flexibility available to facilities in XL creates real cost savings and opportunities to use environmental budgets efficiently. By implementing performance standards in lieu of other requirements, for example, XL lowers the cost of pollution control by giving a facility the ability to choose the most cost effective means of achieving those standards. XL performance standards and other innovations can act in lieu of pre-construction or other permit reviews, speeding new products to market and giving participating firms a leg up in an increasingly time-driven business environment. XL projects that remove the barriers to recycling of metals or reuse of chemicals allow firms to recoup their value as useful products, avoid disposal costs and potential environmental liabilities. Streamlined reporting requirements reduce administrative overhead.

XL also strengthens participating firms' competitive position in other ways. XL participants are helping to define a regulatory system for the 21st Century, a system designed to meet their needs as well as those of the environment and communities. These firms will be in a better position to respond as the innovations tested in XL are implemented more broadly, and to anticipate or suggest future changes.

The regulatory innovations developed through XL support and encourage pollution prevention and technological innovation at participating facilities by giving firms greater flexibility to experiment and reducing barriers to trying new technology. New technologies may reduce compliance costs or create new market opportunities for their developers. XL may, for example, remove regulatory barriers to the marketing of goods created through pollution prevention or recycling.

Participation in XL strengthens the community ties of participating firms, creating a basis in trust for resolution of other conflicts that may arise in or outside of the context of environmental regulation. XL firms typically enter the program with strong environmental reputations from which to build. However, the extensive interaction of community and facility representatives in the course of XL project development may help both groups forge real and informed trust. The regulatory flexibility offered in XL creates an opportunity to make community participation more meaningful, for example, by allowing firms to redesign reporting mechanisms in ways that enhance community understanding and trust, or by permitting a new kind of public involvement that is more substantive than conventional processes.

Other incentives for participation in XL are case-specific. For example, firms may gain favorable tax treatment for certain environmental control or pollution prevention expenditures made in the context of Project XL. In other cases, firms may reduce their health care costs by creating an XL project that better identifies and eliminates environmentally connected work force health concerns.

EPA encourages firms to view the flexibility afforded by XL as an opportunity to create real incentives for environmental improvement, whether they be financial, competitive, technological, community-related, or otherwise.

Stakeholder Involvement

In order to test innovative approaches to reinvent environmental protection for the 21st Century, Project XL offers potential project sponsors and co-sponsors the opportunity to develop and implement alternative strategies that produce superior environmental performance, replace specific regulatory requirements, and promote greater accountability to stakeholders. The May 23, 1995, **Federal Register** notice defining the XL program made clear that an important factor in EPA's approval of projects is ''the extent to which project proponents have sought and achieved the support of parties that have a stake in the environmental impacts of the project.'' Stakeholders were defined as including ''communities near the project, local or state governments, businesses, environmental and other public interest groups, or other similar entities.'' This definition includes both those stakeholders in the proximity of the project and those stakeholders interested in the broader implementation of the concepts being tested in the project, such as state, regional or national environmental groups. In today's notice, EPA offers guidelines on meeting the stakeholder involvement criterion to assist future applicants, stakeholders and those evaluating the program.

Stakeholder involvement is critical to the success of each XL project. Stakeholders provide information about the preferences of the community. They may identify issues that have escaped the notice of project sponsors and regulators. And stakeholder support is essential if the knowledge gained in facility-based experiments is to be transferred to the generally applicable system of environmental protection. An effective process for stakeholder involvement is an acknowledgment that today's regulators and regulated community do not have a monopoly on the best ideas for tomorrow's system of environmental protection.

In this notice, stakeholders are grouped into three categories, each with a distinct role in project development and implementation. Those stakeholders interested in the broader implementation of the concepts being tested in the project, as well as those stakeholders in the local community or directly affected by the project, should have the opportunity to place themselves in any one of these three categories. *Direct participants* in project development work intensively with project sponsors to build a project from the ground up. The views of direct participant stakeholders will strongly influence the details of the project as well as EPA's ultimate decision to approve or not to approve the project. *Commentors* have an interest in the project, but not the desire to participate as intensively in its development. The project development process should inform and be informed by commentors on a periodic basis. The views of informed commentors are a strong indicator of the broad potential for wider applicability of the innovation being tested in a project. Members of the

general public should have easy access both to the project development process and to information about the environmental results of the project once it is implemented, and should have the ability to participate more actively if they so choose. Actions for involvement of each of these three categories of stakeholders at each step in the process—from pre-proposal to implementation of an FPA—are discussed here.

Over and above these three categories of stakeholder involvement, EPA strongly encourages firms and established non-governmental organizations to partner as *co-sponsors* of XL projects. For example, a firm and a state citizens group may join together and propose an XL project to EPA and the state environmental agency. *Co-sponsors* are distinct from the three categories of stakeholders described above and discussed in this notice, and co-sponsorship has many advantages over individually sponsored projects. The participation of the non-regulated partner lends credibility to the broader stakeholder involvement process discussed in this notice. It also builds the capacity of non-governmental organizations and industry to work directly with each other. This notice does not discuss the relationship among project sponsors in a co-sponsorship situation, but rather details EPA's expectations with regard to the involvement of a broader group of stakeholders beyond the project sponsors themselves.

Pre-Proposal Activities

Project sponsors should do as much groundwork as possible to engage appropriate stakeholders before formally proposing an XL project to EPA. There are four actions project sponsors should take at this step in the process:

- Gain from EPA, the relevant state, tribal, local, or other regulatory agencies their support of the proposal and their commitment to participate in project development;
- Develop as part of the proposal itself a stakeholder involvement plan consistent with the guidance contained in this document;
- Identify and contact potential *direct participants* to gain their commitment to participate early in potential project development; these direct participants may be stakeholders already known to the project sponsor or may be identified through referrals (e.g., through environmental interest group networks); and
- Identify and contact potential *commentors* on the proposal.

Stakeholder Initiated Proposals

While the development of an XL proposal is more typically initiated by a regulated firm or co-sponsoring non-governmental organization, it may also be initiated by stakeholders themselves, by EPA, or by a state environmental agency. EPA encourages stakeholders to bring their ideas forward. Stakeholders who wish to initiate projects may:

- Discuss the proposal concept with EPA or the state environmental agency;
- Contact firms directly to discuss proposal concepts; or
- Engage the assistance of EPA or state environmental agency in broadly soliciting potential participants from among regulated firms.

EPA will, upon the request of stakeholders who wish to initiate projects, consider using its own resources (e.g., the Web site and **Federal Register**) to broadly solicit potential participants from among regulated firms. However, to be considered by EPA, a formal XL proposal must ultimately include the voluntary participation of the owner or operator of facilities addressed in the proposal.

Proposal Development

Once received by EPA, XL proposals enter the proposal development stage. During this stage, EPA and state environmental agencies determine whether a proposal should advance as an XL project, advance in some other forum, or not advance at all.

The first step in proposal development is an intake process, in which EPA determines whether a proposal is within the scope of Project XL based on the eight XL proposal selection criteria as refined in this notice. If the answer is yes, EPA consults with the appropriate state environmental agency, forms an internal proposal review team consisting of regional and headquarters staff, and immediately places the following information on EPA's Project XL Web site to inform stakeholders of the proposal:

- The full proposal, including the stakeholder involvement plan; and
- The names and contact information for the EPA regional and headquarters project leads and project sponsor leads.

The second step in proposal development is an effort by the EPA proposal team to analyze, in consultation with the state environmental agency, the merits of the proposal, including its stakeholder plan. During this step, EPA will generally provide feedback to the project sponsors. Stakeholders aware of the proposal at this early stage may:

- Contact the project sponsors directly, or contact EPA project leads via phone, electronic mail, or the Web site with pertinent questions or other feedback for the project sponsors; and
- Contact the project sponsors to express interest in becoming a *direct participant* or a *commentor,* should the proposal move forward and become a project.

EPA will then transmit its own findings and questions, in addition to stakeholder feedback, to the project sponsors and make them available on the Web site. The project sponsors' response to feedback may be in the form of a revised proposal, answers to questions, or withdrawal of the proposal. In developing their response, the project sponsors should confer with the stakeholders whom they have identified, particularly *direct participants.* EPA will post the project sponsors' response to feedback on its Web site.

Based on its assessment of the information provided up to this point by the project sponsors, with special attention given to the issues raised by stakeholders, and in consultation with the state environmental agency, EPA will decide whether a proposal should advance as an XL project. EPA will notify the project sponsor and post its decision on the Web site.

Project Development

A proposal that advances is described as an XL project, and enters the project or FPA development stage. FPAs are developed through a sponsor-led process of dialogue and negotiation among states, sponsors, EPA, and stakeholders who are *direct participants.* That process is made visible and accessible so as to invite response from *commentors* while informing the *general public.*

Further Identification of Stakeholders

The first step in the FPA development process is to notify the *general public* of the project and more formally invite stakeholders to become *direct participants* or *commentors.* The project sponsors should:

- Notify the general public via local media of their intent to develop an FPA and invite *direct participants* to identify themselves within a set time period (e.g., 30 days); (The public notice should include a brief description of the project, including the stakeholder plan, and the name and contact information for a person in the sponsors' organization, at the state environmental agency, and at EPA);
- Make special efforts to recruit:

—Potential *direct participants* and *commentors* from among economically disadvantaged stakeholders and among stakeholders most directly affected by the environmental and health impacts of the project;
—Potential *direct participants* and *commentors* who have specific interest or expertise in the issues addressed in the project from among the national environmental and environmental justice communities and the industry segment of which the facility is a part; and
—Potential *direct participants* and *commentors* from among participating facilities' non-managerial employees.

Stakeholders should be aware that direct participation in an XL project involves a substantial personal commitment of time and energy, requiring consistent attendance at meetings, a willingness to abide by the agreed upon process, and intensive work over the project development period. EPA encourages *direct participant* stakeholders to seek input from others in their work on project development. However, stakeholders are not expected to represent larger social, economic or demographic groups except in cases where they are authorized to do so.

In general, all stakeholders who express a timely desire to be *direct participants* and understand the commitment involved should be given the opportunity to do so. However, there may be a need for project sponsors to limit the number of *direct participants* (e.g., to maintain a balanced or workable process). EPA will not determine the membership of the group of *direct participants*, but may advise sponsors of whether it believes the group as assembled is consistent with the guidance contained in this document.

Team Training

Once *direct participants* have been identified, EPA encourages project sponsors to discuss with them the need for team training at the outset of project development activities. Where training has been requested by *direct participant* stakeholder groups, the project sponsors should:

- Provide training to *direct participants* on the technical issues addressed in the project, including the overall environmental and health impacts of the test facility; and
- Provide training to sponsors' own representatives and to *direct participants* on meaningful participation in a collaborative process, such as XL project development, with special emphasis on addressing the issues of concern to the local community, to members of minority communities and to non-managerial employees; and
- Permit EPA and state environmental agency representatives to participate in these training opportunities.

As added assurance that *direct participants* have an opportunity for meaningful participation, EPA will make its own expertise available for the purpose of team training in the technical issues addressed in the project and in participation in collaborative processes. EPA strongly encourages state environmental agencies to do the same.

Ground Rules

Ground rules are the first order of business before proceeding with the project development process. The project sponsors may propose ground rules in the stakeholder plan. Before beginning, *direct participant* stakeholders and the project sponsors should agree on a set of ground rules to guide project development. All effort should be made to create ground rules that are generally acceptable to *direct participant* stakeholders.

EPA encourages examination of the ''Model Plan for Public Participation'' developed by its National Environmental Justice Advisory Council, as ground rules are developed that:

- Define the relationship of *direct participant* stakeholders, as individuals and as a group, with respect to the project sponsors (e.g., advisory, consultative, or decision-making);
- Clarify how and whether *direct participant* stakeholders will decide on group views (e.g., by consensus, majority vote, or sub-group consensus);
- Determine whether direct participant stakeholders, as individuals or groups, would sign the FPA;
- Agree on time lines for the development of the project as a whole and for appropriate short-term milestones;
- Contain a process for documenting proceedings and decisions, including dissenting opinions;
- Contain a process for changes in membership to the *direct participant* group as needed or desired;
- Determine how the project development process will be managed, including whether a third-party facilitator is desirable (EPA encourages the use of neutral, local third-party facilitators);
- Decide and document how the project development process will reach out to educate *commentors* and the *general public* beyond the means discussed in this notice (e.g., when and how to notify these groups of the significant milestones in project development, beyond the specific points for notification discussed in this document); and
- Establish procedures for participation and involvement of the general public in the process.

Because XL projects and the circumstances that affect them (e.g., stakeholder, demographic, geographic, ecosystem, economic, community concerns) differ, there can be no single model stakeholder involvement process that is appropriate for all projects. Attention to the ground rules by all participants is vital to ensuring that the project development process is appropriate to the circumstances.

Ground Rules on Authority of Direct Participants With Respect to the Project Sponsors

As discussed above, the authority of *direct participant* stakeholders should be determined at the outset by the stakeholders themselves, along with the project sponsors. In some cases, the authority of stakeholders will be consultative in nature. In others, there will be a desire to provide *direct participant* stakeholders with greater authority over project sponsor's decisions. Project sponsors and *direct participant* stakeholders should agree at the outset on whether stakeholders, individually or as a group, have the ultimate ability to veto project sponsors' plans.

Importance of Stakeholder Views in EPA's Decision to Approve or Disapprove a Project

EPA maintains its authority to ultimately approve or disapprove an XL project. However, EPA wishes here to offer guidance on the influence that final stakeholder decisions on a project's desirability have on its own decisions to approve or disapprove an XL project.

As stated in the May 23, 1995, **Federal Register**, an XL final project agreement must be approved by EPA, the state environmental agency, and the project sponsors in order to be implemented. EPA's own decisions are very directly affected by the views of *direct participant* stakeholder groups. These individuals, more so than other members of the *general public* or even *commentors*, will have examined the project in all its detail. The expression of support for a project by its *direct participant* stakeholder group is among the strongest possible indicators of broad community support for that

project. Where a *direct participant* stakeholder group has the ability to veto a project sponsor's plans, and exercises its veto, EPA will generally conclude that the project has not achieved broad community support, and thus will not approve the project. Even in cases where the ground rules vest a *direct participant* stakeholder group with strictly consultative authority over the project sponsor's plans, or where the views of the group are not expressed in terms of acceptance or rejection, EPA will give significant weight to the views of these *direct participants* in determining whether the project has broad community support.

However, as stated above, EPA will not delegate its authority to approve or disapprove an XL FPA. That is to say, EPA will not approve or disapprove an FPA based solely on the support of a *direct participant* stakeholder group or other party.

Ground Rules for Communicating to Commentors and the General Public

EPA encourages project sponsors and *direct participant* stakeholders to develop ground rules that promote an open and inclusive project development process. For example, EPA encourages an approach in which all meetings are accessible in some form to members of the general public who express an interest in observing the process. For its part, EPA will:

- Make available updated drafts of the FPA and related documents on its Web site and in the administrative record (the comprehensive record maintained by EPA to document the history of all input and decisions impacting the project since it was submitted as a proposal);
- Make available any other materials requested by the project sponsors, *direct participants*, or state environmental agency, except confidential business information, on its Web site and in the administrative record;
- Notify *commentors* directly of the availability of this material;
- Convey to the project sponsors, *direct participants*, and the state environmental agency any comments it receives during the project development process, and post pertinent comments on its Web site and in the administrative record; and
- Respond, on its own behalf and for the record, to significant comments (those comments specifically impacting EPA management or decision-making).

Access to Information

All documents provided to EPA in the context of Project XL, with the exception of confidential business information, are in the domain of the *general public*. Readers should note in these guidelines EPA's intent to use its Project XL Web site on the Internet as the primary but not sole means of disseminating information for which it is responsible. The Web site is not only a repository of information, but has the capability to notify interested stakeholders electronically when new information of relevance to them is posted.

These guidelines specifically identify points where use of local media and/or the **Federal Register** is appropriate. For those who do not have Internet access, the information maintained on the Web site is available in several other formats. As noted above, EPA maintains an administrative record that includes hard copies of all materials referenced in these guidelines. (The record can be accessed by contacting Lutithia Barbee of EPA at 202–260–2220). Most materials referenced in these guidelines are also available through the Project XL fax-on-demand line (202 260–8950). EPA will make every effort within the constraints of available resources to provide interested citizens with the easiest possible means of access to XL-related documents.

Closure

The final stage in the project development process is closure. An FPA is not approved until signed by EPA, the state environmental agency and the project sponsor, and by direct participants where provided for in the ground rules.

The first step in EPA's own closure process is an internal concurrence. To make *commentors* and the *general public* aware that the project has reached this stage, EPA will:

- Make the final draft available through its Web site and in the administrative record; and
- Indicate on the Web site that this draft is being circulated within EPA for formal concurrence; and
- Convene—at the request of a project sponsor, *direct participant* stakeholder, *commentor*, or the state environmental agency—a meeting of these groups to discuss the project, hear views of individual direct participants or commentors, and provide feedback.

As stated in the May 23, 1995, **Federal Register** notice, EPA will not approve a project that does not have the support of the relevant state environmental agency. EPA also recognizes the possibility that it might disapprove of a project that has the support of the state environmental agency. In either case, EPA and the state environmental agency will consult with each other prior to making their final decision, in an effort to reach consensus among regulators at all levels of government.

Where formal concurrence within EPA has been achieved, and where the project has gained the support of the state environmental agency, project sponsors, and *direct participants* (as discussed above), the agreement is known as a ''proposed'' FPA. At this stage, EPA will:

- Make the proposed FPA available through its Web site and in the administrative record;
- Notify *commentors* of the availability of reviewable material;
- Issue the FPA for a thirty-day local notice and comment period for the *general public;*
- Publish in the **Federal Register** a notice of availability, briefly describing the project, and providing instructions for receiving a copy of the proposed FPA; and
- In appropriate situations, publish in the **Federal Register** for notice and comment any proposed site-specific rulemaking associated with an FPA, or conduct public notice as appropriate for any permitting action associated with an FPA.

As part of its final decision to approve (or disapprove) an FPA, EPA will respond for the record to all significant comments received during the notice process. In developing its response to comments, EPA will:

- Share comments received with the project sponsor, state environmental agency, and *direct participants;*
- Discuss with those parties the changes made to the FPA, permit, site-specific rule, or other documents to address public comments;
- Consider fully the public comments and changes made to the FPA and other documents to address public comments in making its final decision to approve (or disapprove) an FPA; and
- Post on the Web site the changes made to the FPA and other documents to address public comments, its own response to comments, and any additional responses prepared by the project sponsors, state environmental agency, or *direct participant* stakeholders.

Implementation and Evaluation

Once approved, a project enters its implementation stage. During this stage, the project is monitored for compliance with the terms of the FPA and associated documents, and evaluated for lessons that can be transferred to the more generally applicable system of environmental regulation and applied to improve the XL program itself. While

this notice does not provide substantial guidance on the role of stakeholders in project implementation and evaluation, EPA wishes to emphasize points that were made on this topic in the **Federal Register** notice that originally announced Project XL.

As stated in the May, 23, 1995, **Federal Register** notice,

> project proponents should identify [in the FPA] how to make information about the project, including performance data, available to stakeholders in a form that is easily understandable. Projects should have clear objectives and requirements that will be measurable in order to allow EPA and the public to evaluate the success of the project and enforce its terms. (60 FR 27282, May 23, 1995)

EPA recommends that the FPA delineate the intended role of stakeholders during the implementation and evaluation of the project. The FPA may, for example, provide for re-examination or periodic evaluation of the project by *direct participant* stakeholders.

Independent Technical Assistance to Direct Participant Stakeholder Groups

EPA has recognized its responsibility to ensure meaningful participation in the stakeholder process, and, in some cases, has provided support (e.g., by making available facilitation services, and by distributing and making available information about project development).

EPA wishes to offer here guidance on its ability to support technical assistance. Beyond making available its own technical expertise, EPA looks to project sponsors to provide assistance in understanding and evaluating technical issues surrounding a specific project. EPA recognizes that, in some cases, there will be a need for the Agency to offer some additional support for technical assistance to *direct participant* stakeholder groups. To that end, the Agency is committing to provide up to $25,000 per project in order to assure that necessary technical assistance is available to support meaningful stakeholder involvement. These funds will be made available on a task-specific basis and will not be in the form of grants to direct stakeholder groups. These funds may be used in project development, implementation or evaluation.

Technical assistance needs must be determined within the *direct participant* stakeholder process described in this notice. Stakeholder needs should be examined carefully and fully. The best means of meeting those needs should be identified by the *direct participant* stakeholder group as a whole. Project sponsors as well as regulators should participate in these discussions and have the chance to provide input on how the necessary technical services can be provided. Requests for technical assistance must come from the *direct participant* stakeholder group rather than from individuals. Technical assistance funds are not available to address strictly individual needs. In order to build trust and local capacity, local resources should always be explored as both the source of expertise and the financial means of obtaining technical services. These options should be explored before EPA funds are sought for the provision of technical assistance.

When it is necessary to utilize EPA funds to obtain assistance, appropriate financial management controls must be in place to assure the most focused, cost effective and accountable use of taxpayer dollars. Resources for assistance will not be given directly to stakeholder groups, but will be made available to identified experts for a specific assistance activity. The Agency may choose to utilize a variety of approaches to access either local expertise or experts agreeable to the *direct participant* stakeholder group. These include cooperative agreements to local and state regulators or other procurement options available to the federal government.

As an example of an innovative approach to providing technical assistance, EPA is exploring the creation of a public/private partnership to handle technical assistance requests from *direct participant* stakeholder groups. In this partnership, EPA, other regulatory agencies, potential project sponsors, trade associations, non-profit organizations and other interested parties would provide resources to a neutral third party which would in turn manage and fulfill technical assistance requests. This neutral third party would be guided by a partnership of EPA, state environmental agencies, national stakeholder groups, and other parties that provide resources to the partnership, in terms of what type of assistance should be available, who could provide assistance when no local experts are known, and at what cost.

Regardless of the mechanism used by EPA to fund technical assistance requests, the goal will always be to ensure that specific, objective expertise is available, when necessary, and is provided in a credible fashion that preserves and fosters the integrity of a meaningful stakeholder involvement process.

Proposal and Project Development Process

The May 23, 1995, **Federal Register** notice that announced Project XL included a brief description of the XL process. The notice described four stages: solicitation and selection of XL proposals, project (or FPA) development, project implementation, and evaluation. The notice contained additional information, including time frames, for the first two steps. In today's notice, EPA offers information on changes to the process of creating XL proposals and developing XL projects for implementation, to assist future applicants, stakeholders and those evaluating the program.

Pre-Proposal Activities

Today's notice encourages project sponsors to do significantly more to improve proposal ideas prior to formal submission of an XL proposal to EPA. First, EPA and its state partners stand ready to discuss project ideas at any time. Second, EPA encourages project sponsors to have substantive discussion with stakeholders prior to submission of a formal proposal. The Agency encourages the development of co-sponsorship relations among facilities and non-governmental organizations. Third, this notice envisions that proposals themselves will be much more substantive and detailed. While addressing the eight XL criteria, a proposal should include a more detailed analysis of superior environmental performance consistent with the principles included in this notice; a description of pre-proposal stakeholder activities and fully developed stakeholder plan; and a discussion of the specific regulatory flexibility sought and barriers to providing that flexibility in otherwise applicable requirements. In addition, EPA encourages all potential applicants to meet with EPA and the affected state prior to submission of any proposal to clarify the XL program, principles, expectations, and guidance provided in this notice.

Proposal Development

After proposals submitted to the XL program are received in EPA's Regulatory Reinvention Docket, they will proceed through a proposal intake process. EPA will briefly evaluate the proposal with input from potentially affected offices and states in order to determine whether the proposal appears to consist of environmental and regulatory concepts worth testing in Project XL. If EPA determines that the proposal should continue through the proposal development process, a cross-

agency proposal team will be established. The team—consisting of representatives from EPA headquarters XL Staff and each affected headquarters office, EPA region, and state—will review the proposal, discuss it throughout their respective offices as necessary, and together establish specific questions or outstanding items in the proposal that may hinder a thorough understanding of the proposal. Along with any feedback received from interested stakeholders, EPA will communicate its own feedback to the project sponsors.

At this stage, responsibility for the timing of the proposal process shifts to the project sponsors. The sponsors may consider EPA's appraisal and determine the next step: to provide additional information requested by EPA, to submit a revised proposal, or to withdraw the proposal. In responding, the project sponsors are strongly encouraged to raise important issues to any stakeholders who have been identified at this point.

With complete information, EPA will develop an assessment of the merits of the proposal relative to the Project XL decision criteria. The decision to advance or reject the proposal will be made by the Associate Administrator for Reinvention in consultation with other members of EPA's senior leadership team. Such decisions will be made in close consultation with the relevant state environmental agency, and no XL project will proceed without its approval.

Project Development Process

Proposals that advance are at this point described as XL projects in development. This is the stage in which FPAs are developed. Once a project enters the project development phase, the Agency, in consultation with the state, will expand or modify its staff team as needed to ensure coordination and continuity throughout development of an FPA. Guidance on some of the details of the project development process is contained in the stakeholder involvement portion of this notice.

Closure

Once a draft FPA has been developed, EPA will conduct a final internal review of the project and solicit formal notice and comment. The decision to approve or disapprove an FPA will be made by the Associate Administrator for Reinvention and the relevant EPA Regional Administrator, in consultation with other members of EPA's senior leadership team.

Paperwork Reduction Act

The information collection provisions in this notice, including the request for proposals, have been approved by the Office of Management and Budget (OMB) under the *Paperwork Reduction Act,* 44 U.S.C. 3501 *et seq.* An Information Collection Request document has been approved (ICR No. 1749.01). Additional copies may be obtained from Sandy Farmer, Information Policy Branch, US EPA, Mail Code 2136, 401 M Street, SW., Washington, DC 20460, or by calling (202) 260–2740.

Dated: April 16, 1997.

Fred Hansen,

Deputy Administrator.

[FR Doc. 97–10510 Filed 4–22–97; 8:45 am]

BILLING CODE 6560–50–P

Federal Register

Wednesday
April 23, 1997

Part V

The President

Executive Order 13045—Protection of Children From Environmental Health Risks and Safety Risks

Federal Register
Vol. 62, No. 78
Wednesday, April 23, 1997

Presidential Documents

Title 3—

The President

Executive Order 13045 of April 21, 1997

Protection of Children From Environmental Health Risks and Safety Risks

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. *Policy.*

1-101. A growing body of scientific knowledge demonstrates that children may suffer disproportionately from environmental health risks and safety risks. These risks arise because: children's neurological, immunological, digestive, and other bodily systems are still developing; children eat more food, drink more fluids, and breathe more air in proportion to their body weight than adults; children's size and weight may diminish their protection from standard safety features; and children's behavior patterns may make them more susceptible to accidents because they are less able to protect themselves. Therefore, to the extent permitted by law and appropriate, and consistent with the agency's mission, each Federal agency:

(a) shall make it a high priority to identify and assess environmental health risks and safety risks that may disproportionately affect children; and

(b) shall ensure that its policies, programs, activities, and standards address disproportionate risks to children that result from environmental health risks or safety risks.

1-102. Each independent regulatory agency is encouraged to participate in the implementation of this order and comply with its provisions.

Sec. 2. *Definitions.* The following definitions shall apply to this order.

2-201. ''Federal agency'' means any authority of the United States that is an agency under 44 U.S.C. 3502(1) other than those considered to be independent regulatory agencies under 44 U.S.C. 3502(5). For purposes of this order, ''military departments,'' as defined in 5 U.S.C. 102, are covered under the auspices of the Department of Defense.

2-202. ''Covered regulatory action'' means any substantive action in a rulemaking, initiated after the date of this order or for which a Notice of Proposed Rulemaking is published 1 year after the date of this order, that is likely to result in a rule that may:

(a) be ''economically significant'' under Executive Order 12866 (a rulemaking that has an annual effect on the economy of $100 million or more or would adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities); and

(b) concern an environmental health risk or safety risk that an agency has reason to believe may disproportionately affect children.

2-203. ''Environmental health risks and safety risks'' mean risks to health or to safety that are attributable to products or substances that the child is likely to come in contact with or ingest (such as the air we breath, the food we eat, the water we drink or use for recreation, the soil we live on, and the products we use or are exposed to).

Sec. 3. *Task Force on Environmental Health Risks and Safety Risks to Children.*

3-301. There is hereby established the Task Force on Environmental Health Risks and Safety Risks to Children (''Task Force'').

3-302. The Task Force will report to the President in consultation with the Domestic Policy Council, the National Science and Technology Council, the Council on Environmental Quality, and the Office of Management and Budget (OMB).

3-303. *Membership*. The Task Force shall be composed of the:

(a) Secretary of Health and Human Services, who shall serve as a Co-Chair of the Council;

(b) Administrator of the Environmental Protection Agency, who shall serve as a Co-Chair of the Council;

(c) Secretary of Education;

(d) Secretary of Labor;

(e) Attorney General;

(f) Secretary of Energy;

(g) Secretary of Housing and Urban Development;

(h) Secretary of Agriculture;

(i) Secretary of Transportation;

(j) Director of the Office of Management and Budget;

(k) Chair of the Council on Environmental Quality;

(l) Chair of the Consumer Product Safety Commission;

(m) Assistant to the President for Economic Policy;

(n) Assistant to the President for Domestic Policy;

(o) Assistant to the President and Director of the Office of Science and Technology Policy;

(p) Chair of the Council of Economic Advisers; and

(q) Such other officials of executive departments and agencies as the President may, from time to time, designate.

Members of the Task Force may delegate their responsibilities under this order to subordinates.

3-304. *Functions*. The Task Force shall recommend to the President Federal strategies for children's environmental health and safety, within the limits of the Administration's budget, to include the following elements:

(a) statements of principles, general policy, and targeted annual priorities to guide the Federal approach to achieving the goals of this order;

(b) a coordinated research agenda for the Federal Government, including steps to implement the review of research databases described in section 4 of this order;

(c) recommendations for appropriate partnerships among Federal, State, local, and tribal governments and the private, academic, and nonprofit sectors;

(d) proposals to enhance public outreach and communication to assist families in evaluating risks to children and in making informed consumer choices;

(e) an identification of high-priority initiatives that the Federal Government has undertaken or will undertake in advancing protection of children's environmental health and safety; and

(f) a statement regarding the desirability of new legislation to fulfill or promote the purposes of this order.

3-305. The Task Force shall prepare a biennial report on research, data, or other information that would enhance our ability to understand, analyze,

and respond to environmental health risks and safety risks to children. For purposes of this report, cabinet agencies and other agencies identified by the Task Force shall identify and specifically describe for the Task Force key data needs related to environmental health risks and safety risks to children that have arisen in the course of the agency's programs and activities. The Task Force shall incorporate agency submissions into its report and ensure that this report is publicly available and widely disseminated. The Office of Science and Technology Policy and the National Science and Technology Council shall ensure that this report is fully considered in establishing research priorities.

3-306. The Task Force shall exist for a period of 4 years from the first meeting. At least 6 months prior to the expiration of that period, the member agencies shall assess the need for continuation of the Task Force or its functions, and make appropriate recommendations to the President.

Sec. 4. *Research Coordination and Integration.*

4-401. Within 6 months of the date of this order, the Task Force shall develop or direct to be developed a review of existing and planned data resources and a proposed plan for ensuring that researchers and Federal research agencies have access to information on all research conducted or funded by the Federal Government that is related to adverse health risks in children resulting from exposure to environmental health risks or safety risks. The National Science and Technology Council shall review the plan.

4-402. The plan shall promote the sharing of information on academic and private research. It shall include recommendations to encourage that such data, to the extent permitted by law, is available to the public, the scientific and academic communities, and all Federal agencies.

Sec. 5. *Agency Environmental Health Risk or Safety Risk Regulations.*

5-501. For each covered regulatory action submitted to OMB's Office of Information and Regulatory Affairs (OIRA) for review pursuant to Executive Order 12866, the issuing agency shall provide to OIRA the following information developed as part of the agency's decisionmaking process, unless prohibited by law:

(a) an evaluation of the environmental health or safety effects of the planned regulation on children; and

(b) an explanation of why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the agency.

5-502. In emergency situations, or when an agency is obligated by law to act more quickly than normal review procedures allow, the agency shall comply with the provisions of this section to the extent practicable. For those covered regulatory actions that are governed by a court-imposed or statutory deadline, the agency shall, to the extent practicable, schedule any rulemaking proceedings so as to permit sufficient time for completing the analysis required by this section.

5-503. The analysis required by this section may be included as part of any other required analysis, and shall be made part of the administrative record for the covered regulatory action or otherwise made available to the public, to the extent permitted by law.

Sec. 6. *Interagency Forum on Child and Family Statistics.*

6-601. The Director of the OMB (''Director'') shall convene an Interagency Forum on Child and Family Statistics (''Forum''), which will include representatives from the appropriate Federal statistics and research agencies. The Forum shall produce an annual compendium (''Report'') of the most important indicators of the well-being of the Nation's children.

6-602. The Forum shall determine the indicators to be included in each Report and identify the sources of data to be used for each indicator. The

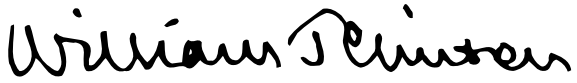
Forum shall provide an ongoing review of Federal collection and dissemination of data on children and families, and shall make recommendations to improve the coverage and coordination of data collection and to reduce duplication and overlap.

6-603. The Report shall be published by the Forum in collaboration with the National Institute of Child Health and Human Development. The Forum shall present the first annual Report to the President, through the Director, by July 31, 1997. The Report shall be submitted annually thereafter, using the most recently available data.

Sec. 7. *General Provisions.*

7-701. This order is intended only for internal management of the executive branch. This order is not intended, and should not be construed to create, any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers, or its employees. This order shall not be construed to create any right to judicial review involving the compliance or noncompliance with this order by the United States, its agencies, its officers, or any other person.

7-702. Executive Order 12606 of September 2, 1987 is revoked.



THE WHITE HOUSE,
April 21, 1997.

[FR Doc. 97–10695
Filed 4–22–97; 8:49 am]
Billing code 3195–01–P

Federal Register

Wednesday
April 23, 1997

Part VI

The President

Federal Register
Vol. 62, No. 78
Wednesday, April 23, 1997

Presidential Documents

Title 3—

The President

Proclamation 6992 of April 19, 1997

National Organ and Tissue Donor Awareness Week, 1997

By the President of the United States of America

A Proclamation

Giving life to another through an organ or tissue transplant is one of the most selfless human acts. The person choosing to become a donor usually receives no tangible thanks and gains no fame or glory from the gesture. And yet the decision to sign a donor card does give the donor a quiet, inner fulfillment in the knowledge that he or she may one day help save a life, bringing new joy to another person and their family. Often, for many Americans, this sense of fulfillment is sufficient thanks.

Today, more than 50,000 Americans are on the national transplant waiting list and about 2,000 more people need transplants every month. Unfortunately, even though this country has an adequate supply of individuals who qualify as organ donors, many people have still not chosen to become one. Patients in truly desperate circumstances are depending on their fellow Americans to choose to become organ and tissue donors.

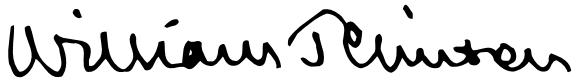
Stunning advances in transplant research and technology have made miracles possible, but we must do our part to make the dreams of people awaiting transplants become reality. Many Americans are unaware of the national shortage of organ donors, and all of us must work together to spread the word.

Let us take advantage of our enormous power to save a life or to enrich the quality of life for those who otherwise face endless pain, torment, or death. I urge every American to respond to the urgent call for organ and tissue donors by signing a donor card immediately. Let us also reach out to educate our fellow Americans about the importance of organ and tissue donations. We must work with our religious communities and community organizations to spread this important message. The Federal Government has already established partnerships with the Union of Hebrew Congregations and the Congress of National Black Churches in an effort to educate congregations and clergy across our Nation through sermons, Sunday school programs, and community events. We should do more.

We should recognize that our greatest ambassadors for organ and tissue donation are donors, donor families and recipients. Their personal stories have motivated and inspired others, and we should take better advantage of these great resources. Taken together, these and other efforts will save the lives of countless loved ones. And we should take the opportunity to recognize and celebrate Americans who donate these gifts of life.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim April 20 through April 26, 1997, as National Organ and Tissue Donor Awareness Week. I call upon health care professionals, educators, the media, public and private organizations concerned with organ donation and transplantation, and all the people of the United States to observe this week with appropriate activities and programs that promote organ donation and invite new donors to become involved.

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



[FR Doc. 97–10711
Filed 4–22–97; 10:58 am]
Billing code 3195–01–P

Presidential Documents

Proclamation 6993 of April 19, 1997

National Wildlife Week, 1997

By the President of the United States of America

A Proclamation

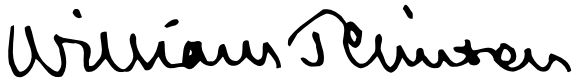
Our Nation is blessed with a wealth of wildlife, wild places, and natural resources that enrich the lives of all Americans. Conserving our wildlife—whether antelope or grizzly bear, salmon or serpent, or plumed bird—is of urgent importance. Our vast system of wildlife refuges has played a vital role in this endeavor. Helping to ensure greater harmony between people and nature, more than 92 million acres of land and waters are dedicated to wildlife conservation, encompassing 500 refuges, with at least one in every State and within a short drive of most major cities. These wonderful resources provide opportunities for people of all ages and from all walks of life, and from cities, suburbs, and the rural heartland, to learn about and participate in the effort to preserve the places and wildlife that contribute so much to our Nation's heritage and natural wealth.

The appreciation and protection of wildlife, particularly of endangered or threatened species, is both the right and responsibility of all Americans. Indeed, countless individuals and private volunteer organizations across the United States have already made a significant contribution to wildlife protection. Only by engaging communities in conservation, by taking note of and rewarding community service efforts, and by maintaining diverse approaches to wildlife protection, can we preserve our wildlife today and for future generations.

We set aside this week to celebrate the role that citizens and private volunteer organizations play in engaging in service activities, and in advancing the knowledge, appreciation, and protection of wildlife and the environment. Let us also work to spread this message to broader audiences and encourage all individuals and groups to contribute to this national goal. I urge all Americans, private organizations, businesses, community leaders, elected officials and governmental agencies to do all they can to preserve and value the role of wildlife resources in our lives. This tradition of nature education will continue to teach our children how to be lifelong stewards of the environment and help to build the knowledge and understanding essential to the protection of nature's abundant gifts.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim April 20 through April 26, 1997, as National Wildlife Week. I ask all Americans to find ways to promote the conservation and protection of our wildlife and wild places.

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



[FR Doc. 97–10712
Filed 4–22–97; 10:59 am]
Billing code 3195–01–P

Presidential Documents

Proclamation 6994 of April 19, 1997

National Park Week, 1997

By the President of the United States of America

A Proclamation

One hundred and twenty-five years ago, America made a momentous decision: to set aside and protect in perpetuity an extraordinary part of our young Nation. With the signing of the Yellowstone National Park Act on March 1, 1872, President Ulysses S. Grant created the world's first national park, and the succeeding years have proved beyond all doubt the wisdom and foresight of that decision. Known throughout the world for its beauty and the natural wonders that lie within its boundaries, Yellowstone has inspired the creation of a multitude of other national parks, both here and in other countries, preserving for future generations the rich natural and cultural legacy of our world.

Today, our 374 national parks protect America's unparalleled wonders and the history of those who have helped shape our land. Our national parks preserve both where we live and who we are. In America's national parks, we see Americans through their experiences—war and peace, tragedy and triumph, struggle and liberty. Our national park sites invite us not only to marvel at the grand geography of Yellowstone or the Great Smokies, but also to explore the innovative genius of Thomas Edison at the Edison National Historic Site in New Jersey, to visit the remains of an ancient civilization at Mesa Verde in Colorado, or to walk the hallways of the Kansas school where the struggle for civil rights ultimately led to the landmark Brown vs. Board of Education Supreme Court decision.

In addition to the parks themselves, the national park spirit thrives in thousands of communities across the country where the National Park Service provides support and technical advice to create close-to-home recreational opportunities and to honor local history through programs such as Rivers, Trails, and Conservation Assistance, the National Register of Historic Places, and National Historic Landmarks. The National Park Service, in partnership with organizations and individuals dedicated to conservation and historic preservation, is ensuring that our national parks touch the lives of as many people as possible, while sparking an interest among our Nation's children in archaeology, ethnography, history, historic landscapes, and historic structures.

Indeed, the national parks remain a magnet for the American public. Every year millions of visitors flock to them—270 million in 1996. Surveying our history and heritage, our national parks let us reach out and touch the past.

As we observe this week, let us remember with gratitude all those who are and have been entrusted with the stewardship of these treasured places. As the parks and the mandate of the National Park Service have evolved, the demands on those who manage these resources have become more complex and the skills required of the National Park Service work force have become more sophisticated. These men and women are the guardians of our cultural and natural treasures, and, on behalf of all Americans, I express my deepest thanks.

This year, National Park Week celebrates the strength of our unique and diverse system of national parks, and I urge all Americans to share in the wonderful experiences these places offer all of us.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim April 21 through April 27, 1997, as National Park Week.

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

[FR Doc. 97–10713
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