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For other telephone numbers, see the Reader Aids section at the end of this issue.

Contents

Federal Register
Vol. 56, No. 152
Wednesday, August 7, 1991

Agricultural Marketing Service
RULES
Honey research, promotion, and consumer information order, 37453
PROPOSED RULES
Spearmint oil produced in Far West, 37500

Agricultural Research Service
NOTICES
Patent licenses; non-exclusive, exclusive, or partially exclusive:
Sonoco Products Co., 37520

Agricultural Stabilization and Conservation Service
PROPOSED RULES
Conservation and environmental programs:
Agricultural conservation program and emergency conservation program; American Samoa participation, 37499

Agriculture Department
See Agricultural Marketing Service; Agricultural Research Service; Agricultural Stabilization and Conservation Service; Animal and Plant Health Inspection Service

Air Force Department
NOTICES
Meetings:
Scientific Advisory Board, 37530, 37531
(4 documents)

Alcohol, Tobacco and Firearms Bureau
PROPOSED RULES
Alcohol; viticultural area designations:
Atlas Peak, CA, 37501

Animal and Plant Health Inspection Service
RULES
Plant-regulated quarantine, domestic:
Witchweed
Correction, 37606
PROPOSED RULES
Practice and procedure:
Certification, inspection, and testing services; user fees, 37481

Army Department
See also Engineers Corps
NOTICES
Environmental statements; availability, etc.:
Base realignments and closures—
Materials Technology Laboratory, MA, 37531
Patent licenses; non-exclusive, exclusive, or partially exclusive:
In vitro production of protein from DNA sequence without cloning: expression-polymerase chain reaction (E-PCR) technique, 37531
Senior Executive Service:
Performance Review Boards; membership, 37532

Centers for Disease Control
NOTICES
Grants and cooperative agreements; availability, etc.:
Construction workers; disease and injury prevention and health promotion program, 37555

Coast Guard
RULES
Drawbridge operations:
Michigan, 37474
Ports and waterways safety:
Puget Sound; vessel traffic service, 37475
PROPOSED RULES
Drawbridge operations:
Waterborne emergency vessels, 37504

Commerce Department
See also Export Administration Bureau; International Trade Administration; National Oceanic and Atmospheric Administration
NOTICES
Agency information collection activities under OMB review, 37520, 37521
(4 documents)

Conservation and Renewable Energy Office
NOTICES
Meetings:
Metal Casting Industrial Advisory Board, 37543

Copyright Office, Library of Congress
NOTICES
Practice and procedure:
Special handling procedures, 37528

Copyright Royalty Tribunal
NOTICES
Satellite carrier royalty fees:
Distribution proceedings, 37530

Defense Department
See also Air Force Department; Army Department; Engineers Corps; Navy Department
NOTICES
Meetings:
Wage Committee, 37530

Education Department
NOTICES
Agency information collection activities under OMB review, 37533
Grants and cooperative agreements; availability, etc.:
Upward Bound program—
Math and science initiative, 37620

Energy Department
See Conservation and Renewable Energy Office; Federal Energy Regulatory Commission

Engineers Corps
NOTICES
Committees; establishment, renewal, termination, etc.:
Inland Waterways Users Board; correction, 37532

Environmental statements; availability, etc.:
Miami River, FL; maintenance dredging, 37532

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States:
New York, 37475
NOTICES
Alternative treatment technology information center, bioremediation data expansion, 37543
Chesapeake Bay program:
1987 agreement; proposals for review, 37544
Pesticide programs:
Confidential business information and data transfer to contractors, 37544
Registrations; intent to suspend for failure to submit data required for reregistration, 37549
Pesticide registration, cancellation, etc.:
Acrolein, etc., 37610
Pesticides; emergency exemptions:
Fluvalinate, etc., 37545
Pesticides; temporary tolerances:
Abamectin, 37546
Acetochlor, 37547
Amitraz, 37548
Monoammonium, 37548

Executive Office of the President
See Trade Representative, Office of United States

Export Administration Bureau
NOTICES
Meetings:
Automated Manufacturing Equipment Technical Advisory Committee, 37521

Federal Aviation Administration
RULES
Airworthiness directives:
Airbus Industrie, 37462–37464 (3 documents)
British Aerospace, 37465
Fokker, 37466
General Electric Co., 37467
Mitsubishi, 37468
Pratt & Whitney, 37470
Restricted areas; correction, 37607

Federal Communications Commission
NOTICES
Agency information collection activities under OMB review, 37551, 37552 (3 documents)
Public safety radio communications plans:
Illinois area, 37552

Federal Energy Regulatory Commission
NOTICES
Electric rate, small power production, and interlocking directorate filings, etc.:
Seneca Power Partners, L.P., et al., 37534
Natural gas certificate filings:
Northern Natural Gas Co. et al., 37534
Natural Gas Policy Act:
State jurisdictional agencies tight formation recommendations; preliminary findings—
New Mexico Energy, Minerals and Natural Resources Department et al., 37541
Utah Natural Resources Department, 37541
Applications, hearings, determinations, etc.:
Columbia Gas Transmission Corp., 37541
Columbia Gas Transmission Corp.; correction, 37606
Florida Gas Transmission Co.; correction, 37606
Tennessee Gas Pipeline Co., 37541
Texas Eastern Transmission Corp., 37542

Federal Highway Administration
NOTICES
Environmental statements; notice of intent:
Milwaukee, Racine, and Kenosha Counties, WI, 37604
Pulaski and Saline Counties, AR, 37605

Federal Maritime Commission
PROPOSED RULES
Common carrier and conference surcharges; use and effect, 37505
NOTICES
Agreements filed, etc., 37553

Federal Reserve System
NOTICES
Applications, hearings, determinations, etc.:
Advance Bancorp, Inc., et al., 37553
Banc One Corp., 37553
J.B. Morgan Bancshares, Inc., et al., 37554
Liberty National Bancorp, Inc.; correction, 37554

Fish and Wildlife Service
PROPOSED RULES
Endangered and threatened species:
Red wolf; experimental population in North Carolina and Tennessee, 37513
NOTICES
Marine mammal permit applications, 37569

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
Primidone tablets, etc., 37473
Sponsor name and address changes—
Farnam Companies, Inc., 37473
Syntex Animal Health, Division of Syntex Agribusiness, Inc., 37472
PROPOSED RULES
Human drugs:
Topical antimicrobial products (OTC)—
Topical acne drug products; tentative final monograph, 37622
NOTICES
Animal drugs, feeds, and related products:
Bolar Pharmaceutical Co., Inc., et al.; approval withdrawn, 37556
Biological products:
Export applications—
Human T-Lymphotropic Virus, Type I (HTLV-I); correction, 37606

General Accounting Office
NOTICES
Meetings:
Federal Accounting Standards Advisory Board, 37554

General Services Administration
RULES
Federal travel:
Subsistence expenses in special or unusual circumstances; higher maximum daily rates; reimbursement, 37478

Health and Human Services Department
See Centers for Disease Control; Food and Drug Administration; Health Resources and Services Administration

Health Resources and Services Administration
NOTICES
Grants and cooperative agreements; availability, etc.:
Disadvantaged health professions faculty loan repayment program, 37559
Scholarships for disadvantaged students program, 37557

Interior Department
See also Fish and Wildlife Service; Land Management Bureau; Minerals Management Service; National Park Service; Reclamation Bureau
NOTICES
Senior Executive Service:
Performance Review Board; membership, 37562

International Trade Administration
NOTICES
Antidumping:
Dynamic random access memory semiconductors of 256 kilobits and above from Japan, 37522
Erasable programmable read only memory semiconductors from Japan, 37523
Nepheline syenite from Canada, 37526
Red raspberries from Canada, 37527

International Trade Commission
NOTICES
Import investigations:
Bulk ibuprofen from India, 37571
Commercial microwave ovens, assembled or unassembled, from Japan, 37572
Silicon metal from—
Brazil, 37572
Senior Executive Service:
Performance Review Boards; membership, 37573

Interstate Commerce Commission
NOTICES
Railroad operation, acquisition, construction, etc.:
Tongue River Railroad Co., 37573

Labor Department
See Pension and Welfare Benefits Administration

Land Management Bureau
NOTICES
Coal leases, exploration licenses, etc.:
Colorado, 37562
Motor vehicles; off-road vehicle designations:
Oregon, 37563
Opening of public lands:
Arizona; correction, 37607
Realty actions; sales, leases, etc.:
California; correction, 37563
Wyoming, 37563
Survey plat filings:
Colorado, 37564
Withdrawal and reservation of lands:
North Dakota; correction, 37564, 37607 (2 documents)

Library of Congress
See Copyright Office, Library of Congress

Minerals Management Service
NOTICES
Environmental statements; availability, etc.:
Beaufort Sea OCS—
Lease sale, 37569
Royalty management:
Assessment rates; incorrect or late reports and failure to report; correction, 37570

National Highway Traffic Safety Administration
RULES
Fuel economy standards:
Passenger automobiles—
1993-1995 model years; Dutcher Motors, Inc., exemption, 37478

National Institute for Occupational Safety and Health
See Centers for Disease Control

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Gulf of Mexico reef fish; correction, 37606
NOTICES
Marine mammals:
Commercial fishing operations; tuna (yellowfin) caught with purse seines in eastern tropical Pacific Ocean; incidental taking and importation—
Mexico; correction, 37606
Permits:
Marine mammals, 37528

National Park Service
NOTICES
Meetings:
Preservation of Jazz Advisory Commission, 37570
National Register of Historic Places:
Pending nominations, 37570

Navy Department
NOTICES
Inventions, Government-owned; availability for licensing, 37532
Meetings:
Chief of Naval Operations Executive Panel Advisory Committee, 37532, 37533 (3 documents)

Nuclear Regulatory Commission
NOTICES
Environmental statements; availability, etc.:
Dairyland Power Cooperative, 37574
Operating licenses, amendments; no significant hazards considerations; biweekly notices, 37575
Petitions; Director's decisions:
Florida Power Corp., 37601
Applications, hearings, determinations, etc.:
Georgia Power Co. et al., 37602
Vermont Yankee Nuclear Power Corp., 37602

Office of United States Trade Representative
See Trade Representative, Office of United States

Pension and Welfare Benefits Administration
NOTICES
Meetings:
Employee Welfare and Pension Benefit Plans Advisory Council, 37573, 37574
(3 documents)

Personnel Management Office
PROPOSED RULES
Political activity of Federal Government employees:
Calvert County, MD; exemption, 37480

Public Health Service
See Centers for Disease Control; Food and Drug Administration; Health Resources and Services Administration

Reclamation Bureau
NOTICES
Contract negotiations:
Quarterly status tabulation of water services and repayment, 37564

Research and Special Programs Administration
PROPOSED RULES
Hazardous materials:
Hazardous materials transportation—
Miscellaneous amendments, 37505

Small Business Administration
RULES
Small business investment companies:
Management and private capital requirements, 37459
NOTICES
Disaster loan areas:
Iowa et al., 37603

State Department
NOTICES
Meetings:
International Telegraph and Telephone Consultative Committee, 37603, 37604
(3 documents)
Shipping Coordinating Committee, 37604

Trade Representative, Office of United States
NOTICES
Japan:
Semiconductor products trade, 37602

Transportation Department
See also Coast Guard; Federal Aviation Administration; Federal Highway Administration; National Highway Traffic Safety Administration; Research and Special Programs Administration
NOTICES
Aviation proceedings:
Hearings, etc.—
U.S.-Brazil combination service case, 37637

Treasury Department
See Alcohol, Tobacco and Firearms Bureau

Separate Parts In This Issue

Part II
Environmental Protection Agency, 37610

Part III
Department of Education, 37620

Part IV
Department of Health and Human Services, Food and Drug Administration, 37622

Part V
Department of Transportation, 37638

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

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.

5 CFR

Proposed Rules:

733.....37480

7 CFR

301.....37606
1240.....37453

Proposed Rules:

354.....37481
701.....37499
985.....37500

9 CFR

Proposed Rules:

130.....37481

13 CFR

107.....37459

14 CFR

39 (8 documents).....37462–37470
73.....37607

21 CFR

510 (3 documents).....37472, 37473
520.....37473
524 (2 documents).....37473

Proposed Rules:

333.....37622

27 CFR

Proposed Rules:

9.....37501

33 CFR

117.....37474
161.....37475

Proposed Rules:

117.....37504

40 CFR

52.....37475

41 CFR

301–8.....37478

46 CFR

Proposed Rules:

Ch. IV.....37505

49 CFR

531.....37478

Proposed Rules:

107.....37505
171.....37505
172.....37505
173.....37505
175.....37505
177.....37505
178.....37505

50 CFR

641.....37606

Proposed Rules:

17.....37513

Rules and Regulations

Federal Register
Vol. 56, No. 152
Wednesday, August 7, 1991

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1240

[AMS-FV-91-241]

RIN 0581-AA46

Honey Research, Promotion, and Consumer Information Order; Amendments to the Order, Rules and Regulations Issued Thereunder, and Procedure for the Conduct of Referenda

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action amends the Honey Research, Promotion, and Consumer Information Order (Order); Rules and Regulations issued thereunder; and Procedure for the Conduct of Referenda in Connection with the Honey Research, Promotion, and Consumer Information Order. The Honey Research, Promotion, and Consumer Information Act (Act) was amended by the Food, Agriculture, Conservation, and Trade Act of 1990. In accordance with this amendment to the Act, amendments to the Order are published herein. In addition, conforming amendments are made to the Order, all applicable rules and regulations issued thereunder, and to the procedure for the conduct of referenda.

EFFECTIVE DATE: August 7, 1991.

FOR FURTHER INFORMATION CONTACT: Sheila A. Young, Marketing Order Administration Branch, F&V, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 475-3930.

SUPPLEMENTARY INFORMATION: This final rule is issued under the Honey Research, Promotion, and Consumer Information Order (7 CFR part 1240), as amended, hereinafter referred to as the Order. The Order is effective under the Honey Research, Promotion, and Consumer Information Act, as amended 778 (7 U.S.C. 4601-4612), hereinafter referred to as the Act.

This rule has been reviewed by the Department of Agriculture (Department) in accordance with Executive Order 12291 and USDA Regulation 1512-1 and has been determined to be a "non-major" rule under the criteria contained in the Executive Order.

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

There are an estimated 145 handlers, 510 producer-packers, 8,300 producers, and 350 importers who are currently subject to the provisions of the Order. The majority of these persons would be classified as small businesses under the criteria established by the Small Business Administration.

The changes to the Order, rules and regulations, and procedures for conduct of referenda are made as a result of amendments to the Act. The economic impact of these changes is not expected to be significant. The changes will impose additional reporting and recordkeeping requirements. The economic impact of these requirements is also not expected to be significant. Furthermore, the research and promotion program is expected to benefit handlers, producer-packers, producers, and importers by expanding and maintaining new and existing markets. Accordingly, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

In accordance with the Paperwork Reduction Act of 1980 (PRA) and Office of Management and Budget (OMB) regulations (5 CFR part 1320) (44 U S.C. chapter 35), the information collection and recordkeeping requirements contained in this action have been submitted to the OMB and issued OMB control Nos. 0581-0093 and 0505-0001. Control number 0581-0093 replaces control number 0581-0153 which was listed in the proposed rule. Therefore, in addition to the succeeding changes, this action also amends § 1240.125 of the General Rules and Regulations of the Order, to include new OMB control number 0581-0093.

The Order amendments established herein will authorize the Board to require any person who receives an exemption from assessments to submit reports to employees of the Board at such times and in such manner as the Board may prescribe with the approval of the Secretary. In addition, such persons will be required to maintain records as necessary to carry out the provisions of the Order and the records will be subject to inspection. Records will be required to be maintained for two years beyond the first period of their applicability. It is estimated that the number of producer, producer-packer, and importer exemption applicants will not exceed 500. It is also estimated that any such reports will provide for an average burden of .05 hours per report based upon reporting requirements recently approved by the OMB. The original estimates of 3,000 applicants with reporting times of .17 hours, as stated in the proposed rule, were determined to be incorrect based on recent reports submitted by the Board. To claim an exemption, a producer, producer-packer, or importer must submit an application to the Board stating the basis upon which the person claims the exemption each year. It is estimated that the burden will be one response per year with an average reporting burden of .05 hours per response. In addition, exporters nominated for Board membership will complete a membership background information sheet. The estimated number of respondents to this form will be four nominees with an estimated average reporting burden of 0.5 hours per response. Information sheets have been previously approved by the OMB and assigned OMB number 0505-0001.

There are about 212,000 beekeepers in the United States, 95 percent of whom are hobbyists with fewer than 25 colonies. Another 10,000 part-time beekeepers each operate 25-299 colonies. Commercial beekeepers, those owning 300 or more colonies, are estimated to number about 2,000. Hobbyists and part-time beekeepers combined account for 99 percent of the beekeepers, 50 percent of the colonies, and 40 percent of honey production.

Honey production in the United States declined from an average of about 240 million pounds in the 1950's and 1960's to 211 million pounds in the 1970's. Excluding the weather-reduced crops of 1984 and 1985, honey production averaged 208 million pounds for the

1980–88 period. Production averaged 213 million pounds for the crop years 1986–88. The United States has been a net importer of honey since 1967, except in 1973. Imports reached successive record levels in 1981–85. Exports have been increasing since 1985.

Domestic honey consumption includes commercial sales and Government donations. Honey consumption in the United States over the past four decades has ranged between 208 million pounds and 331 million pounds annually. Annual domestic consumption of honey increased from an average of 241 million pounds in the 1960's, 245 million pounds in the 1970's, and 266 million pounds for 1980–87.

This final rule amends the Order, rules and regulations issued thereunder, and the Procedure for the Conduct of Referenda. The changes are in accordance with amendments to the Honey Research, Promotion, and Consumer Information Act (7 U S.C. 4601–4612) as made in the Honey Research, Promotion, and Consumer Information Act Amendments of 1990 (subtitle F, chapter 1 of the Food, Agriculture, Conservation, and Trade Act of 1990, Pub.L. 101–624, November 28, 1990).

The Act, as amended, provides for exporter representation on the National Honey Board (Board). There are two importer members and their respective alternates serving on the 13-member Board. The industry has in the past found it difficult to find enough importers to adequately represent that segment of the industry. The amendment to the Act provides that one of the two importer positions on the Board may be filled by an exporter of honey. This change is reflected in the amendments to the Order.

The Act, as amended, provides that should the seven honey producing regions in the United States be realigned, any producer Board members or alternates appointed from a region, who after the realignment process no longer reside in the region for which they were appointed, will be allowed to complete their terms of office on the Board. This change in the Act permits greater continuity in Board membership and minimizes disruption of the Board's activities should realignment be necessary. This change is reflected in the amendments to the Order.

The Act, as amended, provides that producer-packers who, during any three of the preceding five years, purchase for resale more honey than they produce shall be ineligible for appointment as a producer or alternate producer member to the Board. This change assures the industry of actual producer representation on the Board. This change is reflected in the amendments to the Order.

The Act, as amended, will allow producers, producer-packers who produce and handle, and importers, who produce or import a total quantity of less than 6,000 pounds of honey annually, to apply for and receive an exemption from paying assessments if the total amount of such honey is distributed directly through retail outlets. Formerly, a producer, producer-packer, or importer who produced or imported 6,000 pounds or less of honey per year could apply for and receive an exemption without any restriction as to the manner in which the honey was used. Further, any producer, producer-packer, or importer, who consumes their honey at home or donates honey to a nonprofit, government, or other entity, as determined appropriate by the Secretary, rather then sells such honey, shall be exempt from the assessment on that quantity of honey so consumed or donated, except for honey donated that is later sold in a commercial outlet by a donee or donee's assignee.

In addition, the Act, as amended, will not authorize any producer, producer-packer, or importer to vote in any referendum should they receive an exemption from paying assessments. These amendments to the Act concerning exemptions from paying assessments and eligibility to vote are reflected in the amendments to the Order and the implementing regulations.

The Act, as amended, requires persons who obtain an exemption from the assessment requirement to maintain and make available for inspection books and records, and to file reports as may be required under the Order to assure proper enforcement of the exemption provision. To claim an exemption, a producer, producer-packer, or importer is required to file a report with the Board stating the basis of the exemption. These changes are reflected in the amendments to the Order.

The Act, as amended, provides for patents, copyrights, inventions, product formulations, or publications developed with Board funds to be the property of the Board and any income derived therefrom to inure to the benefit of the Board. This amendment amends previous language whereby such funds became the property of the U.S. Government as represented by the Board. This change is reflected in the amendments to the Order.

The Act, as amended, provides that the Secretary shall provide proof of payment documents to producers at the time Board assessments are deducted on honey placed under the Honey Price Support Loan Program. In accordance with this provision, producers shall qualify for a refund once the deduction of the assessment has been made, even though final settlement has not been made at the time of the loan. This amendment enables a producer who received a price support loan to apply for a refund without delay. Under current Order provisions, refunds cannot be made until final settlement of the loan, even when portions of the honey under loan are redeemed. Delays sometimes occur for a number of months, often until the maturity date of the loan. These changes are reflected in the amendments to the Order.

The Act, as amended, provides that each importer requesting a refund will receive a refund limited to an amount that represents the same percentage of assessments collected from that importer as the percentage of refunds paid to domestic producers by the Board. For example, if the producer refund rate is 10 percent of all assessments collected from producers, each importer could only receive a refund equal to 10 percent of the assessments that the importer paid. Current provisions of the Order apply a percentage refund limitation on importers as a group but apply the producer refund percentage to the entire amount collected from all importers. This change, applying the producer refund rate to each individual importer's allowable refund, is reflected in the accompanying rules and regulations.

The Act, as amended, provides that if a first handler or the Secretary fails to collect an assessment from a producer, the producer shall be responsible for the payment of assessments to the Honey Board. This change is also reflected in the Order and the rules and regulations.

In addition, the Act, as amended, specifies that the Secretary shall conduct a referendum to determine if honey producers and importers favor the continuation of the order, and termination of the authority for producers and importers to obtain a refund of assessments. Approval requires the vote of a majority of those producers and importers voting in the referendum, who produce and import more than 50 percent of the volume of honey produced and imported by those voting in the referendum. In the event termination of the refund provision is favored by the requisite number of producers and importers, the Order would be amended to reflect that decision.

Notice of this action was published in the **Federal Register** on April 19, 1991 (56 FR 16026). Written comments from

interested persons were invited through May 20, 1991. Five comments were received. Comments were received from the National Honey Board, Longmont, Colorado; The American Beekeeping Federation, Inc., Jessup, Georgia; the law firm of Winston and Strawn, Washington, DC, representing the American Honey Producers Association; the National Customs Brokers and Forwarders Association of America, Inc., New York, New York; and the American Farm Bureau Federation, Park Ridge, Illinois. Most of the commenters suggested minor clarifications in specific sections of the Order. The comment from the American Farm Bureau Federation stated its support for the amended section of the Order in regard to continuance referenda.

In its comment, the Board raised a question regarding payments of assessments and the person who is ultimately responsible for assessment collection and payment to the Board. Section 9 of the Act specifies in detail who is responsible for paying the required assessments. The provisions of the Order and the regulations regarding the payments reflect the requirements of the Act. Pursuant to the 1990 amendments to the Act, the ultimate responsibility for paying the assessment, if the handler fails to collect such assessments from a producer, is the producer's.

In its comment the Board also suggested that, in order to avoid confusion regarding responsibility for paying assessments, the word "shall" should be changed to "may". This cannot be done since the amended language of the Act states that "* * * the producer shall be held responsible for the payment of the assessment to the Board."

A comment submitted by the American Beekeeping Federation, Inc. (ABF), recommends that the provisions in § 1240.115(d), which deal with the deduction of assessments from the Honey Price Support Program loans, include a reference that the assessment is to be deducted either from the loan funds or the loan deficiency payment. The general intent of the regulations was to have the terminology broad enough to encompass all types of Community Credit Corporation loans. However, loan deficiency payments are recognizably different from other loans under the Honey Price Support Program. Therefore, the ABF's comment identifying this specific type of loan payment is accepted and has been incorporated into the rules and regulations. Conforming changes regarding price support program loans have also been made to § 1240.41(g) of the Order.

Additional comments submitted by the ABF did not apply to the amendments to the Order and rules and regulations issued thereunder, but addressed the length of time for voting in the referendum and when the voting period should begin. The Department will issue a Referendum Order stating the specific terms of the first reconfirmation referendum, including all applicable time periods.

The comment on behalf of the American Honey Producers Association (Association) recommended clarification of the provisions in § 1240.42(b) of the Order, which addresses honey that is consumed at home or donated. The Association recommended that the Order specifically limit the exemption from assessment to honey consumed at home or donated. The commenter stated that, as currently worded, the Order provision appears to exempt all honey that a producer or importer handles so long as such producer or importer consumes honey at home or donates honey. The intent of the Act is to exempt from assessment only that honey which is consumed at home or donated, unless the donated honey is later sold in a commercial outlet. We therefore agree with the comment and the Order provision is reworded accordingly.

Another comment by the Association recommended that, with respect to nominations of importer or exporter members to the Board, there should be a provision in the Order specifically stating that the two nominees submitted for each position by the Honey Nominations Committee (Committee) be selected by the Committee based on recommendations by industry organizations representing importer and exporter interests. This has been the practice followed in the nominations procedure since the inception of the Order and is applicable to importers as stated in § 1240.32(7)(iii) of the Order. Thus, the comment is accepted and its applicability to exporters has been incorporated into this final rule amending the Order.

A third comment by the Association recommended that the provisions of the first reconfirmation referendum be included in the rules and regulations under the Order. The provisions for the first reconfirmation referendum are clearly expressed in the amendments made to the Act by the Food, Agriculture, Conservation, and Trade Act of 1990. Further, as stated in the analysis of the previous comment, before the occurence of the first reconfirmation referendum, the Department will issue a Referendum Order containing the specific terms of the first reconfirmation referendum and the provisions for termination of the Order. To incorporate into the Order, or the rules and regulations issued under the Order, those provisions that apply only to the first reconfirmation referendum would be redundant and unnecessary. Therefore, this comment is denied.

Two comments were received after the end of the comment period but are addressed in this final rule. These comments were received from the National Customs Brokers and Forwarders Association of America, Inc. (Customs Brokers), New York, New York and the American Farm Bureau Federation (AFBF), Park Ridge, Illinois.

Comments received from the Customs Brokers asked that customs brokers not be considered importers for assessment purposes under the Order. They requested that if entry documentation is filed in the name of a licensed customs broker, then the actual owner or purchaser of the honey for whose account the honey is imported be considered the importer of record. At the time honey is imported or withdrawn for consumption, the U.S. Customs Service records the name of the importer of record and it is that person who is held responsible for paying the assessment. To identify the actual owner or purchaser of honey would present burdensome administrative procedures to the Board, the U.S. Customs Service, and the Department. Furthermore, the term "broker" as used in the Act and Order was intended to mean the agent or person who acts as an intermediary for the seller or purchaser. The Recommended Decision applicable to the Order, published in the Federal Register on January 29, 1986 (51 FR 3605), states that a person need not take title to honey to be an importer. The Recommended Decision states that any person who acts on behalf of others as their agents, brokers, or consignees would become importers if honey or honey products released from the U.S. Customs Service were introduced into commerce. Therefore, this comment is denied.

The AFBF comments were in support of the proposed amendments to the Order, specifically in regard to the provisions that would provide for a periodic referendum (at least every five years) on continuance of the Order and allow for a referendum at any time based on a petition of at least 10 percent of the registered honey producers and importers in any area covered by the program.

Therefore, for the reasons stated, all comments received are either incorporated into the amendments to the Order and rules and regulations issued thereunder, denied as explained in the analysis of each comment, or otherwise addressed.

Based on the above, the Administrator of the AMS has determined that the issuance of this final rule will not have a significant economic effect on a substantial number of small entities.

After consideration of all relevant material presented, it is found that this regulation, 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 that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) This rule further clarifies the provisions already set forth in the Act; (2) the proposed rule offered a 30-day comment period and comments suggesting only points of clarification were received; and (3) no useful purpose will be served by delaying the effective date until 30 days after publication.

List of Subjects in 7 CFR Part 1240

Honey, Agricultural research, Reporting and recordkeeping requirements, Market Development, and Consumer information.

For the reasons set forth in the preamble, chapter XI of title 7, part 1240 is amended to read as follows:

PART 1240—HONEY RESEARCH, PROMOTION, AND CONSUMER INFORMATION ORDER

1. The authority citation for 7 CFR part 1240 is amended to read as follows:

Authority: Honey Research, Promotion, and Consumer Information Act, as amended 7 U.S.C. 4601–4612.

2. Section 1240.10 is revised to read as follows:

§ 1240.10 Importer.

Importer means any person who imports honey or honey products into the United States as principal or as an agent, broker, or consignee for any person who produces honey outside of the United States for sale in the United States, and who is listed in the import records as the importer of record for such honey or honey products.

§§ 1240.11 through 1240.21 [Redesignated as §§ 1240.12 through 1240.21]

3. Sections 1240.11 through 1240.21 are redsignated as §§ 1240.12 through 1240.22 and a new § 1240.11 is added to read as follows:

§ 1240.11 Exporter.

Exporter means any person who exports honey or honey products from the United States.

4. Section 1240.30 is revised to read as follows:

§ 1240.30 Establishment and membership.

A Honey Board (hereinafter called the Board) is hereby established to administer the terms and provisions of this part. The Board shall consist of thirteen (13) members, each of whom shall have an alternate. Seven members and seven alternates shall be honey producers; two members and two alternates shall be honey handlers; two members and two alternates shall be either honey importers or exporters of which at least one member and alternate shall be an importer; one member and one alternate shall be an officer or employee of a honey marketing cooperative; and, one member and one alternate shall be selected to represent the general public. The Board shall be appointed by the Secretary from nominations submitted by the National Honey Nominations Committee, pursuant to § 1240.32.

5. Section 1240.32 is amended by revising paragraph (a)(1), redesignating paragraph (b)(7) as (b)(8), adding new paragraph (b)(7), and revising newly designated paragraph (b)(8)(iii) to read as follows:

§ 1240.32 Nominations.

* * * * *

(a) * * *

(1) There is hereby established a National Honey Nominations Committee, hereinafter called the Committee, which shall consist of not more than one member from each State, appointed by the Secretary from nominations submitted by each State Association. Wherever there is more than one eligible association within a State, the Secretary shall designate the association most representative of the honey producers, handlers, importers and exporters not exempt under sections 1240.42 (a) and (b) to make nominations for that State.

* * * * *

(b) * * *

(7) In nominating producer members to the Board, no producer-packer who, during any three of the preceding five years, purchased for resale more honey than such producer-packer produced shall be eligible for nomination or appointment to the Honey Board as a producer or as an alternate to such producer.

(8) * * *

(iii) Two importer members or one importer and one exporter member, and two alternate importer members or one importer and one exporter alternate member from recommendations made by industry organizations representing importer and/or exporter interests; and

* * * * *

6. Section 1240.34 is amended by revising paragraph (a) to read as follows:

§ 1240.34 Vacancies.

(a) In the event any member of the Board ceases to be a member of the category of members from which the member was appointed to the Board, such position shall automatically become vacant, except that if, as a result of the adjustment of the boundaries of the regions in accordance with § 1240.32(b)(6), a producer member or alternate is no longer from the region from which such person was appointed, such member or alternate may serve out the term for which such person was appointed.

* * * * *

7. Section 1240.38 is amended by revising paragraph (k) to read as follows:

§ 1240.38 Duties.

* * * * *

(k) To notify honey producers, producer-packers, handlers, importers, and exporters of all Board meetings through press releases or other means;

* * * * *

8. Section 1240.41 is amended by revising paragraphs (c) and (g), redesignating paragraphs (h) through (l) as (i) through (m), and adding new paragraph (h) to read as follows:

§ 1240.41 Assessments.

* * * * *

(c) The assessment on honey shall be levied at a rate fixed by the Secretary which shall be $0.01 per pound of honey or honey used in honey products.

* * * * *

(g) Whenever a loan is made on honey under the Honey Loan-Price Support Program, the Secretary shall provide that the assessment be deducted from the proceeds of the loan or the loan deficiency payment, if applicable, and that the amount of such assessment shall be forwarded to the Board, except that the assessment shall not be deducted by the Secretary in the case of a honey marketing cooperative that has already deducted the assessment. As soon as practicable after the assessment is deducted from the loan funds or loan deficiency payment, the Secretary shall

provide the producer with proof of payment of the assessment.

(h) Should a first handler or the Secretary fail to collect an assessment from a producer, the producer shall be responsible for the payment of the assessment to the Board.

* * * * *

9. Section 1240.42 is amended by revising paragraph (a), redesignating paragraphs (c) and (d) as paragraphs (e) and (f), respectively, redesignating and revising paragraph (b) as paragraph (c), and adding new paragraphs (b) and (d) to read as follows:

§ 1240.42 Exemption from assessment.

(a) A producer who produces less than 6,000 pounds of honey per year, or a producer-packer who produces and handles less than 6,000 pounds of honey per year or an importer who imports less than 6,000 pounds of honey per year on honey which such person distributes directly through local retail outlets such as roadside stands, farmers markets, groceries, or other outlets as otherwise determined by the Secretary, during such year shall be eligible for an exemption from the assessment.

(b) A producer or importer who consumes honey at home or donates honey to a nonprofit, government, or other entity, as determined appropriate by the Secretary, rather then sell such honey, shall be exempt from the assessment on that honey so consumed or donated, except for honey donated that is later sold in a commercial outlet by a donee or donee's assignee.

(c) To claim such exemption, a producer, producer-packer, or importer shall submit an application to the Board stating the basis on which the person claims the exemption for such year.

(d) If, after a person claims an exemption from assessments for any year under this subparagraph, and such person no longer meets the requirements of this subparagraph for an exemption, such person shall file a report with the Board in the form and manner prescribed by the Board and pay an assessment on or before March 15 of the subsequent year on all honey produced or imported by such person during the year for which the person claimed the exemption.

* * * * *

10. Section 1240 43 is amended by revising paragraph (a) to read as follows:

§ 1240.43 Producer, importer, and State assessment plan refund.

(a) Any producer or importer who pays an assessment under the authority of this part shall have the right to demand and receive from the Board a refund of such assessment upon submission of proof to the staff of the Board that the producer or importer paid the assessment for which refund is sought. The amount of refunds during any year made to an importer, as a percentage of total assessments collected from such importer, shall not exceed the amount of refunds made to domestic producers, as a percentage of total assessments collected from such producers. Any demand for refund shall be made by the producer or importer within the time and in the manner prescribed by the Board and approved by the Secretary. Refunds made in accordance with this section shall be paid by the Board in June and December of each year.

* * * * *

11. Section 1240.50 is revised to read as follows:

§ 1240.50 Reports.

Each handler, importer, or producer-packer subject to this part shall be required to report to the employees of the Board, at such times and in such manner as it may prescribe, such information as may be necessary for the Board to perform its duties. Such reports shall include, but shall not be limited to the following:

(a) For handlers or producer-packers, total quantity of honey acquired during the reporting period; total quantity handled during such period; amount of honey acquired from each producer, giving name and address of each producer, including those producers who claim exemption from assessment; copy of statement claiming exemption from assessment from those who claim such exemption; assessments collected or collectible during the reporting period; quantity of honey processed for sale from producer-packer's own production; and record of each transaction for honey on which assessment had already been paid, including statement from seller that assessment had been paid.

(b) For importers, total quantity of honey imported during the reporting period and a record of each importation of honey during such period, giving quantity, date, and port of entry.

(c) For persons who have an exemption from assessments under § 1240.42 (a) and (b), such information as deemed necessary by the Board, and approved by the Secretary, concerning the exemption including disposition of exempted honey.

12. Section 1240.51 is revised to read as follows:

§ 1240.51 Books and records.

Each handler, importer, producer-packer, or any person who receives an exemption from assessments shall maintain and during normal business hours make available for inspection by employees of the Board or the Secretary, such books and records as are necessary to carry out the provisions of this subpart and the regulations issued thereunder, including such records as are necessary to verify any required reports. Such records shall be maintained for two years beyond the first period of their applicability.

13. Section 1240.62 is amended by revising paragraph (b), redesignating paragraph (c) as paragraph (d), and adding new paragraph (c) to read as follows:

§ 1240.62 Suspension or termination.

* * * * *

(b) Except as otherwise provided in paragraph (c) of this section, five years from the date the Secretary issues an order authorizing the collection of assessments on honey under provisions of this subpart, and every five years thereafter, the Secretary shall conduct a referendum to determine if honey producers and importers favor the termination or suspension of this subpart.

(c) In lieu of the first referendum otherwise required to be conducted under paragraph (b) of this section for the order in effect, the Secretary shall conduct a referendum to determine if honey producers and importers favor:

(1) Continuation of the order; and

(2) Termination of the authority for producers and importers to obtain a refund of assessments under § § 1240.43 (a) and (b).

* * * * *

14. Section 1240.67 is revised to read as follows:

§ 1240.67 Patents, copyrights, inventions, product formulations, and publications.

Except for a reasonable royalty paid by the Board to the inventor of a patented invention, any patents, copyrights, inventions, product formulations, or publications developed through the use of funds collected under the provisions of this subpart shall be the property of the Honey Board. Funds generated by such patents, copyrights, inventions, product formulations, or publications shall inure to the benefit of the Board and shall be considered income subject to the same fiscal, budget, and audit controls as other funds of the Board.

15. Section 1240.106 is revised to read as follows:

§ 1240.106 Communications.

Communications in connection with the Order and all rules, regulations, and supplemental Orders issued thereunder shall be addressed to the National Honey Board, 421 21st Street, Longmont, Colorado 80501–1421.

16. Section 1240.114 is amended by revising paragraph (a) to read as follows:

§ 1240.114 Exemption procedures.

(a) Producers who produce, producer-packers who produce and handle, and importers who import honey and who wish to claim an exemption from assessments pursuant to § § 1240.42 (a) and (b) should submit an application to the Board for a certificate of exemption.

* * * * *

17. Section 1240.115 is amended by revising paragraph (c)(1), revising paragraph (c)(2)(i), removing paragraph (c)(2)(ii), redesignating paragraph (c)(2)(iii) as paragraph (c)(2)(ii), and revising paragraph (d) to read as follows:

§ 1240.115 Levy of assessments.

* * * * *

(c) * * *

(1) The first handler shall collect and pay assessments to the Board unless such handler has received documentation acceptable to the Board that the assessment has been previously paid.

(2) * * *

(i) Such producer-packer has obtained an exemption from the Board applicable to the honey which that producer-packer produced or produced and handled; or

* * * * *

(d) Assessments shall be levied with respect to honey pledged as collateral for a loan or loan deficiency payment under the Commodity Credit Corporation (CCC) Honey Price Support Program in accordance with an agreement entered into between the Honey Board and the CCC. The assessment will be deducted from the proceeds of the loan or loan deficiency payment by the CCC and forwarded to the Board, except that the assessment shall not be deducted in the case of a honey marketing cooperative that has already deducted the assessment or that portion of the assessment paid to a qualified State plan exempted by the Board. The Secretary, through the CCC, shall provide for the producer to receive a statement of the amount of the assessment deducted from the loan funds or loan deficiency payment promptly after each occasion when an assessment is deducted from any such loan funds or payment under this subsection.

* * * * *

18. Section 1240.116 is amended by revising paragraph (a) to read as follows:

§ 1240.116 Payment of assessments.

(a) Responsibility for payment. Unless otherwise authorized by the Board under the Act and Order, the first handler or producer-packer shall collect the assessment from the producer, or deduct such assessment from the proceeds paid to the producer on whose honey the assessment is made, and remit the assessments to the Board. The first handler or producer-packer shall furnish the producer with evidence of such payment. Any such collection or deduction of assessment shall be made not later than the time when the assessment becomes payable to the Board. Failure of the handler or producer-packer to collect or deduct such assessment does not relieve the handler or producer-packer of his or her obligation to remit the assessment to the Board. However, should a first handler or the Secretary fail to collect an assessment from a producer, the producer shall be responsible for the payment of the assessment to the Board. Assessments on imported honey and honey products shall be collected as specified in § 1240.115(e); *Provided,* That importers shall be responsible for payment of any assessment amount not collected by the U.S. Customs Service at the time of entry or withdrawal for consumption into the United States.

* * * * *

19. Section 1240.118 is revised to read as follows:

§ 1240.118 Reports of disposition of exempted honey.

The Board may require reports by first handlers, producer-packers, importers, or any persons who receive an exemption from assessments under § 1240.42 (a) and (b) on the handling and disposition of exempted honey. Also, authorized employees of the Board or the Secretary may inspect such books and records as are appropriate and necessary to verify the reports on such disposition.

20. Section 1240.120 is revised to read as follows:

§ 1240.120 Retention period for records.

Each first handler, producer-packer, importer, or any person who receives an exemption from assessments under § § 1240.42 (a) and (b) required to make reports pursuant to this subpart shall maintain and retain for at least two years beyond the marketing year of their applicability: One copy of each report made to the Board, records of all exempt producers, producer-packers, and importers including certification of exemption as necessary to verify the address of such exempt person and such records as are necessary to verify such reports.

21. Section 1240.121 is revised to read as follows:

§ 1240.121 Availability of records.

Each first handler, producer-packer, importer, or any person who receives an exemption from assessments under §§ 1240.42 (a) and (b) and is required to make reports pursuant to this subpart shall make available for inspection by authorized employees of the Board or the Secretary during regular business hours, such records as are appropriate and necessary to verify reports required under this subpart.

22. Section 1240.122 is revised to read as follows:

§ 1240.122 Confidential books, records, and reports.

All information obtained from the books, records, and reports of handlers, producer-packers, importers or any persons who receive an exemption from assessments under § 1240.42 (a) and (b) and all information with respect to refunds of assessments made to individual producers and importers shall be kept confidential in the manner and to the extent provided for in § 1240.52 of the Order.

23. Section 1240.125 is revised to read as follows:

§ 1240.125 OMB control numbers.

The control numbers assigned to the information collection requirements by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1980, Public Law 96–511, are as follows: OMB Number 0581–0093, except Board member nominee information sheets which are assigned OMB Number 0505–0001.

24. Section 1240.200 is revised to read as follows:

§ 1240.200 General.

Referenda to determine whether eligible producers and importers favor the termination or suspension of a Honey Research, Promotion, and Consumer Information Order shall be conducted in accordance with this subpart.

25. Section 1240.201 is amended by revising paragraphs (h) and (i) to read. as follows:

§ 1240.201 Definitions.

* * * * *

(h) *Eligible producer* means any person defined as a producer or producer-packer in the order who produces, or handles, or produces and handles honey or honey products and who does not claim an exemption from paying assessments during the representative period and who:

(1) Owns or shares in the ownership of honey bee colonies or beekeeping equipment resulting in the ownership of the honey produced;

(2) Rents honey bee colonies or beekeeping equipment resulting in the ownership of all or a portion of the honey produced; or

(3) Owns honey bee colonies or beekeeping equipment but does not manage them and, as compensation, obtains the ownership of a portion of the honey produced;

(4) Is a party in a lessor-lessee relationship or a divided ownership arrangement involving totally independent entities cooperating only to produce honey who share the risk of loss and receive a share of the honey produced. No other acquisition of legal title to honey shall be deemed to result in persons becoming eligible producers.

(i) *Eligible importer* means any person defined as an importer in the order, engaged in the importation of honey and/or honey products and who does not claim an exemption from paying assessments during the representative period. Importation occurs when commodities originating outside the United States are released from custody of the U.S. Customs Service and introduced into the stream of commerce within the United States. Included are persons who hold title to foreign-produced honey and/or honey products immediately upon release by the Customs Service, as well as any persons who act on behalf of others, as agents or brokers, to secure the release of honey and/or honey products from Customs and introduce them into the current of commerce.

* * * * *

26. Section 1240.203 is amended by revising paragraph (e) to read as follows:

§ 1240.203 Instructions.

* * * * *

(e) Make available to eligible producers and importers the instructions on voting, appropriate ballot and certification forms, and, except in the case of a referendum on the termination or suspension of an order, a summary of the terms and conditions of the order: *Provided*, That no person who claims to be eligible to vote shall be refused a ballot.

* * * * *

Dated: July 17, 1991.

Jo Ann R. Smith,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 91-18632 Filed 8-6-91; 8:45 am]

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SMALL BUSINESS ADMINISTRATION

13 CFR Part 107

[Rev. 6, Amdt. 6]

Small Business Investment Companies; Management and Private Capital Requirements

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: On October 2, 1990 SBA published as an interim final rule several amendments to the regulations governing the Small Business Investment Company (SBIC) and Specialized Small Business Investment Company (SSBIC) program. These regulatory changes were designed to increase minimum capital requirements for SBICs and SSBICs (collectively Licensees) and to ensure the objectivity and impartiality of the valuation of investments made by SBICs and SSBICs. They were designed to protect SBA's exposure with respect to Government funds and guarantees it makes available to such entities (Leverage). They took effect immediately upon publication with respect to new applicants for licenses to act as SBICs or SSBICs, and prospectively with respect to applications in-house on the effective date and Licensees which had been licensed as of the effective date. SBA invited public comments upon these interim final rules.

After reviewing the comments, SBA published a revocation of that portion of the interim final rule that involved composition of the bodies which perform valuation of the investments of SBICs and SSBICs. 56 FR 13583, April 3, 1991. SBA hereby publishes, with some modifications based upon comments received, the final rule involving minimum private capital which reflects SBA's final position on that issue dealt with by the interim final rule.

DATES: These regulations are effective August 7, 1991. However, as indicated in the body of the regulations, their effectiveness is delayed with respect to applications in-house at the time of the publication of the interim final rules and licenses granted thereupon, and present Licensees. Comments on these rules will be accepted and reviewed as part of SBA's ongoing evaluation of its regulatory function.

ADDRESSES: Written comments should be addressed to Bernard Kulik, Associate Administrator for Investment, Small Business Administration, 409 Third Street, SW., Code 6140, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Joseph L. Newell, Director, Office of Investment, telephone (202) 205-6510.

SUPPLEMENTARY INFORMATION: On June 29, 1990, the Small Business Administration announced by notice a 90 day moratorium on the approval for new licenses for Small Business Investment Companies (SBICs) licensed pursuant to section 301(c), 5 U.S.C. 681(c), of the Small Business Investment Act and Specialized Small Business Investment Companies (SSBICs) licensed pursuant to section 301(d) of the same Act. (55 FR 26803). The notice indicated that SBA would use the moratorium period to review criteria under which SBIC and SSBIC licenses are issued as well as other program regulations. While that review was still ongoing, SBA determined that there was an immediate need to implement new regulatory requirements in two areas in order to permit uninterrupted program operations after the expiration of the moratorium while satisfying SBA's need to reduce its fiscal vulnerability. These two areas involve the requirements for minimum private capital invested in a SBIC or SSBIC by its owners and the composition of the bodies which perform the valuations of the investments of SBICs and SSBICs. The interim final rule with respect to the latter area of concern was revoked by publication in the **Federal Register** of April 3, 1991.

With respect to the former area of concern, section 302 of the Small Business Investment Act prescribes minimum capital requirements for SBICs and SSBICs. This section has been implemented by regulations found at 13 CFR 107.101(d)(1). The minimum capital requirement for SBICs and SSBICs prior to publication of the interim final rule was $1,000,000. SBA was not satisfied that this requirement was sufficient to support its provision of future funding to SBICs and SSBICs. Thus, the interim final rule raised the minimum capital requirement by amendment to § 107.101(d)(1) to $3,000,000 for SBICs and $2,000,000 for SSBICs. This

requirement applied to new applicants of either type immediately upon publication in the **Federal Register**. However, in order to avoid undue hardship, all applications in-house prior to the effective date of the interim final regulation were to be judged under the minimum capital regulatory requirement in effect prior to that effective date. In addition any licensed SBIC or SSBIC, or applicant which had been licensed under prior regulatory requirements was permitted to retain minimum capital in the amount required by regulations in effect prior to the effective date of the interim final rule. However, any such SBIC or SSBIC was required by the terms of that regulation to meet the new applicable minimum capital requirement in order to be eligible for Leverage pursuant to SBA's regulations. In other words, Leverage would be granted to an SBIC or SSBIC beginning one year after the effective date, only if the Licensee had attained the minimum capital requirement by the time the Leverage was requested.

SBA offered the public ample opportunity to comment on the interim final regulations. During the comment period, SBA received over 330 comments on the minimum capital requirement proposal. Most were critical of the regulation. The major objections voiced by the comments were:

1. The effective date of the regulation permits too short a time for existent Licensees to raise their private capital to the regulatory requirement.

2. "Rollovers" or refinancings of existent SBA-guaranteed obligations should be permitted regardless of compliance with the new private capital requirements.

3. Imposition of the new private capital requirement on existent Licensees works a hardship because it amounts to a retroactive rule change. This is unfair and inconsistent with SBA's past practice of "grandfathering" existent Licensees at prior levels when private capital requirements have been raised in the past.

4. The new requirement is prejudicial against smaller Licensees without an evidentiary basis; since SBA points to no evidence which would indicate that there is a greater risk in providing Leverage to a Licensee with private capital below the new limits.

5. The regulation arbitrarily discriminates against SBICs by setting lower requirements for SSBICs.

6. The requirements would adversely affect Licensees' interest in providing small financings.

7. The requirement is inequitable for Licensees located in smaller states where sources of capital needed for compliance are not readily available.

SBA has carefully reviewed these comments and decided to make final the interim final rule with some modifications applicable to Licensees in existence on October 2, 1990, and those whose license applications were in-house on that date. Its primary reason for doing so remains as previously expressed; it is not satisfied that previous regulatory levels of capitalization are sufficient to support its guarantee of future funding to SBICs and SSBICs. However, SBA is persuaded that the applicability of the regulation should not result in severe economic disruption of the existent industry.

The modifications to the interim final rule focus upon the minimum capital requirements themselves, the timetable under which they must be achieved in order for a Licensee to be eligible for Leverage and the opportunity for refinancing or "rollover" of existent Leverage. With respect to the minimum private capital requirements, SBA has decided to relax the requirement for SBICs from $3,000,000 to $2,500,000, and for SSBICs from $2,000,000 to $1,500,000.

In order to permit an orderly schedule of compliance with the new minimum private capital requirements and in order to permit existent Licensees adequate time to raise the amounts of capital necessary to attain compliance, SBA has made two modifications to the interim final rule. First, SBA has made the minimum capital requirements fully effective after December 31, 1995, for Licensees existent on October 2, 1990; and those whose licenses are based on applications in-house on that date. However, in order to be eligible for Leverage in each year between December 31, 1992, and December 31, 1995 such Licensees will have to increase their private capital each year by 25 percent of the difference between the new requirement and their private capital on October 2, 1990. The first such increase will be required at such time after December 31, 1992, that the Licensee applies for leverage. Thus, to be eligible for leverage after December 31, 1992, and prior to December 31, 1993, each such Licensee will have to have increased its private capital by 25 percent of the difference between its private capital on October 2, 1990, and $2.5 million for SBICs; $1.5 million for SSBICs, at the time of the application for leverage. Additional cumulative 25 percent increases will be required by December 31, 1993, 1994, 1995 in order to retain Leverage eligibility. Thereafter, full compliance with the minimum amounts will be required for such Licensees at the time of the application for leverage. The minimum capital requirements will be effective upon publication of this regulation in the **Federal Register** for any Licensee whose application was not in-house on October 2, 1990.

In addition, SBA has provided two limited exceptions to the applicability of the new private capital requirements. First, any Licensee existent on October 2, 1990, or whose application for a license was in-house on that date, may be eligible to apply for Leverage regardless of these new minimum capital requirements if it can demonstrate to SBA's satisfaction that it has been profitable for three (3) out of its last four fiscal years preceding the date of its application for Leverage and, on the average, has been profitable for all such fiscal years. In verifying a Licensee's profitability, SBA will review the Licensee's Annual Audited Financial Statements contained in its Annual Report, SBA Form 468, filed with SBA in accord with applicable regulations. Profitability will be measured in terms of Combined Income (Net Investment Income (Loss) plus Realized Gain (Loss) on Sale of Securities).

Second, under this final rule Licensees existent on October 2, 1990 will be permitted one "rollover" of each debenture outstanding on October 2, 1990 which matures on or before December 31, 1995, for a term of not more than 10 years, and one rollover of any such debenture which matures after December 31, 1995, for a term of three years, regardless of its private capital.

Compliance With Executive Orders 12291 and 12612, and the Regulatory Flexibility and Paperwork Reduction Acts

Executive Order 12291 and the Regulatory Flexibility Act

SBA has determined that these regulations, taken as a whole, will constitute a major rule for purposes of Executive Order 12291, because they are likely to have an annual impact on the national economy of $100 million or more. In this regard, these regulations may have a significant economic impact on a substantial number of small entities. Pursuant to E.O. 12291 and 5 U.S.C. 603, SBA offers the following regulatory flexibility and economic impact analysis.

1. This action, taken as a whole, is designed to reduce risks of losses being sustained by Licensees and by SBA as investor or the guarantor of certain of their indebtedness.

2. The legal basis for these regulations is section 308(c) of the Small Business Investment Act, 5 U.S.C. 687(c).

3. These rules apply to all 367 currently operating Licensees, including 133 SSBICs.

4. The potential benefits of these regulations have been set forth in the respective discussions of these regulations above, under Supplementary Information.

5. The potential costs of these regulations cannot be quantified or even estimated, as for the most part they prevent transactions from being consummated, such as high-risk leveraging of Licensees at the expense of SBA as guarantor.

6. There are no Federal rules which duplicate, overlap or conflict with these rules.

7. SBA is not aware of regulatory alternatives that could achieve the same objectives at lower cost, as explained above under No. 5.

Executive Order 12612

SBA certifies that these final regulations have no federalism implications warranting the preparation of a Federalism Assessment in accordance with E.O. 12612.

Paperwork Reduction Act

For purposes of the Paperwork Reduction Act, 44 U.S.C., ch. 35, we hereby certify that these regulations, will impose no new recordkeeping requirements.

These final regulations represent the result of an exhaustive analysis of the comments received on the interim final rules. Thus, while they differ from the interim final rule in some respects, SBA takes the position that further notice and comment is not required. These regulations respond to an immediate need to ensure that the disposition of Government funds is adequately protected, and SBA's interest is not unnecessarily disrupting industry operation. Therefore, these final regulations are effective upon publication. However, SBA is soliciting public comments on them and will consider those comments in the development of future final rules on the matter.

List of Subjects in 13 CFR Part 107

Investment companies, Loan programs/business, Small businesses.

PART 107—SMALL BUSINESS INVESTMENT COMPANIES

For the reasons set forth above, part 107 of title 13, Code of Federal Regulations, is amended as follows:

1. The authority citation for part 107 continues to read as follows:

Authority: Title III of the Small Business Investment Act, 15 U.S.C. 681 et seq., as amended, Public Law 100–590 and Public Law 101–162. 15 U.S.C. 687(c); 15 U.S.C. 683, as amended by Public Law 101–162; 15 U.S.C. 687(d); 15 U.S.C. 687g; l5 U.S.C. 687b; 15 U.S.C. 687m, as amended by Public Law 100–590.

2. Section 107.101 is amended by revising paragraph (d) to read as follows:

§ 107.101 Operational requirements.

* * * * *

(d) *Minimum Capital.* Each section 301(c) Licensee and section 301(d) Licensee shall have:

(1) In the case of a section 301(c) Licensee, Private Capital of at least $2,500,000; *Provided however,* That the $2,500,000 requirement shall not apply with respect to any Licensee licensed before October 2, 1990, nor with respect to any license application on file with SBA before October 2, 1990, nor with respect to any license granted on the basis of such application. Any such Licensee or license applicant is permitted to have such Private Capital as is required by regulation in effect prior to October 2, 1990.

(2) In order to be eligible for Leverage under these regulations after December 3, 1992, any section 301(c) Licensee licensed before October 2, 1990, or whose license application was on file with SBA before October 2, 1990, will be required to have increased its private capital at the time of the application for leverage after December 31, 1992, by 25 percent of the difference between its Private Capital on October 2, 1990 and $2,500,000 (the difference); and at the time of the application for leverage after December 31, 1993 by 50 percent of the difference; and at the time of the application for leverage after December 31, 1994 by 75 percent of the difference; and at the time of the application for leverage after December 31, 1995 and thereafter by 100 percent of the difference; *Provided however;* That any such section 301(c) Licensee is eligible to apply for Leverage if it can demonstrate to SBA's satisfaction that it has been profitable for three out of its last four fiscal years preceding the date of application for Leverage and, on the average has been profitable for all such fiscal years. In verifying a Licensee's profitability, SBA will review the Licensee's Annual Audited Financial Statements contained in its Annual Report, SBA Form 468, filed in accord with applicable regulations. Profitability will be measured in terms of combined Income (Net Investment Income (Loss) plus Realized Gain (Loss) on Sale of Securities); *Provided further, however,* That any such section 301(c) Licensee is eligible to apply for Leverage needed to refinance any debenture outstanding on October 2, 1990, as follows:

(i) Any such debenture which matures on or before December 31, 1995 may be refinanced, one time only, for a term of not more than ten years, and

(ii) Any such debenture which matures after December 31, 1995, may be refinanced, one time only, for a term of three years.

(3) In the case of a section 301(d) Licensee, Private Capital of at least $1,500,000; *Provided however,* That the $1,500,000 requirement shall not apply with respect to any Licensee licensed before October 2, 1990, nor with respect to any license application on file with SBA before October 2, 1990, nor with respect to any license granted on the basis of such application. Any such Licensee or license applicant is permitted to have such Private Capital as is required by regulation in effect prior to October 2, 1990.

(4) In order to be eligible for Leverage under these regulations after December 31, 1992, any section 301(d) Licensee licensed before October 2, 1990, or whose license application was on file with SBA before October 2, 1990, will be required to have increased its private capital at the time of the application for leverage after December 31, 1992, by 25 percent of the difference between its Private Capital on October 2, 1990 and $1,500,000 (the difference); and at the time of application for leverage after December 31, 1993 by 50 percent of the difference; and at the time of the application for leverage after December 3, 1994 by 75 percent of the difference; and at the time of the application for leverage after December 31, 1995 and thereafter by 100 percent of the difference; *Provided however;* That any such section 301(d) Licensee is eligible to apply for Leverage if it can demonstrate to SBA's satisfaction that it has been profitable for three out of its last four fiscal years preceding the date of application for Leverage and, on the average has been profitable for all such fiscal years. In verifying Licensee's profitability, SBA will review the Licensee's Annual Audited Financial Statements contained in its Annual Report, SBA Form 468, filed in accord with applicable regulations. Profitability will be measured in terms of combined Income (Net Investment Income (Loss) plus Realized Gain (Loss) on Sale of Securities); *Provided further, however,* That any such section 301(d) Licensee is eligible to apply for Leverage needed to

refinance any debenture outstanding on October 2, 1990, as follows:

(i) Any such debenture which matures on or before December 31, 1995 may be refinanced, one time only, for a term of not more than ten years, and

(ii) Any such debenture which matures after December 31, 1995, may be refinanced, one time only, for a term of three years.

Dated: July 1, 1991.

Patricia Saiki,

Administrator.

[FR Doc. 91-18691 Filed 8-6-91; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 90-NM-174-AD; Amendment 39-7095; AD 91-16-05]

Airworthiness Directives; Airbus Industrie Model A310-200 and A310-300 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Airbus Industrie Model A310-200 and A310-300 series airplanes, which requires repetitive visual inspections and electrical continuity tests to detect broken or missing vespel bushes in the flap universal joint assemblies, and replacement of universal joint bushes, if necessary. This amendment is prompted by reports of abnormal angular backlash found in some flap drive shaft-universal joint assemblies, due to loose, broken, or missing vespel bushes installed in the universal joint forkends. This condition, if not corrected, could result in flap failure and subsequent partial loss of lift in one wing with associated degradation of controllability of the airplane.

DATES: Effective September 11, 1991.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 11, 1991.

ADDRESSES: The applicable service information may be obtained from Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Greg Holt, Standardization Branch, ANM-113; telephone (206) 227-2140. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include a new airworthiness directive, applicable to all Airbus Industrie Model A310-200 and A310-300 series airplanes, which requires repetitive visual inspections and electrical continuity tests to detect broken or missing vespel bushes in the flap system universal joint assemblies, and replacement of the universal joint bushes, if necessary, was published in the **Federal Register** on April 26, 1991 (56 FR 19326).

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

Both commenters supported the rule.

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

It is estimated that 22 airplanes of U.S. registry would be affected by this AD, that it would take approximately 5 manhours per airplane to accomplish the required actions, and that the average labor cost would be $55 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $6,050.

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

For the reasons discussed above, I certify that this action (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the rules docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—[AMENDED]

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

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

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

91-16-05. Airbus Industrie: Amendment 39-7095. Docket No. 90-NM-174-AD.

Applicability: Model A310-200 and A310-300 series airplanes, certificated in any category.

Compliance: Required as indicated, unless previously accomplished.

To prevent rupture of the flap universal joints, subsequent partial loss of lift in one wing, and reduced controllability of the airplane, accomplish the following:

A. Prior to the accumulation of 5,500 landings, or within 350 hours time-in-service after the effective date of this AD, whichever occurs later, and thereafter at intervals not to exceed 3,500 landings, perform a visual inspection and electrical continuity tests of the flap system universal joint assemblies, in accordance with Airbus Industrie Service Bulletin A310-27-2054, Revision 2, dated November 9, 1990.

Note: The Airbus service bulletin references Lucas/Liebherr Service Bulletin No. 551A-27-613, dated March 1989, for additional instructions.

B. If any universal joint bushes are missing or broken, prior to further flight, replace the bushes in accordance with Airbus Industrie Service Bulletin A310-27-2054, Revision 2, dated November 9, 1990. After replacement, repeat the inspections required by paragraph A. of this AD at intervals not to exceed 3,500 landings.

C. An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Standardization Branch, ANM-113.

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

The inspection, testing, and replacement requirements shall be done in accordance with Airbus Industrie Service Bulletin A310-27-2054, Revision 2, dated November 9, 1990, which includes the following list of effective pages:

Page No.	Revision level	Date
Summary 1-2	2	Nov. 9, 1990.
1-2	2	Nov. 9, 1990.
3-4	Original	July 13, 1989.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. Copies may be inspected at the FAA, Transport Airplane Directorate, Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, DC.

This amendment (39-7095, AD 91-16-05) becomes effective September 11, 1991.

Issued in Renton, Washington, on July 22, 1991.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91-18670 Filed 8-6-91; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 91-NM-90-AD; Amendment 39-7093; AD 91-16-03]

Airworthiness Directives; Airbus Industrie Model A300, A310, and A300-600 Series Airplanes Equipped With Escape Slides

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Airbus Industrie Model A300, A310, and A300-600 series airplanes equipped with escape slides, which requires a one-time visual inspection of the escape slide girt bars for correct installation, and repair, if necessary. This amendment is prompted by a recent report of an incorrectly installed escape slide girt bar. This condition, if not corrected, could result in passengers tripping over the raised bar and being delayed during an emergency evacuation.

DATES: Effective September 11, 1991.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 11, 1991.

ADDRESSES: The applicable service information may be obtained from Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Greg Holt, Standardization Branch, ANM-113; telephone (206) 227-2140. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include a new airworthiness directive, applicable to all Airbus Industrie Model A300, A310, and A300-600 series airplanes equipped with escape slides, which requires a one-time visual inspection of the escape slide girt bars for correct installation, and repair, if necessary, was published in the Federal Register on May 1, 1991 (56 FR 19960).

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

All commenters supported the rule.

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

It is estimated that 113 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 manhour per airplane to accomplish the required actions, and that the average labor cost will be $55 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $6,215.

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

For the reasons discussed above, I certify that this action: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the rules docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—[AMENDED]

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

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

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

91-16-03. **Airbus Industrie:** Amendment 39-7093. Docket No. 91-NM-90-AD.

Applicability: Model A300, A310, and A300-600 series airplanes equipped with escape slides, certificated in any category.

Compliance: Required as indicated, unless previously accomplished.

To prevent delayed passenger evacuation during an emergency, accomplish the following:

A. Within 30 days after the effective date of this AD, or prior to the accumulation of 300 hours time-in-service after the effective date of this AD, whichever occurs first, perform a close visual inspection of the escape slide girt bars for correct installation, in accordance with paragraph 4 of Airbus Industrie All Operators Telex (AOT) 25-01, dated July 30, 1990. If the girt bars are incorrectly installed, prior to further flight, repair in accordance with the AOT.

B. An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Standardization Branch, ANM-113.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to

operate airplanes to a base in order to comply with the requirements of this AD.

D. The inspection and repair requirements shall be done in accordance with Airbus Industrie All Operators Telex (AOT) 25–01, dated July 30, 1990. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

Copies may be obtained from Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. Copies may be inspected at the FAA, Transport Airplane Directorate, Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, DC.

This amendment (39–7093, AD 91–16–03) becomes effective September 11, 1991.

Issued in Renton, Washington, on July 19, 1991.

David G. Hmiel,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91–18669 Filed 8–6–91; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 91–NM–59–AD; Amendment 39–7092; AD 91–16–02]

Airworthiness Directives; Airbus Industrie Model A320 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Industrie Model A320 series airplanes, which requires repetitive functional checks of the low pressure fuel fire shut-off valve actuator and replacement of the actuator, if necessary. This amendment is prompted by reports that the low pressure fuel fire shut-off valve did not close completely on command due to the microswitches moving from their set position. This condition, if not corrected, could result in failure to shut off the fuel supply in the event of an engine fire.

DATES: Effective September 11, 1991.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 11, 1991.

ADDRESSES: The applicable service information may be obtained from Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Greg Holt, Standardization Branch, ANM–113; telephone (206) 227–2140. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include a new airworthiness directive, applicable to certain Airbus Industrie Model A320 series airplanes, which requires repetitive functional checks of the low pressure fuel fire shut-off valve actuator and replacement of the actuator, if necessary, was published in the **Federal Register** on April 23, 1991 (56 FR 18545).

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

One commenter supported the rule.

A second commenter suggested that paragraph B. of the proposal be clarified by identifying the appropriate replacement parts by part number. The FAA concurs and has revised the final rule accordingly. Additionally, for clarity's sake, the FAA has revised all references to the subject actuator to specify that it is the "low pressure fuel fire shut-off valve actuator."

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

It is estimated that 20 airplanes of U.S. registry would be affected by this AD, that it would take approximately 5 manhours per airplane to accomplish the required actions, and that the average labor cost would be $55 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $5,500.

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

For the reasons discussed above, I certify that this action: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034), February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the rules docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—[AMENDED]

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

Authority: 49 U.S.C. 1354(a), 1421 and 1423 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

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

91–16–02. **Airbus Industrie:** Amendment 39–7092. Docket No. 91–NM–59–AD.

Applicability: Model A320 series airplanes, on which Modification 22039 has not been accomplished, certificated in any category.

Compliance: Required as indicated, unless previously accomplished.

To ensure complete closure of the low pressure fuel fire shut-off valve, accomplish the following:

A. Within 350 hours time-in-service after the effective date of this AD, and thereafter at intervals not to exceed 350 hours time-in-service, perform a functional check of the low pressure fuel fire shut-off valve actuator, in accordance with Airbus Industrie All Operators Telex (AOT) 28–01, dated October 8, 1990.

B. If any valve fails or indicates failure to open or close correctly, prior to further flight, replace the low pressure fuel fire shut-off valve actuator with either P/N HTE 190001 (PRE Airbus Industrie Service Bulletin A320–28–1028), or P/N HTE 190001–1 (POST Airbus Industrie Service Bulletin A320–28–1028), in accordance with Airbus Industrie Service Bulletin A320–28–1028, Revision 1, dated November 23, 1990. Following actuator replacement, perform a functional test in accordance with AOT 28–01, dated October 8, 1990. Accomplishment of Modification 22039 (Service Bulletin A320–28–1028) constitutes terminating action for the repetitive functional checks required by paragraph A. of this AD.

C. An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Standardization Branch, ANM-113.

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

E. The repetitive functional check requirements shall be done in accordance with Airbus Industrie All Operators Telex (AOT) 28-01, dated October 8, 1990. The replacement requirements shall be done in accordance with Airbus Industrie Service Bulletin A320-28-1028, Revision 1, dated November 23, 1990. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. Copies may be inspected at the FAA, Transport Airplane Directorate, Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

This amendment becomes effective September 11, 1991.

Issued in Renton, Washington, on July 19, 1991.

David G. Hmiel,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91-18668 Filed 8-6-91; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 91-NM-79-AD; Amendment 39-7097; AD 91-16-07]

Airworthiness Directives; British Aerospace Model ATP Series Airplanes Equipped With Smiths Industries Altimeter Repeater Unit, Part No. 1205AM1

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The amendment adopts a new airworthiness directive (AD), applicable to certain British Aerospace Model ATP series airplanes, which requires modification of the Smiths Industries Altimeter Repeater Units. This amendment is prompted by reports of jamming of the baro set knob and the pilot's inability to adjust the baro setting. This condition, if not corrected, could result in the pilot not receiving accurate altitude data that is necessary for safe operation of the airplane.

DATES: Effective September 11, 1991.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 11, 1991.

ADDRESSES: The applicable service information may be obtained from British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. William Schroeder, Standardization Branch, ANM-113; telephone (206) 227-2148. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include a new airworthiness directive, applicable to British Aerospace Model ATP series airplanes, which requires modification of the Smiths Industries Altimeter Repeater Units, was published in the **Federal Register** on May 1, 1991 (56 FR 19961).

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

The commenter supported the rule.

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

It is estimated that 6 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 manhour per airplane to accomplish the required actions, and that the average labor cost will be $55 per manhour. The modification parts will be supplied by Smiths Industries at no cost to the operators. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $330.

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

For the reasons discussed above, I certify that this action: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the rules docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—[AMENDED]

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

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

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

91-16-07. British Aerospace: Amendment 39-7097. Docket No. 91-NM-79-AD.

Applicability: Model ATP series airplanes, equipped with Smiths Industries Altimeter Repeater Units, Part Number 1205AM1, certificated in any category.

Compliance: Required within 120 days after the effective date of this AD, unless previously accomplished.

To ensure the pilot receives accurate altitude data, accomplish the following:

A. Install a hardened knobshaft, Part Number AM10588, in place of Part Number AM10454, and remount the microswitch (Smiths Industries Modification No. 02), in accordance with British Aerospace Service Bulletin ATP-34-40, dated October 20, 1990.

Note: The British Aerospace service bulletin references Smiths Industries Service Bulletin 1205AM-34-756 for additional instructions.

B. An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and

then send it to the Manager, Standardization Branch, ANM–113.

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

D. The modification requirement shall be done in accordance with British Aerospace Service Bulletin ATP–34–40, dated October 20, 1990. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041.

Copies may be inspected at the FAA, Transport Airplane Directorate, Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

This amendment (39–7097, AD 91–16–07) becomes effective September 11, 1991.

Issued in Renton, Washington, on July 22, 1991.

David G. Hmiel,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91–18671 Filed 8–6–91; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 91–NM–83–AD; Amendment 39–7096; AD 91–16–06]

Airworthiness Directives; Fokker Model F–28 Mark 0100 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Fokker Model F–28 Mark 0100 series airplanes, which requires replacement of the audio control panels with modified units. This amendment is prompted by reports of audio failure following the selection of certain control settings. This condition, if not corrected, could result in loss of communications and reduced capability to comply with air traffic control separation procedures.

DATES: Effective September 11, 1991.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 11, 1991.

ADDRESSES: The applicable service information may be obtained from Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Quam, Standardization Branch, ANM–113; telephone (206) 227–2145. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include a new airworthiness directive, applicable to certain Fokker Model F–28 Mark 0100 series airplanes, which requires replacement of the audio control panels with modified units, was published in the **Federal Register** on May 7, 1991 (56 FR 21105).

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

The commenter supported the rule.

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

It is estimated that 12 airplanes of U.S. registry will be affected by this AD, that it will take approximately 2 manhours per airplane to accomplish the required actions, and that the average labor cost will be $55 per manhour. The cost for required parts is negligible. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $1,320.

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

For the reasons discussed above, I certify that this action: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the rules docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—[AMENDED]

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

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

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

91–16–06. **Fokker:** Amendment 39–7096. Docket No. 91–NM–83–AD.

Applicability: Model F–28 Mark 0100 series airplanes; Serial Numbers 11244 through 11264, 11268 through 11283, 11286, 11289, 11291, 11293, 11295, and 11297; certificated in any category.

Compliance: Required within one year after the effective date of this AD, unless previously accomplished.

To prevent loss of communications and reduced capability to comply with air traffic control separation procedures, accomplish the following:

A. Remove all audio control panels and replace with modified audio control panels, in accordance with Fokker Service Bulletin F100–23–014, dated November 7, 1990.

Note: The Fokker service bulletin references Gables Service Bulletins G6937XX SB#2, Revision 1, dated March 1, 1991; G6939–12 SB#3, dated February 6, 1990; and G6968–02 SB#2, dated February 6, 1990; for additional instructions.

B. An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

Note: The request should be forwarded through an FAA Principal Avionics Inspector, who may concur or comment and then send it to the Manager, Standardization Branch, ANM–113.

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

D. The replacement requirement shall be done in accordance with Fokker Service Bulletin F100–23–014, dated November 7, 1990. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314.

Copies may be inspected at the FAA, Transport Airplane Directorate, Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

This amendment (39-7096, AD 91-16-06) becomes effective September 11, 1991.

Issued in Renton, Washington, on July 22, 1991.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91-18672 Filed 8-6-91; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 90-ANE-34; Amendment 39-7090]

Airworthiness Directives; General Electric Company (GE) CF6-80A and CF6-80C2 Series Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain GE CF6-80A and CF6-80C2 series turbofan engines, which requires borescope inspection of high pressure compressor rotor (HPCR) stages 11-14 spool-shafts to detect vane to spool rubs. Also, the AD reduces the life limit for spool-shafts with vane to spool rubs. This amendment is prompted by reports of HPCR stages 11-14 spool-shafts found in service with vane to spool rubs. This condition, if not corrected, could result in uncontained engine failure.

DATES: Effective September 6, 1991.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 6, 1991.

ADDRESSES: The applicable service information may be obtained from General Electric Aircraft Engines, CF6 Distribution Clerk, room 132, 111 Merchant Street, Cincinnati, Ohio 45246, or may be examined in the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, Massachusetts.

FOR FURTHER INFORMATION CONTACT: Karen Grant, Engine Certification Office, ANE-140, Engine and Propeller Directorate, Aircraft Certification Service, FAA, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803-5299, (617) 273-7096.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations (FAR) to include a new airworthiness directive, applicable to certain GE CF6-80A and CF6-80C2 series turbofan engines, which requires borescope inspection of HPCR stages 11-14 spool-shafts to detect vane to spool rubs and which reduces the life limit for spool-shafts with vane to spool rubs, was published in the **Federal Register** on January 8, 1991 (56 FR 657).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Three comments were received. Two commenters expressed no objection to the adoption of the proposed rule. Due consideration has been given to the comments received.

One commenter stated that the proposed compliance schedule does not adequately differentiate spool-shafts susceptible to rubs from those which are not susceptible to rubs. In particular, the commenter stated that affected spool-shafts which were determined not to have rub damage but were later installed on engines with tight vane to spool clearances are susceptible to rubs and should be borescope inspected. The commenter also stated that any rub condition will surface early in service and that the minimum inspection threshold should be removed.

The FAA concurs with the commenter. Consequently, the AD will address all engines susceptible to vane to spool rubs. Also, the minimum inspection threshold will be removed. These changes do not increase the scope of the AD since the decrease in required inspections associated with removing the minimum inspection threshold is offset by the increase in required inspections from addressing engines rebuilt with tight vane to spool clearances.

The economic impact contained in the final evaluation has been increased to reflect additional information received since issuance of the proposal.

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

There are approximately 484 GE CF6-80A and CF6-80C2 series engines of the affected design in the worldwide fleet. It is estimated that 110 engines installed on aircraft of U.S. registry will be affected by this AD, that it will take approximately 2 manhours per engine to accomplish the required actions, and that the average labor cost would be $55 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $12,100.

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

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

List of Subjects in 14 CFR Part 39

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

The Adopted Amendment

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

PART 39—[AMENDED]

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

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

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

AD 91-15-25—General Electric Company (GE): (39-7090) Docket No. 90-ANE-34.

Applicability: GE CF6-80A series and CF6-80C2 series engines, installed on, but not limited to, Airbus A300 and A310 and Boeing 747 and 767 aircraft.

Compliance: Required as indicated, unless already accomplished.

To prevent an uncontained engine failure, accomplish the following:

(a) Inspect high pressure compressor rotor (HPCR) stages 11-14 spool-shafts for vane to spool rubs within 500 cycles in service (CIS) after the effective date of this AD, or prior to accumulating 8000 cycles since new,

whichever occurs later, according to the following:

(1) Inspect CF6-80A series engines, Serial Numbers (S/N) 580-101 through 580-319, and S/N 585-101 through 585-222, installed with an HPCR stages 11-14 spool-shaft, Part Number (P/N) 9225M37G11, 9225M37G14, 9225M37G16, 9225M37G19, 9225M37G20, or 9225M37G21, in accordance with the Accomplishment Instructions in GE CF6-80A Service Bulletin (SB) 72-459, Revision 2, dated June 14, 1989.

(2) Inspect CF6-80C2 series engines, S/N 690-101 through 690-181, S/N 695-101 through 695-150, and S/N 705-101 through 705-112, installed with an HPCR stages 11-14 spool-shafts, P/N 9380M30G07, 9380M30G08, 9380M30G09, 9380M30G10, or 1531M21G01, in accordance with the Accomplishment Instructions in GE CF6-80C2 SB 72-130, Revision 2, dated October 18, 1989.

(3) Inspect in accordance with the applicable requirements of paragraph (a)(1) or (a)(2) of this AD, HPCR stages 11-14 spool-shafts which were installed in a high pressure compressor (HPC) at an engine shop visit, with stages 10 through 13 vane radii less than the values indicated in Table 1 of this AD for CF6-80A service engines, and Table 2 of this AD for CF6-80C2 series engines.

(b) The inspection requirements of paragraph (a) of this AD are not applicable to HPCR stage 11-14 spool-shafts visually inspected at the piece-part level, determined not to have vane to spool rub damage, and were installed in an HPC with stages 10 through 13 vane radii greater than or equal to the values indicated in Table 1 of this AD for CF6-80A series engines, and Table 2 of this AD for CF6-80C2 series engines.

(c) Remove from service within 500 CIS after the effective date of this AD or prior to accumulating 8,000 cycles since new, whichever occurs later, HPCR stages 11-14 spool-shafts with vane to spool rub damage.

Note: CF6-80A SB 72-460 and CF6-80C2 SB 72-131 introduce an FAA approved rework procedure to increase the FAA approved life limit for HPCR stages 11-14 spool-shafts with vane to spool rub damage.

(d) Aircraft may be ferried in accordance with the provisions of FAR 21.197 and 21.199 to a base where the AD can be accomplished.

(e) Upon submission of substantiating data by an owner or operator through an FAA Inspector (maintenance, avionics or operations, as appropriate), an alternate method of compliance with the requirements of this AD or adjustments to the compliance times specified in this AD may be approved by the Manager, Engine Certification Office, Engine and Propeller Directorate, Aircraft Certification Service, FAA, 12 New England Executive Park, Burlington, Massachusetts 01803-5299.

(f) The inspections shall be done in accordance with the following GE documents:

Document	Page No.	Issue/ revision	Date
GE CF6-80A	2-9	Original	11/25/86
SB 72-459	1	Rev. 2	6/14/89
Total pages	9		

Document	Page No.	Issue/ revision	Date
GE CF6-80C2.	2-9	Original	11/25/86
SB 72-130	1	Rev. 2	10/18/89
Total pages	9		

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from General Electric Aircraft Engines, CF6 Distribution Clerk, room 132, 111 Merchant Street, Cincinnati, Ohio 45246. Copies may be inspected at the FAA, New England Region, Office of the Assistant Chief Counsel, room 311, 12 New England Executive Park, Burlington, Massachusetts, or at the Office of the Federal Register, 1100 L Street, NW., room 8401, Washington, DC.

TABLE 1.—CF6-80A HPC STATOR VANE MINIMUM RADII VANE

Stage	Position	Minimum vane radius (in)
Stage 10 Vanes.	1-6, 35-80	11.416
	7-8, 33, 34	11.417
	9, 10, 31, 32	11.418
	11, 12, 29, 30	11.419
	13-16, 25-28	11.420
	17-24 (or 1-80 if round grind).	11.421
Stage 11 Vanes.	1-6, 35-80	11.623
	7, 8, 33, 34	11.624
	9, 10, 31, 32	11.625
	11, 12, 29, 30	11.626
	13, 16, 25-28	11.627
	17-24 (or 1-80 if round grind).	11.628
Stage 12 vanes with liners.	1-10, 31-80	11.769
	11, 12, 29, 30	11.770
	13-15, 26-28	11.771
	16-25 (or 1-80 if round grind).	11.772
Stage 12 vanes without liners.	1-10, 31-80	11.786
	11, 12, 29, 30	11.787
	13-15, 26-28	11.788
	16-25 (or 1-80 if round grind).	11.789
Stage 13 Vanes.	1-10, 31-80	11.903
	11, 12, 29, 30	11.904
	13-15, 26-28	11.905
	16-25 (or 1-80 if round grind).	11.906

NOTES: (1) Vane radius is measured from vane tip at vane centerline to stator case centerline.

(2) Vane positions are numbered clockwise, aft looking forward, starting with No. 1 at the left hand horizontal split line upper stator case.

(3) These revised minimum vane radii were incorporated into the CF6-80A Engine Manual, GEK 72501, in Revision 23.

TABLE 2.—CF6-80C2 HPC STATOR VANE MINIMUM RADII VANE

Stage	Position	Minimum vane radius (in)
Stage 10 Vanes.	1-6, 35-80	11.409
	7, 34	11.410
	8, 9, 32, 33	11.411
	10, 31	11.412
	11, 12, 29, 30	11.413
	13, 14, 27, 28	11.414
	15, 16, 25, 26	11.415
	17-24 (or 1-80 if round grind).	11.416
Stage 11 Vanes.	1-6, 35-80	11.617
	7, 34	11.618
	8, 9, 32, 33	11.619
	10, 31	11.620
	11, 12, 29, 30	11.621
	13, 14, 27, 28	11.622
	15, 16, 25, 26	11.623
	17-24 (or 1-80 if round grind).	11.624
Stage 12 Vanes.	1-10, 32-84	11.780
	11, 31	11.781
	12, 13, 29, 30	11.782
	14-16, 26-28	11.783
	17-25 (or 1-84 if round grind).	11.784
Stage 13 Vanes.	1-10, 31-80	11.906
	11, 12, 29, 30	11.907
	13, 14, 27, 28	11.908
	15, 16, 25, 26	11.909
	17-24 (or 1-80 if round grind).	11.910

NOTES: (1) Vane radius is measured from vane tip at vane centerline to stator case centerline.

(2) Vane positions are numbered clockwise, aft looking forward, starting with No. 1 at the left hand horizontal split line upper stator case.

(3) These revised minimum vane radii were incorporated into the CF6-80C2 Engine Manual, GEK 92451, in Revision 7.

This amendment (39-7090, Docket No. 90-ANE-34) becomes effective September 6, 1991.

Issued in Burlington, Massachusetts, on July 17, 1991.

Jay J. Pardee,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 91-18673 Filed 8-6-91; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 91-NM-118-AD; Amendment 39-7091; AD 91-16-01]

Airworthiness Directives; Mitsubishi Heavy Industries Model YS-11/-11A Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

applicable to Mitsubishi Heavy Industries (MHI) Model YS–11/–11A series airplanes, which currently requires a revision to the FAA-approved Airplane Flight Manual (AFM) and installation of a placard to limit the wing flap setting on final approach to landing in icing conditions. The operational limitation is intended to prevent airplane nose down pitch during flap extension, and consequent uncontrolled descent of the airplane. This amendment requires the incorporation of certain MHI Transmittal Letters into the AFM so that the required AFM revisions are properly located and applicable to all series of the affected airplane model, and to ensure that all necessary operating procedures are available to the flight crew.

DATES: Effective August 22, 1991.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 22, 1991.

ADDRESSES: The applicable service information may be obtained from Nagoya Aircraft Works, Mitsubishi Heavy Industries, Ltd., 10 Oye-cho, Minato-Ku, Nagoya 455, Japan, Attention: Manager, YS–11 Group, Service Department. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Joe Brownlee, Flight Test Pilot, ANM–160L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California 90806–2425; telephone (213) 988–5365.

SUPPLEMENTARY INFORMATION: On February 21, 1991, the FAA issued AD 91–06–04, Amendment 39-6922 (56 FR 9616, March 7, 1991), to require a revision to the Model YS–11/–11A FAA-approved Airplane Flight Manual (AFM) and installation of a placard to limit flap extension to 20 degrees while landing in icing conditions. That action was prompted by two instances of airplane nose down pitch while flying in icing conditions as flaps were set to normal positions on final approach (moved from 20 degrees extended to 35 degrees extended). This condition, if not corrected, could result in uncontrolled descent of the airplane.

Since issuance of AD 91–06–04, the FAA has determined that the MHI Transmittal Letter referenced in that AD, and the location of the required AFM revision associated with it, are applicable only to Model YS–11A–200 and –300 series airplanes. It is therefore necessary that certain other MHI Transmittal Letters be referenced to ensure that the required AFM revision is properly located in the AFM and applicable to the other series of the affected airplane model, namely Model YS–11, YS–11A–500, and YS–11A–600 series airplanes. Additionally, the FAA has determined that the referenced MHI Transmittal Letters must be incorporated into the AFM in order to ensure that all necessary operating procedures are available to the flight crew.

The intent of the AFM revision, and the inclusion of the MHI Transmittal Letters in the AFM, is to provide special operational procedures that will preclude any Model YS–11/ –11A series airplane from extending wing flaps more than 20 degrees when landing in icing conditions and, consequently, experiencing nose down pitch.

MHI has issued the following Transmittal Letters:

a. NMAC YS–11 Flight Manual Publication No. YS–FM–001, Transmittal Letter E32, dated October 2, 1990;

b. NMAC YS–11A–200/300 Flight Manual Publication No. YS–FM–002, Transmittal Letter No. E2027, dated October 2, 1990;

c. NMAC YS–11A–500 Flight Manual Publication No. YS–FM–005, Transmittal Letter No. E5021, dated October 2, 1990; and

d. NMAC YS–11A–600 Flight Manual Publication No. YS–FM–006, Transmittal Letter No. E6021, dated October 2, 1990.

These Transmittal Letters add procedures for approach and landing in icing conditions or in visible moisture below +5 °C (+41 °F) OAT. The letters do not indicate, however, that flap settings should be restricted to 20 degrees.

This airplane model is manufactured in Japan and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since this situation is likely to exist or develop on other airplanes of the same type design, this AD supersedes AD 91–06–04 to require the inclusion of certain MHI Transmittal Letters in the AFM, a revision to the AFM, and installation of a placard to limit the flap positions in icing conditions on final approach to landing.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

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

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—[AMENDED]

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

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–6922 and by adding the following new airworthiness directive:

91–16–01. Mitsubishi Heavy Industries (MHI), Ltd. [formerly Nihon Aeroplane Manufacturing Company (NMAC)]: Amendment 39–7091. Docket No. 91–NM–118–AD. Supersedes AD 91–06–04.

Applicability: Model YS-11, YS-11A-200, YS-11A-300, YS-11A-500, and YS-11A-600 series airplanes, certificated in any category.

Compliance: Required as indicated, unless previously accomplished.

To prevent uncontrolled nose down pitch of the airplane on landing approach during icing conditions, accomplish the following:

(a) Within 30 days after March 19, 1991 (the effective date of Amendment 39-6922, AD 91-06-04), accomplish the following:

(1) Revise the Operating Limitations Section of the FAA-approved Airplane Flight Manual (AFM) for the Model YS-11/-11A by adding a subparagraph B. to paragraph 1.10.5, *Wing De-Icer System*, to read as follows: This may be accomplished by inserting a copy of this AD in the AFM.

"B. Do not extend flaps greater than 20 degrees in the presence of known icing conditions or in visible moisture below plus 5 degrees centigrade (plus 41 degrees Fahrenheit) outside air temperature (OAT)."

(2) Add a placard as near as possible to the flap handle to read as follows: "Flaps limited to 20 degrees in known icing conditions."

(b) Within 30 days after the effective date of this amendment, accomplish the following:

(1) Insert the following MHI Transmittal Letters in the Normal Operating Procedures Section of the AFM, as applicable:

(i) For Model YS-11 airplanes: NMAC YS-11 Flight Manual Publication No. YS-FM-001, Transmittal Letter E32, dated October 2, 1990;

(ii) For Model YS-11A-200 and -300 series airplanes: NMAC YS-11A-200/300 Flight Manual Publication No. YS-FM-002, Transmittal Letter No. E2027, dated October 2, 1990;

(iii) For Model YS-11A-500 series airplanes: NMAC YS-11A-500 Flight Manual Publication DNo. YS-FM-005, Transmittal Letter No. E5021, dated October 2, 1990;

(iv) For Model YS-11A-600 series airplanes: NMAC YS-11A-600 Flight Manual Publication No. YS-FM-005, Transmittal Letter No. E6021, dated October 2, 1990.

(2) In the Normal Operating Procedures Section of the AFM, just after the MHI Transmittal Letter required by paragraph (b)(1) of this AD, revise subparagraph "(2) Flaps" of paragraph 3.1.10.1, *Approach and Landing in Icing Conditions or in Visible Moisture Below plus 5 Degrees C (plus 41 Degrees F) OAT*, to read as follows. This may be accomplished by inserting a copy of this AD in the AFM.

"(2) Flaps..... Set Position

Note: Do not extend flaps greater than 20 degrees.

Caution: If Unusual Pitching or Yoke Movement Occurs While Extending the Flaps, Immediately Retract the Flaps Until the Pitching or Yoke Movement Stops."

(c) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Los Angeles ACO.

Note: Previous FAA approval granted for an alternative method of compliance with AD 91-06-04 constitutes FAA approval as an alternative method of compliance with this AD.

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

(e) The AFM revision requirements shall be accomplished, in part, by incorporating the following documents into the AFM: NMAC YS-11 Flight Manual Publication No. YS-FM-001, Transmittal Letter E32; NMAC YS-11A-200/300 Flight Manual Publication No. YS-FM-002, Transmittal Letter No. E2027; NMAC YS-11A-500 Flight Manual Publication No. YS-FM-005, Transmittal Letter No. E5021; NMAC YS-11A-600 Flight Manual Publication No. YS-FM-006, Transmittal Letter No. E6021; all of which are dated October 2, 1990. These documents contain the following list of effective pages:

Publication No./transmittal letter No.	Section	Code symbol	Page No.
Publication No. YS-FM-001	Transmittal Sheet	T/L E32	1/1
Transmittal Letter E32	L.E.P.	(none)	i
Dated October 2, 1990	Log of Revision (1)	(none)	ii-10
	3	(none)	i
		(none)	25
		(none)	25a
Publication No. YS-FM-002	Transmittal Sheet	T/L E2027	1/1
Transmittal Letter E2027	L.E.P.	E101	i
Dated October 2, 1990	Log of Revision (1)	E101	ii-8
	3	E100	i
		E100	21
		E100	22
Publication No. YS-FM-005	Transmittal Sheet	T/L E5021	1/1
Transmittal Letter E5021	L.E.P.	E500	i
Dated October 2, 1990	Log of Revision (1)	E156	ii-5
	3	E100	i
		E100	21
		E100	22
Publication No. YS-FM-006	Transmittal Sheet	T/L E6021	1/1
Transmittal Letter E6021	L.E.P.	E600	i
Dated October 2, 1990	Log of Revision (1)	E156	ii-5
	3	E100	i
		E100	21
		E100	22

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Nagoya Aircraft Works, Mitsubishi Heavy Industries, Ltd., 10 Oye-cho, Minato-Ku, Nagoya 455, Japan, Attention: Manager, YS-11 Group, Service Department. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California; or at the Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, DC.

This amendment supersedes Amendment 39-6922, AD 91-06-04.

This amendment (39-7091, AD 91-16-01) becomes effective August 22, 1991.

Issued in Renton, Washington, on July 19, 1991.

David G. Hmiel,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91-18674 Filed 8-6-91; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 91-ANE-20; Amendment 39-7065]

Airworthiness Directives; Pratt & Whitney Canada, Inc. (PWC) JT15D-4B Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule, request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to PWC JT15D–4B turbofan engines, which requires initial and repetitive inspections of certain gas generator cases (GGC) for cracks, removal from service of cases found cracked, and removal from service of affected cases at the next engine overhaul. This amendment is prompted by a report of the explosive rupture of a GGC during takeoff which resulted in sudden loss of engine power and an aborted takeoff. This condition, if not corrected, could result in rupture of the GGC, which could lead to an aborted takeoff, inflight shutdown, and/or damage to the aircraft.

DATES: Effective August 22, 1991.

Comments must be received no later than Septembr 6, 1991.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 22, 1991.

ADDRESSES: Submit comments in duplicate to the FAA, New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 91–ANE–20, 12 New England Executive Park, Burlington, Massachusetts 01803–5299, or deliver in duplicate to room 311 at the above address.

Comments may be inspected at the above location between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except federal holidays.

The applicable service information may be obtained from Pratt & Whitney Canada, Inc., Publications Distribution Department, 03CAI, 1000 Marie Victorin, Longueuil, Quebec, Canada J4G 1A1. This information may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, Massachusetts.

FOR FURTHER INFORMATION CONTACT: Richard Woldan, Engine Certification Office, ANE–140, Engine and Propeller Directorate, Aircraft Certification Service, FAA, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803–5299; (617) 273–7097.

SUPPLEMENTARY INFORMATION: There has been one GGC rupture resulting from an axial crack in the case outer wall. The event resulted in sudden loss of engine power, an aborted takeoff and bursting of the engine outer bypass duct. In this event the aircraft damage was minimal because the case ruptured on the side of the engine away from the airplane. Subsequent examination of the fracture surface revealed that a fatigue crack originated from a spot weld used to attach a reinforcing strip to the inside of the case. This crack propagated to a critical length which caused the GGC to explosively rupture. This GGC also exhibited cracks at a number of other spot welds. Since this event another in-service case was found to have a similar crack originating from a spot weld. This condition, if not corrected, could result in rupture of the GGC, which could lead to aborted takeoff, inflight shutdown, and/or damage to the aircraft.

The FAA has reviewed and approved the technical contents of PWC JT15D–4B Maintenance Manual, Part Number 3017542, Temporary Revisions 72–95 and 72–96, each dated January 16, 1991, which provide the instructions required to perform an on-wing borescope inspection of the outside of the GGC for cracks.

Since this condition is likely to exist or develop on other engines of the same type design, this AD requires initial and repetitive inspections of affected GGC's, removal of cracked cases from service, and removal from service of affected cases at the next engine overhaul.

Since this condition could result in sudden loss of engine power, aborted takeoff, engine inflight shutdown, and/or damage to the aircraft, there is a need to require on-wing, repetitive inspections and removal of affected GGC's from service with minimum delay. Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

Although this action is in the form of a final rule, which involves an emergency and, thus, was not preceded by notice and public procedure, interested persons are invited to submit such written data, views, or arguments as they may desire regarding this AD. Communications should identify the docket number and be submitted to the FAA, New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 91–ANE–20, 12 New England Executive Park, Burlington, Massachusetts 01803–5299. All communications received by the deadline date indicated above will be considered by the Administrator, and the AD may be changed in light of the comments received.

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

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Executive Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—[AMENDED]

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

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449), January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

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

91–15–02. Pratt & Whitney Canada, Inc.: Amendment 39–7065, Docket No. 91–ANE–20.

Applicability: Pratt & Whitney Canada (PWC) JT15D–4B turbofan engines, with the following serial numbers, installed on, but not limited to, Cessna model S550 (Citation S/II) series airplanes:

Serial Numbers PC–E 102047 to PC–E 102050 inclusive, PC–E 102053 to PC–E 102066 inclusive, PC–E 102069, PC–E 102070, PC–E 102073, PC–E 102082, and PC–E 102089.

Compliance: Required as indicated, unless previously accomplished.

To prevent rupture of the gas generator case (GGC) which could result in an inflight shutdown, aborted takeoff, and/or damage to the aircraft, accomplish the following:

(a) Perform a borescope inspection of GGC Part Number (P/N) 3106469–01 for cracks in accordance with PWC JT15D–4B Maintenance Manual (MM), P/N 3017542, Temporary Revision (TR) 72–95, dated January 16, 1991, and TR 72–96, dated January 16, 1991, within 10 days after the effective date of this AD. Ensure that particular attention is paid to the spot welds. Accomplishment of this inspection within the previous 150 engine operating hours or 150 cycles in service, whichever is the shorter interval, before the effective date of this AD, meets the requirements of this paragraph.

(b) Thereafter, at intervals not to exceed 150 engine operating hours or 150 cycles in service, whichever occurs first, since last inspection, perform repetitive borescope inspections of GGC P/N 3106469–01 for cracks in accordance with PWC JT15D–4B MM TR 72–95, dated January 16, 1991, and TR 72–96, dated January 16, 1991. Ensure that particular attention is paid to the spot welds.

(c) Borescope inspections performed in accordance with PWC Service Information Letter Number 7040, dated December 17, 1990, are considered to satisfy the requirements of paragraph (a) of this AD.

(d) Remove from service prior to further flight GGC's which are found to be cracked and replace with a serviceable GGC P/N 3109069–01, 3110464–01 or 3114407–01. Accomplishment of this replacement constitutes terminating action for the repetitive inspection requirements of paragraph (b) of this AD.

(e) No later than the next engine overhaul, remove GGC P/N 3106469–01 and replace with a serviceable GGC P/N 3109069–01, 3110464–01 or 3114407–01. Accomplishment of this replacement constitutes terminating action for the repetitive inspection requirements of paragraph (b) of this AD.

(f) For the purpose of this AD an engine overhaul is defined as any engine maintenance action which includes separation of the GGC forward outer flange and aft flange.

(g) Aircraft may be ferried in accordance with the provisions of FAR 21.197 and 21.199 to a base where the AD can be accomplished.

(h) Upon submission of substantiating data by an owner or operator through an FAA Inspector, (maintenance, avionics, or operations, as appropriate) an alternate method of compliance with the requirements of this AD or adjustments to the compliance times specified in this AD may be approved by the Manager, Engine Certification Office, ANE–140, Engine and Propeller Directorate, Aircraft Certification Service, FAA, 12 New England Executive Park, Burlington, Massachusetts 01803–5299.

(i) The inspections shall be done in accordance with the following Pratt & Whitney Canada documents:

Document No.	Page No.	Issue/ Rev	Date
Temporary Revision, 72–95 to PWC, Maintenance Manual, Part No. 3017542.	1	Original	1/16/91
Temporary Revision, 72–96 to PWC, Maintenance Manual, Part No. 3017542. Total Pages: 2	1	Original	1/16/91

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Pratt & Whitney Canada, Inc., Publications Distribution Department, 03CA1, 1000 Marie Victorin, Longueuil, Quebec, Canada J4G 1A1. Copies may be inspected at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, room 311, Burlington, Massachusetts, or at the Office of the Federal Register, 1100 L Street, NW., room 8401, Washington, DC.

This amendment (39–7065, AD 91–15–02) becomes effective August 22, 1991.

Issued in Burlington, Massachusetts, on July 10, 1991.

Jack A. Sain,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 91–18675 Filed 8–6–91; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 510

Animal Drugs, Feeds, and Related Products; Change of Sponsor Name

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor name from Syntex Animal Health, Inc., to Syntex Animal Health, Division of Syntex Agribusiness, Inc.

EFFECTIVE DATE: August 7, 1991.

FOR FURTHER INFORMATION CONTACT: Benjamin A. Puyot, Center for Veterinary Medicine (HFV–130), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–295–8646.

SUPPLEMENTARY INFORMATION: Syntex Animal Health, Inc., has informed FDA of a change of sponsor name from Syntex Animal Health, Inc., to Syntex Animal Health, Division of Syntex Agribusiness, Inc. The agency is amending the regulations in 21 CFR 510.600 (c)(1) and (c)(2) to reflect this change.

List of Subjects in 21 CFR Part 510

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

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 510 is amended as follows:

PART 510—NEW ANIMAL DRUGS

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

Authority: Secs. 201, 301, 501, 502, 503, 512, 701, 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 376).

2. Section 510.600 is amended in the table in paragraph (c)(1) by removing the entry "Syntex Animal Health, Inc.," and replacing it with the entry "Syntex Animal Health, Division of Syntex Agribusiness, Inc.," and in the table in paragraph (c)(2) in the entry "000033" by revising the sponsor name to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * * * *	
Syntex Animal Health, Division of Syntex Agribusiness, Inc., 3401 Hillview Ave., Palo Alto, CA 94304	000033
* * * * *	

Drug labeler code	Firm name and address
(2) * * *	
* * * * *	
000033	Syntex Animal Health Division of Syntex Agribusiness, Inc., 3401 Hillview Ave., Palo Alto, CA 94304
* * * * *	

Dated: August 1, 1991.

Robert C. Livingston,

Director, Center for Veterinary Medicine.

[FR Doc. 91–18757 Filed 8–6–91; 8:45 am]

BILLING CODE 4160–01–M

21 CFR Parts 510, 520, and 524

Animal Drugs, Feeds, and Related Products; Primidone et al.

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to remove those portions of the regulations reflecting approval of three new animal drug applications (NADA's) held by Bolar Pharmaceutical Co., Inc., and two NADA's held by Sanofi Animal Health, Inc. In a notice published elsewhere in this issue of the **Federal Register**, FDA is withdrawing approval of the NADA's.

EFFECTIVE DATE: August 19, 1991.

FOR FURTHER INFORMATION CONTACT: Mohammad I. Sharar, Center for Veterinary Medicine (HFV–216), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4093.

SUPPLEMENTARY INFORMATION: In a notice published elsewhere in this issue of the **Federal Register**, FDA is withdrawing approval of the following NADA's held by Bolar Pharmaceutical Co., Inc., 130 Lincoln St., Copiague, NY 11726, and Sanofi Animal Health, Inc., 7101 College Blvd., suite 610, Overland Park, KS 66210.

NADA No.	Sponsor	Product
107–397	Bolar Pharmaceutical Co., Inc.	Primidone tablets.
118–506	Sanofi Animal Health, Inc.	Nitrofurazone ointment.
119–974	Sanofi Animal Health, Inc.	Nitrofurazone solution.
125–329	Bolar Pharmaceutical Co., Inc.	Furosemide tablets.
135–299	Bolar Pharmaceutical Co., Inc.	Acepromazine maleate tablets.

This final rule removes those portions of the regulations in 21 CFR 520.23(a)(2), 520.1010a(b), 520.1900(b), 524.1580b(b), and 524.1580d(b) that reflect approval these NADA's. Additionally, because Bolar Pharmaceutical Co., Inc., no longer sponsors any approved NADA's 21 CFR 510.600 (c)(1) and (c)(2) are amended to remove the sponsor entries for that firm.

List of Subjects in 21 CFR

Part 510

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

Part 520

Animal drugs.

Part 524

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 510, 520, and 524 are amended as follows:

PART 510—NEW ANIMAL DRUGS

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

Authority: Secs. 201, 301, 501, 502, 503, 512, 701, 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 376).

§ 510.600 [Amended]

2. Section 510.600 *Names, addresses, and drug labeler codes of sponsors of approved applications* is amended in the table in paragraph (c)(1) by removing the entry for "Bolar Pharmaceutical Co., Inc.," and in the table in paragraph (c)(2) by removing the entry for "000725".

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

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

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

§ 520.23 [Amended]

4. Section 520.23 *Acepromazine maleate tablets* is amended in paragraph (a)(2) by removing the phrase "Nos. 000725 and" and inserting "No." in its place.

§ 520.1010a [Amended]

5. Section 520.1010a *Furosemide tablets or boluses* is amended in paragraph (b) by removing the phrase "Nos. 000725 and" and inserting "No." in its place.

§ 520.1900 [Amended]

6. Section 520.1900 *Primidone tablets* is amended in paragraph (b) by removing the phrase "Nos. 000725 and" and inserting "No." in its place.

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

7. The authority citation for 21 CFR part 524 continues to read as follows:

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

§ 524.1580b [Amended]

8. Section 524.1580b *Nitrofurazone ointment* is amended in paragraph (b) by removing the number "050604".

§ 524.1580d [Amended]

9. Section 524.1580d *Nitrofurazone solution* is amended in paragraph (b) by removing the number "050604".

Dated: August 1, 1991.

Richard H. Teske,

Deputy Director, Center for Veterinary Medicine.

[FR Doc. 91–18758 Filed 8–6–91; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Parts 510 and 524

Animal Drugs, Feeds, and Related Products; Liquid Crystalline Trypsin, Peru Balsam, Castor Oil; Change of Sponsor

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect the change of sponsor for a new animal drug application (NADA) for liquid crystalline trypsin, Peru balsam, castor oil from Pan American Pharmaceuticals, Inc., to Farnam Companies, Inc.

EFFECTIVE DATE: August 7, 1991.

FOR FURTHER INFORMATION CONTACT: Benjamin A. Puyot, Center for Veterinary Medicine (HFV–130), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–295–8646.

SUPPLEMENTARY INFORMATION: Pan American Pharmaceuticals, Inc., 4156 Danvers Ct. SE., Grand Rapids, MI 49508, has informed FDA that it has transferred ownership of, and all rights and interests in, NADA 31–555 (liquid crystalline trypsin, Peru balsam, castor oil) to Farnam Companies, Inc., 301 West Osborn, Phoenix, AZ 85013–3928. The agency is amending the regulations in 21 CFR 510.600 (c)(1) and (c)(2) and 524.2620(b)(2) to reflect the change of sponsor.

List of Subjects in 21 CFR

Part 510

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

Part 524

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 510 and 524 are amended as follows:

PART 510—NEW ANIMAL DRUGS

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

Authority: Secs. 201, 301, 501, 502, 503, 512, 701, 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 376).

§ 510.600 [Amended]

2. Section 510.600 *Names, addresses, and drug labeler codes of sponsors of approved applications* is amended in the table in paragraph (c)(1) by removing the entry for "Pan American Pharmaceuticals, Inc.," and in the table in paragraph (c)(2) by removing the entry for "052799".

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM—NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

3. The authority citation for 21 CFR part 524 continues to read as follows:

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

§ 524.2620 [Amended]

4. Section 524.2620 *Liquid crystalline trypsin, Peru balsam, castor oil* is amended in paragraph (b)(2) by removing the number "052799" and replacing it with the number "017135".

Dated: August 1, 1991.

Robert C. Livingston,

Director, Center for Veterinary Medicine.

[FR Doc. 91-18759 Filed 8-6-91; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD09-91-03]

Drawbridge Operation Regulations; Cheboygan River, MI

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the Michigan Department of Transportation, the Coast Guard is amending the operating regulations governing the US-23 highway bridge at mile 0.9 across the Cheboygan River in Cheboygan, Michigan, by extending the period of time the bridge opens for the passage of recreational vessels on a regulated schedule. This change is being made because an increase of vehicle traffic, and because random bridge openings are causing vehicular traffic tie-ups. This action will accommodate the current needs of vehicular traffic and still provide for the reasonable needs of navigation.

EFFECTIVE DATE: These regulations become effective on September 6, 1991.

FOR FURTHER INFORMATION CONTACT: Robert W. Bloom, Jr., Chief, Bridge Branch, telephone (216) 522-3993.

SUPPLEMENTARY INFORMATION: On May 7, 1991, the Coast Guard published proposed rules Vol. 56, No. 88, FR 21114 and FR 21115 concerning this amendment. The Commander, Ninth Coast Guard District, also published the proposal as a Public Notice dated May 23, 1991. Interested persons were given until June 21, 1991, to submit comments.

Drafting Information

The drafters of these regulations are Fred H. Mieser, project officer, and Commander M. Eric Reeves, U.S. Coast Guard project attorney.

Discussion of Comments

One comment was received as a result of the public notices in response to the proposed change. The comment was from the Michigan Department of Natural Resources and they had no objection to the proposed action.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulations and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary. The operating regulations expand the times for regulated openings during the period May 16 through September 15. The draw is required to open on signal for the passage of recreational vessels from three minutes before to three minutes after the quarter and three-quarters hour between the hours of 6 a.m. and 6 p.m., seven days a week. From 6 p.m. to 6 a.m., seven days a week, the draw is required to open on signal for the passage of all vessels. The additional regulated periods will help to alleviate vehicle traffic tie-ups while still allowing vessels to navigate the river. Since the economic impact of these regulations is expected to be minimal, the Coast Guard certifies that they will not have a significant economic impact on a substantial number of small entities.

Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the final rule does not have a sufficient federalism implication to warrant preparation of a Federalism Statement.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

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

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05-1(g).

2. Section 117.627 is revised to read as follows:

§ 117.627 Cheboygan River.

The draw of the US 23 highway bridge, mile 0.9 at Cheboygan shall operate as follows:

(a) From March 16 through May 15 and from September 16 through December 14, the draw shall open on signal.

(b) From May 16 through September 15—

(1) Between the hours of 6 p.m. and 6 a.m., seven days a week, the draw shall open on signal.

(2) Between the hours of 6 a.m. and 6 p.m., seven days a week, the draw need open only from three minutes before to three minutes after the quarter and three-quarters hour.

(c) From December 15 through March 15, no bridgetender is required to be at the bridge and the draw need not open unless a request to open the draw is given to the Cheboygan Police Department at least 24 hours in advance of a vessel's time of intended passage through the draw.

(d) At all times, the draw shall open as soon as possible for the passage of public vessels of the United States, State or local vessels used for public safety, commercial vessels, and vessels in distress.

Dated: July 30, 1991.

G.A. Penington,

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

[FR Doc. 91-18719 Filed 8-6-91; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 161

[CGD 91-015]

RIN 2115-AE05

Puget Sound Vessel Traffic Service

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rulemaking amends the Puget Sound Vessel Traffic Service (VTS) regulations to incorporate a multi-channel communications system. Communicating on the present VTS frequency, 156.700 MHz (channel 14), has become difficult due to increased vessel traffic. By using a second VTS designated frequency, 156.250 MHz (channel 5A), communications on channel 14 will be reduced, thereby improving navigational safety in the VTS Area.

EFFECTIVE DATE: September 6, 1991.

FOR FURTHER INFORMATION CONTACT: Bruce Riley, Project Manager, Navigation Safety Systems Special Projects Staff, Tel. (202) 267-0412.

SUPPLEMENTARY INFORMATION:

Drafting Information

The principal persons involved in drafting this document are Bruce Riley, Project Manager, and Nicholas Grasselli, Project Counsel, Office of Chief Counsel.

Regulatory History

On April 5, 1991, the Coast Guard published a Notice of Proposed Rulemaking entitled Puget Sound Vessel Traffic Service in the **Federal Register** (56 FR 14046). The Coast Guard received no letters commenting on the proposal. A public hearing was not requested and one was not held.

Background and Purpose

Communications in the VTS Puget Sound Area have become increasingly difficult due to the large volume of traffic. The VTS has noticed a significant increase in the number of incidents of covered communications (a transmission by one unit made unreadable because of a second unit's transmission) occurring on channel 14. This is an indication that this radio channel is being over used.

VTS Puget Sound will use channel 5A, designated by the Federal Communications Commission for VTS use, as the second channel for their VTS operations. Vessels must have the capability to communicate with the Vessel Traffic Center (VTC) on channel 5A and channel 14. Vessels will be directed to use either channel 5A or channel 14 by the VTC.

Regulatory Evaluation

This rule is not major under Executive Order 12291 and is not significant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11040; February 26, 1979).

Since the vast majority of vessel owners or operators affected by this rulemaking already have channel 5A programmed into their VHF/FM radios, the Coast Guard expects the economic impact of this rule to be so minimal that a Regulatory Evaluation is unnecessary.

Small Entities

The regular practices of present users of VTS Puget Sound will not change significantly because of this rulemaking. Therefore, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), that this final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

The Coast Guard considers operational communications within the VTS Area as transitory in nature and, therefore, has concluded that this rule contains no collection of information requirements (44 U.S.C. 3501 *et seq.*).

Federalism

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

Environment

The Coast Guard considered the environmental impact of this rulemaking and concluded that under section 2.B.2. of Commandant Instruction M16475.1B, this rulemaking is categorically excluded from further environmental documentation. Since this rulemaking is primarily aimed at improving communications and navigation, no effect on the human environment is expected. A Categorical Exclusion Determination is available for inspection or copying in the rulemaking docket.

List of Subjects in 33 CFR Part 161

Harbors, Navigation (water), Vessels, Waterways.

For the reasons set out in the preamble, the Coast Guard is amending 33 CFR part 161 as follows:

PART 161—VESSEL TRAFFIC MANAGEMENT

1. The authority citation for part 161 continues to read as follows:

Authority: 33 U.S.C. 1231; 49 CFR 1.46.

2. Section 161.114 is revised to read as follows:

§ 161.114 Use of designated frequencies.

(a) The VTS Area uses a two-frequency VHF-FM communication system. The two primary working frequencies authorized by FCC rule 47 CFR 80.383 are 156.25 MHz (channel 5A) and 156.70 MHz (channel 14).

(b) The secondary frequency throughout the VTS Area is 156.650 MHz (channel 13).

(c) No one shall transmit on these VTS frequencies for any purpose other than to pass information and reports to and from the VTC or necessary navigational safety information between vessels.

(d) All transmissions to the VTC shall be initiated on low power. High power may be used only if low power communications are unsuccessful.

(e) Vessels will communicate with the VTC on channel 5A or channel 14, as directed by the VTC.

Dated: July 30, 1991.

L.J. Black,

Captain, U.S. Coast Guard, Acting Chief, Office of Navigation Safety and Waterway Services.

[FR Doc. 91-18720 Filed 8-6-91; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region II Docket No. 110; FRL-39768]

Approval and Promulgation of Implementation Plans; Revision to the State of New York Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is announcing today the approval on a permanent basis of a request by New York State to revise the

New York State Implementation Plan (SIP) to allow Orange and Rockland Utilities (ORU), Inc. to operate two reconverted units at its Lovett Generating Station in Stony Point, New York on coal. A temporary revision allowing coal burning for a 42-month period expired on December 9, 1990, but was extended by EPA for six months to allow time for processing the State's request for a permanent SIP revision. This revision relaxes the normal emission limit of 0.4 pounds of sulfur dioxide (SO_2) per million British thermal units (lbs/MMBtu) to 1.0 lb/MMBtu for units 4 and 5 if both are operated on coal, or to 1.5 lb/MMBtu for one unit if the other is operated on fuel oil, natural gas or is not operated at all. Today, EPA is permanently incorporating into the New York SIP those portions of the State's Certificates to Operate for units 4 and 5 of ORU's Lovett Generating Station which pertain to the SO_2 emission limits.

DATES: *Effective Date:* This action will be effective September 6, 1991.

ADDRESSES: Copies of the state submittal(s) are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region II Office, Air Programs Branch 26 Federal Plaza, room 1034A, New York, New York 10278.

New York State Department of Environmental Conservation, Division of Air Resources, 50 Wolf Road, Albany, New York 12233.

Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: William S. Baker, Chief, Air Programs Branch, Environmental Protection Agency, 26 Federal Plaza, room 1034A, New York, New York 10278 (212) 264–2517.

SUPPLEMENTARY INFORMATION:

Background

In a Federal Register notice published on March 15, 1983 (48 FR 11093), the Environmental Protection Agency (EPA) announced that the State of New York had submitted a request to revise the sulfur dioxide (SO_2) portion of its State Implementation Plan (SIP). This revision sought to allow Orange and Rockland Utilities, Inc. (ORU) to reconvert two units at its Lovett Generating Station in Stony Point, New York from oil to coal. It entailed relaxing the normal emission limit of 0.4 lbs/MMBtu to 1.0 lb/MMBtu for units 4 and 5 if both are operated on coal, or 1.5 lb/MMBtu for one unit if the other is operated on fuel oil, natural gas or is not operated at all.

In order to approve the New York SIP revision request, EPA required a demonstration that the conversion would not adversely affect air quality. An air quality modeling analysis was submitted to EPA, however, it was not consistent with EPA's Guideline on Air Quality Models, (Revised), (EPA–450/2–78–027R). On November 21, 1984 (49 FR 45872), EPA published a supplemental Federal Register notice which described an agreement between EPA, the New York State Department of Environmental Conservation (NYSDEC), and ORU under which ORU was allowed to temporarily reconvert the Lovett facility to coal and replace two existing stacks with a single 475 foot stack. This included an air dispersion model analysis of the Lovett area, which is mostly characterized by complex terrain. Due to the uncertainties associated with state-of-the-art complex terrain modeling, EPA decided that only post-conversion ambient air monitoring could verify the accuracy of the State's complex terrain modeling results.

Under the aforementioned agreement, New York State received a temporary relaxation in the SO_2 limitations in its SIP in order to allow ORU to burn coal during a 42-month test period. During this time, ORU was required to monitor the effects on ambient air quality of the reconversion and conduct an evaluation of three air quality dispersion models: The EPA Complex I model, the NYSDEC model, and a modified NYSDEC model. Based upon a statistical comparison between the predicted concentrations generated by the models and the measured concentrations obtained at 12 monitoring sites located around the facility, it was determined that the most accurate predictor of air quality at the site was the modified NYSDEC model. In its subsequent SIP revision request for a permanent reconversion, NYSDEC used this model to determine whether the air quality impacts resulting from the facility's reconversion were acceptable. EPA's final approval of the 42-month special emission limitation and model evaluation study appeared in the Federal Register on May 30, 1985 (50 FR 23004). The 42-month period started on June 6, 1987 when unit 5 of the Lovett plant began burning coal.

It should be noted that on December 2, 1990 (55 FR 51101), EPA extended the 42-month special limitation for a period of six months, due to delays in processing an approvable State-submitted permanent SIP revision request for the facility. In approving the original 42-month special emission limitation, EPA gave itself the option of granting such an extension should delays in processing arise, provided that ORU met specific conditions (see 40 CFR 52.1675). For further information on the granting of this extension, the reader is referred to the December 12, 1990 Federal Register notice.

In a Federal Register notice published on April 3, 1991, (56 FR 13605) EPA announced its proposal and requested comments on the approval of the site specific emission limit for the Lovett reconversion. EPA received one comment during the comment period. The comment was in support of the SIP revision.

The State Submittal

On September 18, 1990, NYSDEC submitted a facility specific SO_2 SIP revision request for the Lovett Generating Station. The State's request was supported by a demonstration that the conversion would not lead to a violation of the Prevention of Significant Deterioration (PSD) increment or national ambient air quality standard for SO_2. This was based upon modeling results obtained from the modified NYSDEC Complex Terrain model. Documents submitted by NYSDEC to support its SIP revision request include Lovett Generating Station Model Evaluation Study, Lovett Generating Station Emission Limitation Study, and the Review of Orange and Rockland Model Evaluation Study and Emission Limitation Study for Lovett Facility for Units 4 and 5. In addition, monitoring for ambient air quality at a number of locations impacted by the Lovett Generating Station demonstrated compliance with the standards for SO_2. (For further details on the models and the results of the evaluation study, the reader is referred to a December 1990 Technical Support Document available at the locations identified earlier in the "Addresses" section of today's notice).

On April 12, 1991, the State submitted additional material related to the SIP revision request package. This included the hearing officer's report from the public hearing held on November 13, 1990, an Order on Consent signed by the State and ORU wherein ORU agreed to study and abate the particulate emissions from the Lovett facility,[1] and Certificates to Operate for units 4 and 5. The Certificates to Operate for units 4 and 5 do not contain the specific emission limits approved herein. These Certificates to Operate incorporate the limits by reference to an April 13, 1982

[1] A copy of the Order on Consent was submitted as part of the SIP revision request submittal for EPA information only. The issue covered by this Order does not have a direct bearing on this SO_2 SIP revision.

Commissioner's decision and an October 14, 1982 Amended Order which specifically state the SO_2 emission limits and respective monitoring and reporting requirements.

Conclusion

NYSDEC requested a revision to its SO_2 SIP for a site specific facility, the Lovett Generating Station, located in Stony Point, New York. This revision would allow the Lovett Generating Station to convert units 4 and 5 permanently from oil to coal with an emission limit of 1.0 lb/MMBtu if both of these units are operated on coal or 1.5 lb/MMBtu for one unit if the other is operated on fuel oil, natural gas or is not operated at all. The air dispersion model results and monitoring data obtained during a 42-month coal burning test period showed no exceedances of PSD increments or national ambient air quality standards for SO_2.

Since it was found that the air quality impacts from the proposed coal conversion do not result in any violations of the PSD increment or standards for SO_2 and ORU has met the requirements under which it could convert to coal, EPA is approving the SIP submittal allowing Lovett to burn coal with the emission limitations identified earlier in this notice.

On April 3, 1991, the State issued Certificates to Operate for units 4 and 5 which incorporate by reference an attached sheet of special conditions, an April 13, 1982 Commissioner's Decision, an October 14, 1982 Amended Order. The October 14, 1982 Amended Order includes the SO_2 emission limit of 1.0 lb/MMBtu for units 4 and 5 if both are operated on coal, or 1.5 lb/MMBtu for one unit if the other is operated on fuel oil, natural gas or is not operated at all.

EPA is permanently approving these emission limits and those portions of the documents incorporated into the Certificates to Operate which relate to continuous SO_2 emissions monitoring and reporting requirements for SO_2 emissions and any other condition included in the State's submittal which would enhance enforcement, monitoring and reporting of the SO_2 emissions from units 4 and 5.

EPA has reviewed this request for revision of the federally-approved SIP for conformance with the provisions of the November 15, 1990 Clean Air Act as amended. The Agency has determined that this action conforms with those requirements irrespective of the fact that the initial submittal preceded the date of enactment.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to 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.

Under 5 U.S.C. § 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

This action has been classified as a table 3 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget waived table 3 SIP revisions (54 FR 2222) from the requirements of section 3 of Executive Order 12291 for a period of two years.

Under section 307(b)(1), 42 U.S.C. 7607 (b)(1) of the Act as amended, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit within 60 days from the date of publication. Filing a petition for reconsideration by the Regional 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), 42 U.S.C. 7607(b)(2)).

List of Subjects in 40 CFR Part 52

Air pollution control, Incorporation by reference, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: July 8, 1991.

Constantine Sidamon-Eristoff,

Regional Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Title 40, chapter I, subchapter C, part 52, Code of Federal Regulations is amended as follows:

Subpart HH—New York

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

Authority: 42 U.S.C. 7401–7642.

2. Section 52.1670 is amended by adding new paragraph (c)(83) to read as follows:

§ 52.1670 Identification of plan.

* * * * *

(c) * * *

* * * * *

(83) A revision submitted on September 18, 1990 with additional materials submitted on April 12, 1991, and June 3, 1991 by the New York State Department of Environmental Conservation that revises the SO_2 emission limit for units 4 and 5 of Orange and Rockland Utilities' Lovett Generating Station.

(i) Incorporation by reference. Sulfur dioxide emission limits incorporated into the Certificates to Operate units 4 and 5 of the Orange and Rockland Utilities' (ORU) Lovett Generating Station issued April 3, 1991 and the materials which pertain to the SO_2 emission limits, monitoring and recordkeeping which are incorporated by reference into the Certificates to Operate for units 4 & 5. This includes the following:

(A) The special conditions attached to certificates;

(B) April 13, 1982 Decision of the Commissioner; and

(C) October 14, 1982 Amended Commissioner's Order.

(ii) Additional materials:

(A) Lovett Generating Station Model Evaluation Study, May 1989,

(B) Lovett Generating Station Emission Limitation Study, May 1989,

(C) Review of Orange and Rockland Model Evaluation Study and Emission Limitation Study for Lovett Facility for Units 4 & 5, January 27, 1990 and

(D) Lovett Generating Station Air Quality and Meteorological Monitoring Network Quarterly Reports.

3. Section 52.1675 (f) is amended by removing the entry for "Lovett Plant (Units 4 and 5)" in the table under (f) Temporary fuel variance, (ii) coal.

4. Section 52.1675 is amended by revising (h) to read as follows:

§ 52.1675 Control strategy and regulations: Sulfur oxides.

* * * * *

(h) The Environmental Protection Agency has approved a New York State Implementation Plan revision relating to the SO_2 emission limit for units 4 and 5 of Orange and Rockland Utilities' Lovett generating station. The revision which allows Lovett to burn coal at units 4 and 5 was submitted by the New York State Department of Environmental Conservation (NYSDEC) on September 18, 1990, with additional materials submitted on April 12, 1991, and June 3, 1991. This action sets the emission limit applicable to the facility to 1.0 pound per million British thermal units (MMBtu) for units 4 and 5 if both are

operated on coal, or to 1.5 lb/MMBtu for one unit if the other is operated on fuel oil, natural gas or is not operated at all, as set forth in the Certificates to Operate issued by NYSDEC on April 3, 1991. The SO_2 emission limit, monitoring and recordkeeping requirements pertaining to the SO_2 emissions are incorporated by reference into the Certificates to Operate.

[FR Doc. 91-18546 Filed 8-6-91; 8:45 am]
BILLING CODE 6560-50-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 301-8

[FTR Amendment 19]

Federal Travel Regulation; Reimbursement of Higher Actual Subsistence Expenses in Special or Unusual Circumstances

AGENCY: Federal Supply Service, GSA.

ACTION: Final rule.

SUMMARY: This final rule amends the Federal Travel Regulation to provide for the establishment of a higher maximum daily rate for the reimbursement of actual subsistence expenses of Federal employees on official travel to an area within the continental United States where special or unusual circumstances result in an extreme increase in subsistence costs for a temporary period.

DATES: Effective date: This final rule is effective July 21, 1991 and applies for travel performed on or after July 21, 1991. Expiration date: October 1, 1994.

FOR FURTHER INFORMATION CONTACT: Raymond F. Price, Travel Management Division (FBT), Washington, DC 20406, telephone FTS 557-1253 or commercial (703) 557-1253.

SUPPLEMENTARY INFORMATION: The General Services Administration (GSA) has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, 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. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for and consequences of this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Part 301-8

Government employees, Travel, Travel allowances, Travel and transportation expenses.

For the reasons set out in the preamble, 41 CFR part 301-8 is amended as set forth below.

PART 301-8—REIMBURSEMENT OF ACTUAL SUBSISTENCE EXPENSES

1. The authority citation for part 301-8 continues to read as follows:

Authority: 5 U.S.C. 5701-5709; E.O. 11609, July 22, 1971 (36 FR 13747).

2. Section 301-8.3 is amended by revising paragraph (c) to read as follows:

§ 301-8.3 Maximum daily rates and reimbursement limitations.

* * * * *

(c) *Travel to an area within CONUS where special or unusual circumstances result in an extreme increase in subsistence costs for a temporary period.* (1) The provisions of paragraph (c)(2) of this section shall expire on October 1, 1994.

(2) The head of an agency may request establishment of a maximum daily rate for subsistence expenses above the maximum rate prescribed in paragraph (a) of this section for travel to an area within CONUS where special or unusual circumstances result in an extreme increase in subsistence costs for a temporary period. Requests for a higher subsistence rate, with the exception of requests for travel to a Presidentially declared disaster area, shall be submitted at least 30 days in advance of the beginning of the recommended effective period unless otherwise adequately justified. The Administrator of General Services may establish an appropriate maximum daily rate, not to exceed 300 percent of the maximum per diem rate prescribed for the area under § 301-7.3, pursuant to a review of the justification supporting the request. Such higher established rate shall apply for all official travel to the area and will be effective for a period not to exceed 30 days. The Administrator of General Services may extend the period of effectiveness in increments of up to 30 days upon the request of the head of the agency originally requesting establishment of the higher rate. Requests should be submitted to the Administrator of General Services, Washington, DC 20405, and must contain the following information:

(i) A specification of the geographic area encompassed;

(ii) If the area is a Presidentially declared disaster area, a copy of the Presidential disaster declaration;

(iii) A recommended maximum daily rate not to exceed 300 percent of the maximum per diem rate prescribed for the area under § 301-7.3;

(iv) A description of the specific circumstances which justify the establishment of the recommended rate;

(v) An estimate of the cost impact of establishing a maximum daily rate for subsistence expenses above the maximum rate prescribed in paragraph (a) of this section.

(vi) A recommended time period for effectiveness of the maximum daily rate requested to be established under this paragraph.

* * * * *

Dated: July 9, 1991.

Richard G. Austin,

Administrator of General Services.

[FR Doc. 91-18711 Filed 8-6-91; 8:45 am]
BILLING CODE 6820-24-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 531

[Docket No. LVM 89-01; Notice 10]

Passenger Automobile Average Fuel Economy Standards; Dutcher Motors, Inc.; Final Decision

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT

ACTION: Final decision.

SUMMARY: This decision is issued in response to a petition filed by Dutcher Motors, Inc. (Dutcher) requesting that it be exempted from the generally applicable average fuel economy standard of 27.5 miles per gallon (mpg) for model years (MY) 1993, 1994, and 1995 passenger automobiles, and that a lower alternative standard be established for it for each of these model years. This decision exempts Dutcher and establishes an alternate standard of 17.0 mpg for each of MYs 1993, 1994, and 1995. The decision was preceded by publication of a notice requesting public comments.

DATES: Effective date: September 23, 1991. This exemption and the alternative standards apply to Dutcher for MYs 1993, 1994, and 1995. Petitions for reconsideration must be submitted by September 6, 1991.

ADDRESSES: Petitions for reconsideration must be submitted to:

Administrator, NHTSA, 400 Seventh Street SW., Washington, DC 20590. It is requested, but not required, that 10 copies be provided.

FOR FURTHER INFORMATION CONTACT: Mr. Orron Kee, Office of Market Incentives, NHTSA, 400 Seventh Street SW., Washington, DC 20590. Mr. Kee's telephone number is (202) 366–0846.

SUPPLEMENTARY INFORMATION: NHTSA is exempting Dutcher from the generally applicable average fuel economy standard for 1993, 1994, and 1995 model year passenger automobiles and establishing alternative standards applicable to Dutcher for each of these model years. This exemption is issued under the authority of section 502(c) of the Motor Vehicle Information and Cost Savings Act, as amended ("the Act") (15 U.S.C. 2002(c)). Section 502(c) provides that a passenger automobile manufacturer which manufactures fewer than 10,000 passenger automobiles annually may be exempted from the generally applicable average fuel economy standard for a particular model year if that standard is greater than the low volume manufacturer's maximum feasible average fuel economy and if NHTSA establishes an alternative standard for the manufacturer at its maximum feasible level. Section 502(e) of the Act (15 U.S.C. 2002(e)) requires NHTSA, in determining maximum feasible average fuel economy, to consider:

(1) Technological feasibility;

(2) Economic practicability;

(3) The effect of other Federal motor vehicle standards on fuel economy; and

(4) The need of the Nation to conserve energy.

This final decision was preceded by a proposed decision announcing the agency's tentative conclusion that Dutcher should be exempted from the generally applicable MY 1993, 1994, and 1995 passenger automobile average fuel economy standard of 27.5 mpg, and that an alternative standard of 17.0 mpg should be established for Dutcher for each of these model years (56 FR 21653, May 10, 1991). No comments were received on the proposed decision.

The agency is adopting the tentative conclusions set forth in the proposed decision as its final conclusions, for the reasons set forth in the proposed decision. Based on the conclusions that the maximum feasible average fuel economy level for Dutcher in each of MYs 1993, 1994, and 1995 is 17.0 mpg, that other Federal motor vehicle standards will not affect achievable fuel economy beyond the extent considered in the proposed decision, and that the national effort to conserve energy will not be affected by granting this exemption, NHTSA hereby exempts Dutcher from the generally applicable passenger automobile average fuel economy standard for the 1993, 1994, and 1995 model years and establishes an alternative standard of 17.0 miles per gallon for Dutcher for each of these years.

NHTSA has analyzed this decision, and determined that neither Executive Order 12291 nor the Department of Transportation's regulatory policies and procedures apply, because this decision is not a "rule," which term is defined as "an agency statement of general applicability and future effect." This exemption is not generally applicable, since it applies only to Dutcher. If the Executive Order and the Departmental policies and procedures were applicable, the agency would have determined that this action is neither "major" nor "significant." The principal impact of this exemption is that Dutcher will not be required to pay civil penalties if it achieves a CAFE level equivalent to the alternative standard established in this notice. Since this decision sets an alternative standard at the level determined to be Dutcher's maximum feasible average fuel economy, no fuel would be saved by establishing a higher alternative standard. The impacts for the public at large will be minimal.

The agency has also considered the environmental implications of this decision in accordance with the National Environmental Policy Act and determined that this decision will not significantly affect the human environment. Regardless of the fuel economy of a vehicle, it must pass the emissions standards which limit the amount of emissions per mile traveled. Thus, the quality of the air is not affected by this exemption and alternative standard. Further, since Dutcher's MY 1993, 1994, and 1995 automobiles cannot achieve better fuel economy than 17.0 mpg, granting this exemption will not affect the amount of gasoline available.

Since the Regulatory Flexibility Act may apply to a decision exempting a manufacturer from a generally applicable standard, I certify that this decision will not have a significant economic impact on a substantial number of small entities. This decision does not impose any burdens on Dutcher. It does relieve the company from having to pay civil penalties for noncompliance with the generally applicable standard for MYs 1993, 1994, and 1995. Since the price of 1993, 1994, and 1995 Dutcher automobiles will not be affected by this decision, the purchasers will not be affected.

List of Subjects in 49 CFR Part 531

Energy conservation, Fuel economy, Gasoline, Imports, Motor vehicles.

In consideration of the foregoing, 49 CFR part 531 is amended to read as follows:

PART 531—[AMENDED]

1. The authority citation for part 531 continues to read as follows:

Authority: 15 U.S.C. 2002, delegation of authority at 49 CFR 1.50.

2. Section 531.5 is amended by revising paragraph (b)(11); the introductory text of paragraph (b) is republished to read as follows:

§ 531.5 Fuel economy standards.

* * * * *

(b) The following manufacturers shall comply with the standards indicated below for the specified model years:

* * * * *

(11) Dutcher Motors, Inc.

Model year	Average fuel economy standard (miles per gallon)
1986	16.0
1987	16.0
1988	16.0
1992	17.0
1993	17.0
1994	17.0
1995	17.0

* * * * *

Issued on: August 1, 1991.

Jerry Ralph Curry,

Administrator.

[FR Doc. 91–18667 Filed 8–6–91; 8:45 am]

BILLING CODE 4910–59–M

Proposed Rules

Federal Register
Vol. 56, No. 152
Wednesday, August 7, 1991

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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 733

Political Activity of Federal Employees

AGENCY: Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: The Office of Personnel Management (OPM) proposes to grant Federal Government employees in Calvert County, Maryland, a partial exemption from the political activity restrictions of 5 U.S.C. 7324. This proposal reflects OPM's determination that Calvert County meets the criteria described in 5 U.S.C. 7327 and 5 CFR 733.124(b) for a partial exemption to issue.

DATES: Written comments must be received on or before October 7, 1991.

ADDRESSES: Comments may be mailed to Jaime Ramon, General Counsel, room 7355, United States Office of Personnel Management, 1900 E Street, NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Jo-Ann Chabot, Office of the General Counsel, Office of Personnel Management. (202) 606–1920.

SUPPLEMENTARY INFORMATION: The Hatch Act, at 5 U.S.C. 7324, *et seq.*, controls the political activity of Federal employees and individuals employed by the District of Columbia. 5 U.S.C. 7324 generally prohibits Federal employees from taking an active part in political campaigns. Section 7327 of title 5, United States Code, however, authorizes OPM to prescribe regulations permitting certain Federal employees to be politically active to the extent OPM considers it to be in their domestic interest.

Under the authority of 5 U.S.C. 7327, OPM may allow Federal employees to participate in political campaigns involving the municipality or political subdivision where they reside when two conditions relevant to the current request for exemption exist. One condition is met if the municipality is in Maryland or Virginia and is in the immediate vicinity of the District of Columbia. The second condition is met if OPM determines that, because of special or unusual circumstances, the domestic interest of the employees is served by permitting their political participation in accordance with regulations prescribed by OPM.

In regulations at 5 CFR 733.124(b), OPM has designated municipalities and political subdivisions in which Federal employees may participate in local elections. At 5 CFR 733.124(c), OPM has established the following limitations on political participation by employees residing in these designated municipalities and subdivisions:

(1) Participation in politics shall be as an independent candidate or on behalf of, or in opposition to, an independent candidate.

(2) Candidacy for, and service in, an elective office shall not result in neglect of, or interference with, the performance of the duties of the employee or create a conflict or apparent conflict of interests.

In response to a request from the Board of Commissioners for Calvert County, Maryland, OPM proposes to designate that county as one in which Federal employees may participate in local elections subject to the limitations established by OPM. This proposal reflects OPM's determination that special or unusual circumstances exist so that it is in the domestic interest of Federal employees residing in Calvert County to permit their local political participation in connection with independent candidacies. This determination is based on documentary material provided by the applicant as well as interviews of the County Administrator and a Federally employed resident of the County. Principal factors leading to OPM's determination are the proximity of Calvert County to the District of Columbia, the substantial portion of County residents who are Federal Government employees, and the rapid growth of the County within the past few years.

A copy of this notice will be published in two local newspaper serving Calvert County.

If this proposed rule is adopted, OPM will amend 5 CFR 733.124(b) by adding Calvert County to the list of designated Maryland municipalities and political subdivisions in which Federal Government employees may participate in connection with independent candidates in local elections. The addition of Calvert County will be listed after Brentwood and before Capitol Heights, Maryland.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because the changes will affect only employees of the Federal Government.

List of Subjects in 5 CFR Part 733

Political activity (Government employees).

U.S. Office of Personnel Management.

Constance Berry Newman,

Director.

Accordingly, the Office of Personnel Management proposes to amend 5 CFR part 733 as follows:

PART 733—POLITICAL ACTIVITY OF FEDERAL EMPLOYEES

1. The authority citation for part 733 continues to read as follows:

Authority: 5 U.S.C. 3301, 3302, 7301, 7321, 7322, 7323, 7324, 7325, and 7327; Reorganization Plan No. 2 of 1978, 3 CFR 1978 Comp. p. 323; and E.O. 12107, 3 CFR 1978 Comp. p. 264, unless otherwise noted.

2. Section 733.124(b) is amended by adding Calvert County, Maryland, alphabetically to the list of designated Maryland municipalities and political subdivisions as set forth below.

§ 733.124 Political management and political campaigning; exception of certain elections.

* * * * *

(b) * * *

In Maryland

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Calvert County

* * * * *

[FR Doc. 91–18729 Filed 8–6–91; 8:45 am]

BILLING CODE 6325–01–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 354

9 CFR Part 130

[Docket No. 91-021]

RIN 0579-AA43

User Fees—Agricultural Quarantine and Inspection Services, Phytosanitary Certificates, Animal Quarantine Services, Veterinary Diagnostics, Export Health Certificates

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend 7 CFR part 354 and 9 CFR chapter I to establish user fees for certification, inspection and testing services we provide. These proposed user fees are authorized by sections 2509 (b) and (c) of the Food, Agriculture, Conservation and Trade Act of 1990, as amended by the Omnibus Budget Reconciliation Act of 1990 (21 U.S.C. 136a), or by 31 U.S.C. 9701.

The effect of these regulations would be to require certain persons to pay fees for services they receive.

DATES: Consideration will be given only to comments received on or before September 6, 1991.

ADDRESSES: To help ensure that your comments are considered, send an original and three copies to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, Room 804, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket Number 91-021. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: For information concerning agricultural quarantine and inspection (AQI), plant inspections, and additional inspections, contact Charles A. Havens, Chief Operations Officer, Port Operations, PPQ, room 635, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8295.

For information concerning animal imports and exports, contact Louise R. Lothery, Director, Resource Management Support Staff, VS, room 740, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8590.

For information concerning veterinary diagnostics, contact Dr. Robert M. Nervig, Director, National Veterinary Services Laboratory, 1800 Dayton Road, P.O. Box 844, Ames, Iowa 50010, 515-239-8266.

SUPPLEMENTARY INFORMATION:

Background

User Fees Authorized Under the Farm Bill

The Food, Agriculture, Conservation and Trade Act of 1990, as amended by the Omnibus Budget Reconciliation Act of 1990 (Budget Reconciliation Act), referred to below as the Farm Bill, authorizes the Secretary of Agriculture to prescribe and collect fees to cover the cost of providing certain agricultural quarantine and inspection services. The services are "agricultural quarantine and inspection services in connection with the arrival at a port in the customs territory of the United States,[1] or the preclearance or preinspection at a site outside the customs territory of the United States, of an international passenger, commercial vessel commercial aircraft, commercial truck, or railroad car" (section 2509 of the Farm Bill). We refer to these services as AQI services.

The Farm Bill establishes a fund in the Treasury of the United States, known as the "Agricultural Quarantine Inspection User Fee Account" (the Account) for the Secretary of Agriculture to use for fees collected for AQI services. All fees collected for agricultural quarantine and inspection services are to be deposited in the Account. Fees collected within a calendar quarter are to be deposited no later than 31 days after the close of that quarter. The Farm Bill further requires the Secretary of the Treasury to reimburse, from the Account, any appropriations accounts that incur costs associated with agricultural quarantine services for which the Secretary of Agriculture is authorized to collect user fees, if the amounts are provided in advance in appropriation acts. (See section 2509(a)(3)(B)(ii) of the Farm Bill)

The Farm Bill also authorizes the Secretary of Agriculture "to prescribe and collect fees to recover the costs of providing for the inspection of plants and plant products offered for export or transiting the United States and certifying to shippers and interested parties as to the freedom of such plants and plant products from plant pests according to the phytosanitary requirements of the foreign countries to which such plants and plant products may be exported, or to the freedom from exposure to plant pests while in transit through the United States . . . ." (section 2509(b) of the Farm Bill). This section further provides that "[t]he Secretary of Agriculture shall, pursuant to regulations as prescribed by the Secretary of Agriculture, suspend performance of services to persons who have failed to pay such fees, late payment penalty and accrued interest."

In addition to the above authority, the Farm Bill authorizes the Secretary of Agriculture to "prescribe and collect fees to reimburse the Secretary for the cost of carrying out the provisions of the Federal Animal Quarantine Laws that relate to the importation, entry, and exportation of animals, articles, or means of conveyance." (section 2509(c)(1) of the Farm Bill).

Further, the Farm Bill authorizes the Secretary "to prescribe and collect fees to recover the costs of carrying out the provisions of (21 U.S.C. 114a, as amended) which relate to veterinary diagnostics." (section 2509(c)(2) of the Farm Bill) 21 U.S.C. 114a concerns control and eradication of livestock and poultry diseases. Section 2509(c) also provides procedures for the Secretary to follow in the case of non-payment, late payment penalties, or accrued interest. The section states that "(t)he Secretary shall suspend performance of services to persons who have failed to pay fees, late payment penalty, or accrued interest . . .".

Section 2509(d) of the Farm Bill provides in addition that [t]he Secretary may prescribe such regulations as the Secretary determines necessary to carry out the provisions of (section 2509)."

Finally, the Farm Bill authorizes the Secretary "in carrying out regulations prohibiting or restricting the entry of materials that may harbor pests, or diseases, . . . to enter into agreements with operators or owners of vessels or aircraft for the purpose of providing inspection services at points of entry in the United States in addition to the regular or on-call basis currently available in connection with such vessels or aircraft." The section states that such agreements" shall provide for the payment by the operator or owner of an amount determined by the Secretary to be necessary to defray the costs of providing additional service pursuant to such agreement." (Section 2508 of the Farm Bill)

User Fees Under Other Authority

We also have general authority to collect user fees under 31 U.S.C. 9701

[1] The Farm Bill defines "customs territory of the United States" as "[t]he 50 States, the District of Columbia, and Puerto Rico." (section 2509(f)(2))

(the User Fee Statute). This statute states, in part, that:

(a) It is the sense of the Congress that each service or thing of value provided by an agency . . . to a person (except a person on official business of the United States government) is to self-sustaining to the extent possible.

(b) The head of each agency . . . may prescribe regulations establishing the charge for a service or thing of value provided by the agency.

Each agency must deposit fees collected pursuant to 31 U.S.C. 9701 into the Treasury of the United States.

Under the User Fee Statute, we may charge for quarantine and inspection services we provide in connection with traffic departing certain domestic quarantine areas for other locations within the United States. Domestic quarantine areas are areas within the United States—Hawaii and Puerto Rico—which are quarantined because of the presence of various plant diseases or pests. Individuals and means of conveyance departing these areas for any other part of the United States are subject to inspection (see 7 CFR 318.13 and 318.58).

Under the Farm Bill we have authority to charge for AQI services "in connection with . . . preclearance" at a site outside the customs territory of the United States" for various persons and means of conveyance. Because the United States Virgin Islands (U.S. Virgin Islands) are outside the customs territory of the United States, we have authority under the Farm Bill to charge a user fee for AQI services provided certain persons and means of conveyance departing the U.S. Virgin Islands for other parts of the United States. Because Hawaii and Puerto Rico are within the customs area of the United States we do not have authority under the Farm Bill to charge a user fee for persons and means of conveyance departing Hawaii and Puerto Rico, or other domestic quarantine areas, for other parts of the United States.

Previously Published Regulations

On February 27, we proposed to amend 7 CFR parts 318, 320, 330, 352 and 354 (56 FR 8148–8156), to establish user fees for services we provide in connection with airline passengers departing Hawaii and Puerto Rico for other parts of the United States, and in connection with the arrival at ports in the customs territory of the United States of commercial vessels, commercial trucks, commercial railroad cars, and passengers on commercial aircraft.[2]

We made these regulations final in two separate documents. The first final rule was published April 12, 1991 (56 FR 14837–14846). It covered user fees for commercial vessels, commercial trucks, commercial railroad cars, and passengers on commercial aircraft arriving in the United States from outside the country. We began charging user fees for these services May 13, 1991.

The second final rule was published April 23, 1991 (56 FR 18496–18502). It covered user fees for passengers on commercial airlines departing Hawaii and Puerto Rico for other parts of the United States. We stated in this final rule that we would begin charging user fees for these services August 1, 1991. However, we have postponed the effective date of the second final rule (see 56 FR 36724, August 1, 1991) until October 1, 1991. We took this action because we determined that affected parties required additional time to address fee implementation concerns.

Regulations Proposed in this Document

We are now proposing to charge user fees for a variety of other services we provide. They fall into five categories.

The first category of services is the inspection services we provide to commercial aircraft, both aircraft arriving at a port within the customs territory of the United States and aircraft departing Hawaii or Puerto Rico for other locations within the United States.

The second category of services relates to the issuance of phytosanitary certificates for plants and plant product being exported from the United States. These certificates are issued in accordance with the regulations at 7 CFR 353.1. They certify agricultural products moving from one country to another as being "free from quarantine pests, and practically free from other injurious pests."

The third category includes services which relate to the export or import of animals or birds. In this category are: (1) Services provided in connection with animals or birds in quarantine facilities, including Animal Import Centers operated by APHIS and privately-operated facilities; (2) endorsing health certificates needed to export animals or birds; (3) inspecting export isolation facilities for animals or birds; (4) inspecting animals and birds in isolation facilities; (5) supervising rest periods for animals and birds prior to export; and (6) supervising loading and unloading of animals or birds from a means of conveyance.

The fourth category of services relates to veterinary diagnostics. Veterinary diagnostics is the work performed in a laboratory to determine if a disease-causing organism is present in body tissues or cells. The services in this category are: (1) Performing laboratory tests required to import or export animals or birds; (2) conducting diagnostic testing on tissue samples referred to APHIS by State animal health officials who want assistance in establishing or confirming a diagnosis (referred to in this document as reference assistance testing); (3) providing certain diagnostic reagents. Diagnostic reagents are substances used in diagnostic tests to detect disease antibodies by causing an identifiable reaction.

The fifth category of services includes inspection services provided, at the request of operators or owners of vessels or aircraft, in addition to regular or on-call services currently available at points of entry in the United States.

We have divided this document into two parts. Part 1 of this document covers user fees for agricultural quarantine and inspection services and phytosanitary export certification. These user fees, if adopted, would appear in title 7 of the Code of Federal Regulations. Part 2 covers user fees for animal quarantine services, testing, veterinary diagnostics, and export health certificates. These user fees, if adopted, would appear in title 9 of the Code of Federal Regulations.

Within each part we discuss what services we provide, how we calculated our proposed fees, the proposed user fees, and our proposed billing and payment requirements.

Part 1

User Fees for Inspection of International Commercial Aircraft (Proposed 7 CFR 354.3)

We inspect commercial aircraft arriving within the customs territory of the United States from places outside the United States. We also inspect aircraft which have arrived within the customs territory of the United States from places outside the United States and which are proceeding from one United States airport to another under a United States Customs Service "Permit

[2] In the document of February 27, 1991, we also proposed to amend 7 CFR parts 318 and 354, to establish user fees for agricultural quarantine and inspection services we provide in connection with the departure of passengers from Puerto Rico and Hawaii on certain domestic airline flights. However, the authority for these proposed amendments to the regulations was 31 U.S.C. 9701, not the Farm Bill.

to Proceed," as specified in title 19, Code of Federal Regulations, §§ 122.81 through 122.85, or an "Agricultural Clearance or Safeguard Order" (PPQ Form 250), used pursuant to title 7, Code of Federal Regulations, § 330.400 and title 9, Code of Federal Regulations, § 94.5. In this document we are proposing to charge user fees for these services.

The proposed user fees would cover inspection of the aircraft itself. The proposed user fees would also cover inspection of cargo and any associated services if: (1) Such services occur during regular hours of service (0800–1630, Monday through Friday); or (2) inspection of the cargo is concurrent with inspection of the aircraft. Associated services include monitoring garbage handling, and disinfecting aircraft. Cargo owners may request inspection outside of regular hours of service. In that case, they would pay reimbursable overtime under 7 CFR 354.1.

We are proposing to exempt commercial aircraft moving solely between the United States and Canada from paying user fees. These means of conveyance pose little animal or plant disease or pest risk to United States agriculture, and we do not provide AQI services for them. Therefore, we do not believe a user fee is justified.

We are also proposing to exempt aircraft used exclusively in the governmental service of the United States or a foreign government. Governments traditionally accord certain privileges to the property of other governments. One of these privileges is exemption from fees. However, to qualify for the exemption, the aircraft could not be carrying any persons or merchandise for commercial purposes.

Aircraft making an emergency or forced landing would also be exempt under our proposed regulations. In these situations, nothing may be removed or brought on board an aircraft except passengers in need of medical attention or equipment and parts for repair. In these circumstances, we believe there is little animal or plant disease or pest risk to United States agriculture and we do not conduct AQI inspections.

We are also proposing to exempt aircraft with 30 seats or fewer, which are not carrying cargo and which are not equipped to offer inflight food service. The passengers on these aircraft would already have paid a user fee under 7 CFR 354.3. Also, there would be no cargo or garbage requiring AQI services. As we would not be providing any services to these aircraft, we do not believe an APHIS user fee would be justified.

Finally, we are proposing to exempt aircraft moving from the United States Virgin Islands to Puerto Rico. We do not provide any inspection services to these aircraft. Therefore, we do not believe charging a user fee is justified.

User Fees for Inspection of Domestic Commercial Aircraft (Proposed 7 CFR 354.4)

We inspect commercial aircraft moving from Hawaii and Puerto Rico to other parts of the United States. In this document we are proposing to charge user fees for these services.

The proposed user fees would cover inspection of the aircraft itself. The proposed user fees would also cover inspection of cargo and any associated services if: (1) such services occur during regular hours of service (0800–1630, Monday through Friday); or (2) inspection of the cargo is concurrent with inspection of the aircraft. Associated services include monitoring garbage handling, disinfecting aircraft, and preclearing cargo in Hawaii and Puerto Rico. Cargo owners may request inspection outside of regular hours of service. In that case, they would pay reimbursable overtime under 7 CFR 354.1.

We are proposing to exempt aircraft used exclusively in the governmental service of the United States or a foreign government from paying an APHIS user fee under our proposed regulations. Governments traditionally accord certain privileges to the property of other governments. One of these privileges is exemption from fees. However, to qualify for the exemption, the aircraft could not be carrying any persons or merchandise for commercial purposes.

We also propose to exempt aircraft transiting Hawaii or Puerto Rico and subject to inspection under 7 CFR part 330. These aircraft would be subject to paying an APHIS user fee under proposed 7 CFR 354.3.

Congress has expressed concern with regulations we previously adopted to charge user fees for passengers on commercial airlines departing Hawaii and Puerto Rico for other parts of the United States (see 56 FR 18496–18502 for those rules, and see discussion above concerning the effective date of the rules). Any action Congress takes on this subject may impact our proposed user fees for inspection of domestic commercial aircraft. Therefore, in our final rule we will include a discussion of Congressional action and any amendments we make pursuant to such action.

User Fees for Inspection of Domestic Commercial Maritime Vessels (Proposed 7 CFR 354.4)

We are proposing to charge a user fee for inspecting commercial maritime vessels moving from Hawaii and Puerto Rico to other parts of the United States.

The proposed user fees would cover inspection of the vessel itself. The proposed user fees would also cover inspection of cargo and any associated services if: (1) Such services occur during regular hours of service (0800–1630, Monday through Friday); or (2) inspection of the cargo is concurrent with inspection of the vessel. Associated services include monitoring garbage handling, disinfecting vessels, inspecting, and certifying cargo. Cargo owners may request inspection outside of regular hours of service. In that case, they would pay reimbursable overtime under 7 CFR 354.1.

Vessels used exclusively in the governmental service of the United States or a foreign government would also be exempt from paying a user fee under our proposed regulations. Governments traditionally accord certain privileges to the property of other governments. One of these privileges is exemption from fees. However, to qualify for the exemption, the vessel could not be carrying any persons or merchandise for commercial purposes.

We are proposing to exempt vessels transiting Hawaii or Puerto Rico and subject to inspection under 7 CFR part 330. We are proposing to exempt these vessels because they would be charged a user fee under 7 CFR 354.3.

As explained above, Congress has expressed concern with regulations we previously adopted to charge user fees for passengers on commercial airlines departing Hawaii and Puerto Rico for other parts of the United States. Any action Congress takes on this subject may impact our proposed user fees for inspection of domestic commercial maritime vessels. Therefore, in our final rule we will include a discussion of Congressional action and any amendments we make pursuant to such action.

Remittance and Statement Procedures

We are proposing similar remittance and payment procedures to those we adopted in our previous fee regulations (see final rules published April 12, 1991 (56 FR 14837–14846) and April 23, 1991 (56 FR 18496–18502).) The procedures and the information required are needed to ensure that the correct user fees are remitted in full in a timely manner. The

requirements, including the taxpayer identification number, are also needed to ensure that the fees are properly credited.

Compliance

Under these proposed regulations, we must rely on others to remit fees for us. However, we are responsible for ensuring that the fees are correct and remitted in full and in a timely manner. To ensure this, we are proposing to require the party responsible for remitting the fees to allow APHIS personnel to verify the accuracy of the fees remitted, and otherwise determine compliance with the statute and regulations. We are therefore proposing to require that whoever is responsible for remitting fees must advise us of the name, address, and telephone number of a responsible officer who is authorized to verify fee remittances. In addition, we are proposing to require that we be promptly notified of any change in that information.

At this time we do not have the address to which user fees must be remitted and other information provided. However, if these proposed rules are adopted, we will insert the correct addresses in the final rule.

User Fees for Export Certification of Plants and Plant Products (Proposed 7 CFR 354.3)

We are proposing to adopt user fees for export certification of plants and plant products. Certificates are issued in accordance with the International Plant Protection Convention and regulations in 7 CFR part 353, and they certify agricultural products moving between countries as being free from quarantine pests, and practically free from other injurious pests. These certificates must be issued in accordance with 7 CFR part 353 to be accepted in international commerce.

APHIS inspectors issue many certificates directly to exporters. However, in some states, certain state employees are designated to issue federal certificates. In these situations, we provide state officials with blank certificates. Exporters in these states have the option of going to either state or federal officials to obtain a certificate. Designated state employees issue approximately 47 percent of all certificates. These state inspectors are vital to the success of our program. There are more state inspectors than APHIS inspectors, and in many instances they are able to provide services more efficiently, including at remote portions of the country.

We issue the following certificates:

1. Phytosanitary Certificate (PPQ Form 577); and
2. Phytosanitary Certificate for Re-Export (PPQ Form 579).
3. Processed Product Certificate (PPQ Form 578)

We do not issue processed product certificates at this time. However, we intend to begin issuing these certificates under 7 CFR 353.1 *et seq.* no later than October 1, 1991. Products covered by this document will include products such as plywood and pelletized plant materials, which are manufactured out of plants or plant materials in such a way that the manufacturing process itself destroys any plant pest organisms.

All certificates are designed to cover either commercial [3] or non-commercial shipments. The phytosanitary certificate covers any plants or plant products being exported from the United States. The processed product certificate covers processed products being exported from the United States. The phytosanitary certificate for re-export covers plants and plant products which have entered the United States from another country, but which are being re-exported from the United States, in whole or in part.

Depending on the circumstances, issued certificates may be voided and/or reissued. All certificates are controlled documents. That is, they are numbered and we must keep track of them. If a certificate is issued, but it is filled out incorrectly or it is damaged, and it cannot be used, the person who received the certificate may have us reissue the certificate. In that case, we would void the first certificate, and complete a new certificate for the person. Some certificates are voided, but not reissued.

Under our proposal, we would charge different user fees for phytosanitary certificates issued for commercial shipments and for non-commercial shipments. We are proposing different user fees because the services provided are different. Issuing a certificate for a commercial shipment generally requires APHIS personnel to travel to the inspection site. It also generally requires them to inspect larger quantities of plants or plant products, which takes more time. Travel is not usually required for noncommercial shipments, because those exporters usually bring their plants to an APHIS office for inspection.

We are also proposing to charge a user fee for issuing processed product certificates for commercial shipments and for issuing phytosanitary certificates for re-export for commercial shipments. We are not proposing any user fee for these certificates for non-commercial shipments. In the case of phytosanitary certificates for re-export, we have never issued such a certificate and do not anticipate any requests. We anticipate that there will similarly be no demand for processed product certificates for non-commercial shipments.

In addition, we are proposing to charge a user fee for reissuing certificates. However, our proposed fee for these services is less than that for issuing the original certificates. That is because our only cost is for administrative processing and tracking.

The user fees we propose to charge are:

Phytosanitary certificate:	
commercial shipment	$30
non-commercial shipment	$19
Phytosanitary certificate for reexport:	
commercial shipment	$30
Processed product certificate:	
commercial shipment	$30
Reissued certificate (all types)	$6

Many importers have asked us to issue certificates to cover processed products. However, at this time we have no data on the number of certificates which will actually be issued or the time that will be necessary to issue them. Based on the requests we have received, we estimate that the inspection and administrative time necessary to issue the certificates, or reissue them if appropriate, will be similar to that for other certificates covering commercial shipments. Therefore, we are proposing to charge the same $30 APHIS user fee for issuing, and the same $6 APHIS user fee for reissuing, as we are proposing to charge for phytosanitary certificates covering commercial shipments. We would perform an annual review of these fees based on the actual demand for the certificates and would publish any necessary cost adjustments in the Federal Register.

Currently, when designated state inspectors issue Federal certificates, we do not charge any fee for the federal certificate. However, some states charge a fee to recover their travel, transportation and inspection costs.

Under this proposal, when an APHIS employee conducts the inspection and signs the certificate, the user would be required to pay the applicable APHIS user fee. However, if a designated state employee conducts the inspection and signs the certificate, we would not charge the APHIS user fee because APHIS would not be providing any service to the user. However, the state, if it wished, could charge a state fee to cover the cost of providing its services. To charge such a fee, the state would

[3] Our proposed regulations define a commercial shipment as a shipment for gain or profit.

have to calculate the cost of its services using the same factors that we use to calculate our user fees.

To establish its fee, the state would have to:

(1) Estimate the annual number of certificates to be issued;

(2) Determine the total cost of issuing certificates;

(3) Divide the cost of issuing certificates by the estimated number of certificates to be issued to obtain a "raw" fee.

A state could round the "raw" fee up to the nearest quarter, if necessary for ease of calculation, collection, or billing.

When determining the total cost of issuing certificates, states could include delivery, support, and administrative costs. Delivery costs are costs such as employee salary and benefits, transportation, per diem, travel, purchases of specialized equipment, and all costs associated with maintaining field offices. Support costs are similar costs at supervisory levels, and costs such as training, automated data processing, public affairs, enforcement, communications, postage, budget and accounting services, and payroll, purchasing, billing and collection services. Administrative costs are any additional costs the states incur as a direct result of collecting and monitoring federal certificates.

As we explained above, state participation in the program is crucial to its success. We believe offering states the option of collecting a user fee based on the cost of providing their services would encourage them to continue participating.

Services Provided under Agreements (Proposed 7 CFR 354.4).

We are sometimes asked to provided inspection services at points of entry into the United States in addition to the regular or on-call basis currently available in connection with vessels or aircraft. We receive two types of requests:

(1) that we open a permanent inspection station at a port we do not currently serve; and

(2) that we provide one-time or occasional service at a location where we normally do not provide service.

We are willing to provide service in both these situations under authority of the Farm Bill. We are therefore proposing that owners or operators of vessels or aircraft, or their agents, may enter into agreements with us to provide these types of services. The agreements would include the location where inspection services would be provided, the times and dates when services would be provided, the types of services that would be provided, and the total cost of providing the services. The owner or operator requesting the services would be required to deposit, at the time the agreement is signed, an amount covering the estimated cost of providing 6 months of service. In addition, the owner or operator requesting the service would be required to maintain, based on a monthly accounting conducted by APHIS, a deposit large enough to cover the estimated cost of providing 6 months of service. If the service was to be provided only once or occasionally, the amount would be for as many provisions of the service as we anticipated would occur within a 6-month period.

The deposit is necessary to ensure that services needed can be funded as they are provided. The standard billing cycle is 3 months. A 6-month deposit would provide enough money to fund services for 2 billing cycles and would allow adequate time to replenish the account if required.

Agreements could be terminated by either party upon 30 days written notice. In the case the agreement was terminated after less than 6 months, if occasional services were provided less frequently than anticipated, or if costs to provide the service were lower than anticipated, APHIS would refund any excess user fee paid.

Under these proposed agreements, we would recover the full cost of providing the requested services. In the case of a new inspection station, the fee would cover all costs of opening and operating the station. Costs to operate the facility would include personnel costs, overhead, and other operating costs such as we have explained above in connection with our other existing and proposed user fees. We would determined the total of these costs. However, because the facility would be open to the public, we would collect users fees for services provided there. Therefore, we would deduct the amount of user fees collected from the total cost of operating the facility. The resulting figure would be the amount payable by the owner or operator signing the agreement. If, after the inspection station was open for a time, user fees collected there were enough to cover the full cost of operating the facility, then the amount payable under the agreement would drop to zero.

In the case of one-time or occasional services, our costs to provide the service would include any existing APHIS user fee that applied to the service, plus, as appropriate, reimbursable overtime, travel, transportation, and per diem. If no existing APHIS user fee applied to the service, then the amount would be the full cost of providing the service, calculated as we have for our other proposed user fees. That is explained elsewhere in this document. For example, if the agreement covered vessel inspection services 500 miles from a port of entry, then the user fee under the agreement would include the APHIS vessel inspection fee plus reimbursable overtime, if applicable, and travel, transportation, and per diem.

Calculation of Proposed User Fees for AQI Services, and Phytosanitary Certificates

We are proposing to require user fees to cover the cost of certain agricultural quarantine and inspection (AQI) services and for issuance of phytosanitary certificates.

For each category of service, we have estimated the annual number of means of conveyance that would be subject to inspection, or, as appropriate, the annual number of phytosanitary certificates to be issued. Our estimates include services relating to persons and means of conveyance which would be exempt from paying the proposed user fees. Our estimates are based on our Work Accomplishment Data System.

For each category of service, we have determined the total cost of providing service. Included in the total cost are delivery costs, program support costs, and agency-level support costs. Delivery costs include, but are not limited to, employee salary and benefits, travel, purchase of specialized equipment, and all costs associated with maintaining field offices. Program support costs include these same items at the regional and headquarters level. Agency-level support costs include, but are not limited to, training, legislative and public affairs, regulatory enforcement, communications, postage, budget and accounting services, and payroll, purchasing, billing and collection services. We have also included administrative expenses we would incur by adopting these proposed regulations.

In the case of AQI services for aircraft arriving within the customs territory of the United States, we have also included in the proposed fee an amount which would provide for a reasonable reserve in the Account. The proposed fee is designed so that the balance would be approximately 3 months operating expenses, or $5,487,000. Since the majority of the fees would be remitted in arrears, a sufficient reserve must be maintained to meet current expenses. In addition, we believe that a reserve of this size would be necessary to ensure that sufficient funds are available to carry out agricultural quarantine and

inspection activities because the number of aircraft may deviate from the anticipated volume upon which our fees are based. The anticipated volume of activity could fluctuate greatly due to changes in travel and trade. The reserve would also be used to offset any uncollectible debts that result from clients are unwilling or unable to pay for our services. We would monitor the balance closely and propose adjustments in our fees as necessary to ensure a reasonable balance.

Our final step in calculating our proposed fees for services was to divide the cost of providing service by either the anticipated number of means of conveyance subject to inspection, or by the number of phytosanitary certificates to be issued, as appropriate. In this manner we arrived at a "raw" fee.

To determine the fees we are proposing to charge, we raised the "raw" fees up to the nearest quarter. We did round to the next dollar for user fees adopted to cover various other agricultural quarantine and inspection services (see 56 FR 14837–14846, April 12, 1991, and 56 FR 18496–18502, April 23, 1991.) However, we do not believe that is necessary for the user fees proposed in this document. We do not need to establish a reserve fund for any services other than the agriculture quarantine and inspection services. Therefore, we do not need to generate more revenue than needed to cover costs. Also, we do not need to generate more revenue than needed to cover costs. Also, we do not need to coordinate our collection system with that of any other entity. Our existing user fees will be collected for us by the United States Customs Service. Partly because they collect fees only in whole dollars, we adopted user fees which were rounded up to the next dollar. However, the user fees proposed in this docket will be paid directly to us, and not collected by the United States Customs Service.

We have proposed to round these fees up, rather than down, in order to ensure that we collect enough revenue to cover the costs of providing these services. If we were to round down, many fees would be lower than the cost of the service.

As is the case with all other APHIS user fees, we intend to review, at least annually, the user fees we are proposing in this document. We would propose any necessary cost adjustments in the **Federal Register**.

Below is a table showing the categories of service, the cost of providing service in each category, including, in the case of airline inspection, a reasonable balance in the account, the number of means of conveyance subject to inspection or the anticipated number of certificates to be issued (labeled "volume"), the "raw" fee, and the proposed fee. Additional supporting data and computations are available for inspection at the Animal and Plant Health Inspection Service, room 263, Federal Building, 6505 Belcrest Road, Hyattsville, Maryland, between 8:00 a.m. and 4:30 p.m., Monday through Friday.

CALCULATION OF USER FEES

Activity	Total cost plus reserve (in thousands)	Volume	"Raw" fee	Proposed fee
AQI Services				
Airport operations:				
Commercial aircraft				
International	$28,880	246,001	$117.40	$117.50
Domestic	1,115	29,719	37.52	37.75
Maritime Operations:				
Commercial vessels				
Domestic	79	713	110.80	111.00
Other Services				
Phytosanitary certificates, and phytosanitary certificates for reexport, and				
Commercial	2,865	95,998	29.84	30.00
Noncommercial	183	9,643	18.98	19.00
Reissued	71	11,863	5.98	6.00
Processed product certificates [4]				30.00
Reissued processed product certificates				6.00

[4] As explained above in this document, we have no data at this time showing the total cost or volume of processed product certificates.

The fees adopted would be periodically reexamined and any further adjustments necessary to reflect costs of providing services would be included in a future rulemaking proceeding.

Collection and Billing Procedures (Proposed 7 CFR 354.3)

We propose to collect the proposed APHIS user fees for phytosanitary certificates as follows:

Some commercial exporters receive APHIS services on a continuous or repeated basis. Under certain circumstances we give blocks of phytosanitary certificates to these exporters. They complete and return the certificate to us to be endorsed. Under our proposal, these exporters would have to pay the full required APHIS user fee for each certificate. Payment would have to be made at the time we issue the block of certificates to them.

Commercial exporters who are given and pay up front for a block of certificates would be issued a receipt. They could return voided and unused certificates to us for a partial refund or credit. They would choose whether they preferred a refund or credit. Credits would be applied to future user fee charges. The refund or credit would be the amount of the APHIS user fee already paid, minus $6 to cover administrative costs we incur to issue, track, and process these certificates.

Commercial exporters who are given and pay up front for a block of certificates could also get a partial refund or credit under certain other circumstances. The APHIS user fee for certificates would include any necessary inspections, if they are conducted during normal business hours (8 a.m. to 4:30 p.m.). Exporters could request that inspections be conducted at other times. However, they would be charged reimbursable overtime under 7 CFR 354.1 for that service, in addition to the user fee. A shipper who requested inspection for a certificate outside of normal business hours, would be paying twice for the inspection—once in the

APHIS user fee and once under reimbursable overtime. Therefore, we are proposing, if this situation occurs, that we, at the shipper's option, would reimburse them the amount of any overcharge, or give them a credit against future APHIS user fees.

We also propose that commercial exporters who are given and pay up front for a block of certificates could get a partial refund or credit if they use any of the certificates to cover a non-commercial shipment. The proposed user fee for a non-commercial shipment is less than that for a commercial shipment. As commercial exporters issued a block of certificates would have paid the commercial user fee, they would have overpaid if the shipment was non-commercial. In this situation also, we would, at the shipper's option, either reimburse them the amount of the overcharge, or give them a credit against future APHIS user fees.

Many commercial exporters ship only occasionally. We do not give them blocks of certificates. They and all noncommercial exporters would be required, under our proposal, to pay the user fee for each certificate at the time it is issued.

Payment Methods

We are proposing to accept checks, including personal checks, checks drawn on commercial accounts, money orders, traveler's checks, and cashier's checks. However, we would not accept personal checks from individuals, for amounts over $100.00. We cannot determine whether a personal check is good until after we have provided our services. Therefore, we are limiting personal checks in order to limit our losses. Based on our experience, other types of payment do not pose this problem. Therefore, we are not proposing to limit them.

Penalties for Non-Payment or Late Payment

We are proposing to add a new § 354.5 to impose penalties for non-payment or late payment of APHIS user fees. If payment for an APHIS user fee is past due by more than 30 days, APHIS would impose a late payment penalty and interest charges in accordance with 31 U.S.C. 3717.

If a person is delinquent in paying any APHIS user fee, or delinquent in paying any interest due on any APHIS user fee, we would provide no further services requiring a user fee to that person.

In addition, if an APHIS user fee is due in a situation where we are still in the process of providing the service, but the fee has not been paid within the time allowed, or the payment is inadequate or unacceptable, we would not finish providing the services. For example, if payment was due for a phytosanitary certificate, we would not release the certificate.

Part 2

User Fees for Birds and Poultry in APHIS Animal Import Centers (Proposed 9 CFR 130.2)

We are proposing to charge a user fee for each bird or poultry quarantined in an Animal Import Center. The proposed fee would be assessed daily. Different fees would be assessed for birds and poultry of different sizes, with further adjustments for non-standard feed, housing, and care and handling required. The different fees reflect the varying costs of quarantining different birds and poultry.

Size is a major component of quarantine costs. Feed costs are higher for larger birds and poultry. The larger a bird or poultry is, the more space it occupies. More cages must be used, which must be cleaned and taken care of. Labor costs are therefore greater for larger birds and poultry.

The proposed user fee for each category includes water and standard feed, housing, care and handling. We consider standard feed to be seed, or dry feeds such as dog food or monkey biscuits, whether soaked in water or not. Examples of standard diets are: regular medicated pelleted feed for psittacine birds, canary/finch mix for canaries and finches, and corn mixture for game cocks. We consider standard housing to be any suitable housing, other than individual housing, which is normally available at the facility. Individual housing, housing constructed or purchased at the request of an importer, and housing with blinds, dense foliage or plants, or temperature-regulated housing are not considered "standard." Non-standard care and handling would include hand-feeding, more than one feeding a day, frequent observation, and any handling or observation which requires personnel to attend to the birds or poultry outside of normal business hours.[5]

Non-standard feed, housing, and care and handling are sometimes required, and sometimes requested by the importer. Some birds and poultry must be fed a special diet. For example, some birds are fruit eaters. But special diet requirements do not necessarily apply to every bird or poultry in a category. For example, some pigeons require a fresh fruit diet, but most do not. Some birds and poultry must also be housed individually. Game cocks, for example, are to aggressive to be housed together. Certain varieties of hummingbirds are also so aggressive they must be separated. Special care and handling is also sometimes required. Baby birds have to be hand-fed. Some birds may need to be observed to ascertain their eating patterns, to check their adjustment to an artificial environment, to detect undue stress and make suitable adjustments, or to try to reduce mortality.

APHIS is prepared to provide non-standard feed, housing, care and handling, whether it is required or provided at the request of the importer. However, under the proposed user fee system, the costs of these services must be recovered.

Therefore, we are proposing to charge for special diets. These can be extremely costly, and the cost can vary widely from one area of the United States to another. Feed for seed-eating birds ranges from approximately $0.04 per day for a small bird to $0.64 for a large bird. Feed for seed-eating birds is also fairly uniform in price throughout the United States and is easily obtainable in all locations and at all times of the year. In comparison, fruit, such as mangoes and papayas, may cost $1.23 per day for a medium bird. Special feeds are also not always readily available. They vary widely in price. For example, papayas in Hawaii are considerably less expensive than papayas in New York State, depending both on location and season of the year. Because of differences in feed costs for seed-eating birds and poultry, and for birds and poultry on special diets, we are proposing to require importers to either provide special feed for their birds or poultry, or pay for it on an actual cost basis. Actual cost basis would include not only the cost of the feed, but also any delivery costs. The importer would be able to choose which method he or she preferred.

We are also proposing to require that any bird or poultry which is housed in non-standard housing, and any bird or poultry which receives non-standard care and handling, must pay the maximum user fee for birds or poultry, as appropriate. The higher charge would apply whether the non-standard treatment was to maintain good husbandry practices, or because the importer requested it. As an example of how the charge would work, small birds would be charged $0.75 per day for quarantine under this proposal, while large birds would be charged $6.50 per

[5] Normal business hours at the Animal Import Centers are: 7:30 a.m. to 11:30 a.m., Honolulu, HI; 7 a.m. to 3:30 p.m., Miami, FL; and 8 a.m. to 4:30 p.m., Newburgh, NY.

day. A hummingbird is a small bird. However, certain species of hummingbirds must be housed individually. Therefore, under this proposal we would charge $6.50 per day for quarantining one of these hummingbirds in an Animal Import Center. Likewise, if an importer requested that an animal be housed individually when we would not normally do that, we would charge the higher fee.

Fee for Zoo Animals and Zoo Birds in Animal Import Centers (Proposed 9 CFR 130.2)

We are proposing a daily user fee for all zoo animals, except equines, birds, and poultry. Zoo animals, which include poultry but not birds, are defined in the proposed regulations as "any animal, including poultry intended for exhibition in a zoo, park or other place maintained for the exhibition of live animals for recreational or educational purposes." Zoo birds are defined in the proposed regulations as "birds intended for exhibition in a zoo, park or other place maintained for the exhibition of live animals or birds for recreational or educational purposes."

We have determined that it is not necessary to charge different user fees for different zoo animals, except equines, birds, and poultry. This is because, with the exception of equines, poultry, and birds, the handling and care requirements for all zoo animals are virtually the same, and the diseases requiring quarantine are comparable.

For zoo equines, zoo birds, and zoo poultry, we are proposing to charge the same user fees as we propose to charge for other equines, birds, and poultry.

All equines are quarantined in accordance with the regulations in 9 CFR part 92. Generally this will result in a 3, 7, or 60 days quarantine, whether they are zoo equines or not. Zoo equines are handled the same as other equines. Therefore, a different user fee for quaranting them is not justified.

Similarly, all birds and poultry are dealt with the same in quarantine, whether they are zoo birds and zoo poultry, or not. Therefore, there is no reason to charge a different user fee for quarantining them.

However, we do charge a reservation fee for space at APHIS Animal Impact Centers (see 9 CFR part 92). Under this proposal, we would apply the reservation fee paid by the importer or his or her agent against the user fees due for services provided at an Animal Import Center.

Fee for Equines in Animal Import Centers (Proposed 9 CFR 130.2)

We are proposing to charge a daily user fee for each equine, including zoo equines. The rates we propose are $128.50 for this 1st day through the 3rd day, $93.25 for the 4th day through the 7th day, and $79.00 for the 8th and later days. All equines being imported into the United States are quarantined for either 3 days, 7 days, or 60 days, depending on what tests must be performed on the equine and how long it takes to get test results. What tests are conducted depends in turn on the country from which the equine is being imported and the diseases which are present in that country.

All animals and birds which require quarantine, except equines, are quarantined for a standard 30-day period. As explained above, equines are quarantined for either 3, 7, or 60 days. The different between quarantine periods is the time it takes to observe the different animals or birds for signs of various diseases. The diseases prevalent in the country of origin dictate what diseases we are concerned about. For example, equines from countries infected with African horse sickness must be quarantined for 60 days, as it takes that long to be sure that they are not infected with African horse sickness.

For certain activities, necessary for quarantining a horse, the costs are fixed in terms of labor and materials. These include setting up stalls and providing bedding before a horse arrives at the Animal Import Center, then identifying it, taking blood samples, and taking its temperature and inspecting it for ectoparasites such as ticks when it arrives, and finally cleaning and disinfecting its stall after the horse leaves the Animal Import Center. The greater the length of quarantine, the lower the cost per day for these activities because the costs are spread over more days.

We do charge a resevation fee for space at APHIS Animal Import Centers (see 9 CFR Part 92). Under this proposal, we would apply the reservation fee paid by the importer, or his or her agent, against the user fees due for services provided at an Animal Import Center.

Fee for Domestic Animals in Animal Import Center (Proposed 9 CFR 130.2)

With regard to domestic animals, other than equines, we are proposing one rate for camels, cattle, bison and buffalo, and another rate for all other domestic animals. Compared with other domestic animals, camels, cattle, bison and buffalo require either more space or more handling, or both, while in quarantine. Therefore, we are proposing to charge a higher rate.

We are proposing to charge a single user fee for the "all others" category of domestic animals. Though there is some variation in feed, space, and handling required by different animals in this catetory, the variations are not sufficiently significant to warrant multiple categories.

We do charge a reservation for space at APHIS Animal Import Centers (see 9 CFR part 92). Under this proposal, we would apply the reservation fee paid by the importer, or his or her agent, against the user fees due for services provided at an Animal Import Center.

Fee for Use of Entire Quarantine Building at Animal Import Centers (Proposed 9 CFR 130.3)

We are also proposing to allow importers, at their option, to utilize an entire Animal Import Center quarantine building and pay a single user fee. Any animals or birds could be imported under this fee.

However, only designated buildings at our Newburgh, NY, and Honolulu, HI, facilities would be available on this basis. Not all quarantine buildings in Honolulu and Newburgh are suitable, and no buildings in Miami are suitable.

We are proposing to designate only those buildings which are inappropriate for "multiple use." Some buildings at our facilities are designed to be used concurrently for quarantining different types of animals. For example, birds and horses can be quarantined at the same time in the same building. These are known as "multiple use" buildings. However, if one importer controls the entire building, no other animals or birds could be housed in it during the month it was reserved. We do have other buildings which are inappropriate for multiple use. If any animals or birds are quarantined in them, no other type of bird or animal can be housed there. We are proposing to designate only buildings which are inappropriate for multiple use. In this way, we maximize the available quarantine space. Designating multiple use buildings would severely and unnecessarily restrict the available quarantine space.

We would charge a monthly user fee for use of the entire building. The fee would cover all costs of the quarantine except feed.

The costs included in our proposed user fees cover labor and utilities and all associated costs, such as trash removal and incineration. We calculated labor costs by determining the average salary for one animal caretaker, who

would be assigned exclusively to the building for the month. The figure is different for our New York and Hawaii facilities, in part, because the New York facility is open 8 hours a day and the Hawaii facility is open 4 hours a day. Utility and associated costs were calculated for each facility, and the total for each facility was divided by the number of square feet of animal quarantine space at that facility. The resulting cost per square foot was applied to the designated buildings. The resulting figures are different for the New York and Hawaii facilities because basic costs are different. For example, trash and incineration costs are substantially higher at the New York facility than in Hawaii. Heating is a major expense at the New York facility, but negligible in Hawaii.

The importer would have to provide feed, or pay for it on an actual cost basis, including cost of delivery. The importer would be allowed to utilize the building as he or she wished. However, we would limit the number of animals and birds to the maximum number which could be cared for without jeopardizing their health. In determining the maximum number, the veterinarian in charge of the Animal Import Center would consider the species, size and age of the animals, sanitation, and ability to conduct tests, inspections, and support procedures. The maximum allowable number would vary with every lot. When an importer determined what species, sizes and ages of animals and birds he or she wished to import, he or she would call for a reservation and request to use an entire building. At that time we would determine, and inform the importer of, the maximum number of animals and birds to be permitted.

We have decided to offer this option for two reasons. First, importers often request a more favorable rate, based on economy-of-scale savings, for very large shipments. Second, importers occasionally demand extraordinary space for their animals or birds, beyond routine husbandry needs. Offering an entire quarantine building as an option would satisfy both types of requests.

A large number of animals can be quarantined for less cost per head than a small number of animals. However, the cost varies with the species, size, ages and number of animals and birds and the building in which they are housed. Because of the variation, we cannot calculate a standard user fee for large shipments. We can, however, calculate the cost of offering an entire building for use. Under this method, regardless of the number of animals and birds housed in the building, we recover our costs. In turn, the importer may obtain a lower per-head cost than by paying our proposed standard daily user fee.

As to requests for extraordinary space, we cannot afford to offer extra space if we cannot recover its cost. Under this proposal, we can recover our costs and the importer can have as much space as he or she wants for his or her animals and birds.

User Fee for Animals in Privately Operated Permanent Quarantine Facilities (Proposed 9 CFR 130.4)

We propose to charge importers separate user fees for inspection services and for testing services, for animals in permanent privately operated quarantine facilities.[6] We considered an hourly rate for inspection services. However, APHIS veterinarians must supervise shipments belonging to many different importers, with varying numbers of animals in each shipment. To allocate daily costs to each importer would be impossible. Therefore, we have calculated the cost of providing services at these facilities. We determined annual labor and support costs, and divided the total by the annual number of quarantine days (each day an animal is in quarantine is a quarantine day; 40 animals in quarantine for 1 day is 40 quarantine days). The resulting figure is our proposed user fee.

User Fee for Animals in Privately Operated Temporary Quarantine Facilities (Proposed 92 CFR 130.5)

We are proposing to charge a user fee for each hour of service provided by an APHIS veterinarian or Animal Health Technician during the time the quarantine facility is in operation. We would estimate the total fee when the request for approval of the temporary quarantine facility is made under 9 CFR part 92. It would be based on the anticipated number of hours of service, whether service would be provided by an APHIS veterinarian or Animal Health Technician, or both, and on the hourly rate for that service. The person requesting approval of the facility would be billed for actual services at the end of the quarantine. Our proposed fees are: $33.50 per hour for service performed by an APHIS veterinarian and $21.75 per hour for service performed by an APHIS Animal Health Technician.

[6] Permanent privately operated quarantine facilities are authorized under 9 CFR 92.309.

User Fee for Endorsing Export Health Certificates (Proposed 9 CFR 130.6)

Many animals, poultry, and hatching eggs are exported from the United States each year. The importing countries often require that the animals, birds, or hatching eggs be accompanied by an export health certificate. This is a certificate, issued by APHIS, that states that the animals, birds, or hatching eggs being exported are free of certain diseases that the importing country is concerned about. Different countries have different requirements as to the number and kind of tests required and the number of animals, birds, or hatching eggs which can be covered by one certificate. For example, Canada is the only country that requires that no more than one non-slaughter horse be covered by an export health certificate. Other countries allow an unlimited number of animals to be covered by one certificate.

We are proposing to charge user fees for endorsing export health certificates. We are proposing to charge different fees, depending in part on the number of animals, birds, or hatching eggs covered by the certificate and the number of different tests recorded on the certificate.

There are many costs associated with endorsing the certificates. These costs are less for certificates covering animals as a group which do not require tests. Costs are higher for certificates which cover individually-identified animals which require tests. In the latter case, the greater the number of animals, and the larger the number of tests, the more time consuming it is for APHIS personnel to issue export health certificates. Costs include time to review health certificates, to confirm that the importing country's requirements have been met, to verify laboratory test results if tests are required, and to endorse, or sign, the certificates. Other costs include administrative support (area office rent, utilities, supplies, etc.), agency overhead, and Departmental charges. Our proposed fees would recover these costs.

User Fees for Other Export Animal and Export Bird-Related Inspection and Supervision Services Within the United States (Proposed 9 CFR 130.7)

With regard to export animals and birds, APHIS personnel often conduct inspections and provide supervision for these animals and birds within the United States that is different than or in addition to the service discussed above. For example, APHIS personnel supervise rest periods for export

animals and the loading and unloading of animals at export isolation facilities. We are proposing to charge a user fee for these services. The proposed fees, which cover all costs, include travel costs, are: $33.50 per hour for services provided by an APHIS veterinarian and $21.75 per hour for services provided by an APHIS Animal Health Technician. Some services can be performed only by a veterinarian. The proposed user fees would apply to the entire period of time the veterinarian or Animal Health Technician is providing a service, including travel time to and from the work site.

User Fees for Inspection Services Outside the United States (Proposed 9 CFR 130.8)

We must at times provide inspection services outside the United States. These are inspections, usually to approve facilities from which animals or birds will be exported to the United States, required under various regulations in title 9, Code of Federal Regulations.

Most of these inspection services are paid for by the users under trust fund agreements. However, some of our regulations do not provide any means for payment. Therefore, we are proposing to establish standard regulations, which would apply to all inspection services provided outside the United States, except those for which the regulations already provide a trust fund or other payment method.

Under our proposal, we would require any person who wishes to receive inspection services outside the United States to enter into an agreement with APHIS. The agreement would include the location where the services would be provided, the times and dates when services would be provided, the types of services that would be provided, and the total cost of providing the services. The person requesting the inspection services would be required to deposit, at the time the agreement is signed, the estimated cost, as calculated by APHIS, of providing 6 months of service. In addition, the person requesting the services would be required to maintain, based on a monthly accounting conducted by APHIS, a user fee deposit large enough to cover the estimated cost of providing 6 months of service. The assessed fee would cover the amount of inspection service it is estimated the person would require over a 6-month period. This account is necessary to ensure that services needed can be funded as they are provided. The standard billing cycle is 3 months. A 6-month account would provide enough money to fund services for 2 billing cycles and would allow adequate time to replenish the account if required.

Agreements could be terminated by either party upon 30 days written notice. In the case the agreement was terminated after less than 6 months, if inspection services were provided less frequently than anticipated, or if costs to provide the services were lower than anticipated, APHIS would refund any excess user fee paid.

Under these proposed agreements, we would recover the full cost of conducting site visits. Personnel costs, travel and transportation, per diem, reimbursable overtime, overhead, direct materials, and other operating costs such as we have explained above in connection with out other proposed user fees, would be included. We would determine the total of these costs. The resulting figure would be the user fee payable by the entity signing the agreement.

If user fees were payable for off-site services provided in conjunction with the site visit, user fees for those services would be in addition to the user fee for the site visit.

User Fees for Tests (Proposed 9 CFR 130.9, 130.10, and 130.11) and Diagnostic Reagents (Proposed 9 CFR 130.12)

We are also proposing to charge a user fee for: (1) All laboratory tests we perform in connection with the importation or exportation of animals and birds; (2) all laboratory test we perform in as part of reference assistance testing; and (3) certain diagnostic reagents. The proposed user fees have been calculated to recover the cost of performing each test or supplying the diagnostic reagent.

Laboratory tests are required to import or export animals or birds and as part of reference assistance testing. Reference assistance tests are tests requested by veterinarians, State cooperators, or universities. The request may be to either establish or confirm a diagnosis.

The user fee for import or export-related tests would be the cost of the test requested. The user fee for reference assistance testing would be the total cost of the tests performed. In reference assistance testing to establish a diagnosis, we cannot predict in advance what tests will be required. The user fee must, therefore, be based on the cost of the tests actually performed. However, in reference assistance testing to confirm a diagnosis, we are requested to perform specific tests.

The fees would include all the costs explained earlier in this document: direct labor, direct materials, pro-rata shares of administrative support, equipment capitalization, overhead and Departmental charges.

The proposed user fees for some reference assistance tests are higher than the proposed user fees for the same tests for import or export purposes. The reason for this is that when we perform a test for import or export purposes, we simply complete the requested test and report the result. In reference assistance testing, we take whatever steps are necessary to confirm our results. These confirming steps, which can include repeating a test or conducting additional, different tests, add to the cost of reference assistance testing.

To arrive at proposed user fees for laboratory tests, we determined the amount of time, in hours, needed to perform the test. If 400 tests could be done in 1 hour, the time per test would be ¼₀₀th of an hour. We then multiplied the number of hours per test by the average hourly salary of personnel in the laboratory where the test is performed, plus support costs, Departmental charges, and Agency overhead. The resulting cost figure is covered by our proposed user fee.

To arrive at proposed user fees for diagnostic reagents, we determined the amount of time needed to produce a batch of reagent. We multiplied the number of hours needed by the average hourly salary of personnel in the laboratory where the reagent is produced, plus support costs, Departmental charges, and Agency overhead. We then divided the total by the number of milliliters of reagent in the batch, to arrive at a cost per milliliter. The proposed user fee is the cost per milliliter multiplied by the number of milliliters of reagent in a standard unit of that reagent.

Calculation of Proposed User Fees for Quarantine Services, Testing, Veterinary Diagnostics, and Export Health Certificates

We are proposing to charge a specific dollar amount for each individual service we provide. Each fee has been calculated to cover the full cost of providing that service. The cost of providing a service includes direct labor and direct material costs. It also includes administrative support, equipment capitalization, agency overhead, and Departmental charges.

Direct labor costs are the costs of employee time spent specifically to provide the service. For example, at APHIS's Animal Import Centers, animal caretakers and veterinarians prepare for the arrival of animals or birds to be quarantined in the Center, care for them (feed, water, clean cages or stalls) while

they are quarantined, observe them while they are quarantined, release them from quarantine, and clean the quarantine area afterwards. These are all direct labor costs. For other services, the direct labor costs would be different. For example, if the service is testing a tissue sample for disease-causing organisms, then direct labor costs include the time spent by laboratory personnel to prepare the sample, conduct the test, and read the test. Or, if the service is inspecting an aircraft, the direct labor costs include the time spent by the inspector to conduct the inspection. Direct labor costs vary with the type of service provided.

Direct materials costs include the cost of any materials needed to supply the service. For example, among other things, animals in quarantine need feed, water and bedding, disinfectants, and pharmaceuticals (for preparation of any needed tranquilizers). These are all direct materials costs. Again, direct materials costs are different for different services. For example, direct materials costs for conducting a laboratory test would include animals, eggs, glassware, chemicals, and other supplies necessary to perform the test.

Administrative support costs include local clerical and administrative activities; indirect labor hours (supervision of personnel and time spent doing work that is not directly connected with the service but which is nonetheless necessary, such as repairing equipment); travel and transportation for personnel, supplies, equipment, and other necessary items; training; general supplies for offices, washrooms, cleaning, etc.; contractual services (such as guard service, maintenance, trash pickup, etc.); grounds maintenance; chemicals and glassware, and utilities (such as water, trash pickup, telephone, electricity, natural and propane gas, heating and diesel oil). Some administrative support items may be contractual or not, depending on local circumstances. For example, trash pickup may be provided as a utility or a contractual service. However, the costs are all administrative support. As with direct labor and direct materials costs, the type, amount and cost of administrative support vary with the type of service provided.

Equipment capitalization is the annualized cost to replace equipment. We determine this by establishing the life expectancy, in years, of equipment we use to provide a service and by establishing the cost to replace the equipment at the end of its useful life. We subtract any money we anticipate receiving for selling used equipment. Then we divide the resulting dollar figure by the life expectancy of the equipment. The result is the annual cost to replace equipment.

Agency overhead is the pro-rata share, attributable to a particular service, of the management and support cost for all agency activities. Included are the cost of providing budget and accounting services, management support, including the Administrator's office and support at the regional level, personnel services, public information service, and liaison with Congress.

The final cost item included in the calculation, Departmental charges, is APHIS's share, expressed as a percentage of the total cost, of services provided centrally by the Department of Agriculture (Department). Services the Department provides centrally include the Federal Telephone Service; mail; National Finance Center processing of payroll, billing, collections, and other money management; unemployment compensation; Office of Workers Compensation Programs; and central supply for storing and issuing commonly used supplies and Department forms. The Department notifies APHIS how much the agency owes for these services. We have included a pro-rata share of these Departmental charges, as attributes to a particular service, in our fee calculations. An outline of the basic process is shown below. The actual components, quantities, and costs used to calculate the fee are different for each service.

The basic steps in the calculation, for each particular service, are:

1. Determine the following costs:

Direct labor;
Direct materials;
Pro-rata share of administrative support;
Pro-rata share of equipment capitalization;
Pro-rata share of agency overhead; and
Pro-rata share of Departmental charges;

2. Add all costs;

3. Estimate, based on past experience, the frequency of service, that is, the number of times the service will be performed in one year; and

4. Divide the total of all costs by the frequency of service.

The result of these calculations is the total cost of provide a particular service one time.

Rounding

We are proposing to round our proposed user fees up to the nearest quarter. This is consistent with the other APHIS user fees proposed in this docket. We did round to the next dollar for user fees adopted to cover various agricultural quarantine and inspection services (see 56 FR 14837–14846, April 12, 1991, and 56 FR 18496–18502, April 23, 1991.) However, that is not necessary for these proposed fees covering animal quarantine, testing, export health certificates, and veterinary diagnostics. We do not need to establish a reserve fund for these services. Also, rounding up to the nearest dollar would generate more revenue than needed to cover costs, and fees would be the same for markedly different services.

We have proposed to round these fees up, rather than down, in order to ensure that we collect enough revenue to cover the costs of providing these services. If we were to round down, many fees would be lower than the cost of the service. As we would not have a reserve fund, there would be no funds for us to draw on to make up the deficiency.

As is the case with all other APHIS user fees, we intend to review, at least annually, the user fees we are proposing in this document. We will publish an necessary adjustments in the **Federal Register**.

Payment Procedures (See Proposed 9 CFR 130.50)

We propose to implement several different billing and collection methods to accommodate those who use our services.

At our Animal Import Centers and at privately operated permanent quarantine facilities, we proposed to collect for all APHIS services at the time we release the animals or birds from quarantine. We would collect user fees at the time for both quarantine services and diagnostic tests performed on the animals or birds. As explained above, we would apply the reservation fee already paid by the importer against the user fee charges. At privately-operated temporary quarantine facilities, the person requesting approval of the facility would be billed for our services at the end of the quarantine.

We are proposing to accept cash at Animal Import Centers. VISA and MasterCard credit cards would also be accepted, but only at locations which are equipped to handle credit card payments. These locations are the Animal Import Centers in Newburgh, NY and in Miami, FL, and the USDA, APHIS, VS, office at John F. Kennedy International Airport, Jamaica, NY. Other credit cards cannot be accepted as the United States Department of the Treasury accepts credit card payments made only through VISA or MasterCard.

With regard to hourly user fees for miscellaneous supervision and inspection services, we propose to bill users monthly for services provided. All

forms of payment, except cash, would be accepted. We cannot accept cash because we do not have facilities either to make change or to safely keep cash.

We propose to collect for endorsing export health certificates at the time we provide the service. If that is at an area office,[7] we would collect the user fee when the certificate is endorsed. We would accept all forms of payment at area offices, including, cash, checks, money orders, traveler's checks, and credit cards If we endorse export health certificates at Canadian or Mexican border ports, we would also collect the user fees when we endorse the certificate. However, we would not accept cash at these locations. Port veterinarians do not have proper facilities for keeping cash or making change.

We propose to collect user fees for tests, other than testing conducted on animals and birds in quarantine and reference assistance testing to establish a diagnosis, at the time the test request is sent to the National Veterinary Services Laboratories in Ames, Iowa. Payment would have to be enclosed with the test request. As explained above, we would collect payment for tests performed on quarantined animals and birds at the time they are released from quarantine. With regard to reference assistance testing to establish a diagnosis, we propose to bill users for the actual tests and procedures performed, as soon as they are determined. Users would have to pay for these tests before we would release the results. We would accept any form of payment except cash. As explained above, we do not have facilities for keeping cash or making change.

We propose to collect user fees for diagnostic reagents at the time a request for the reagent is made. Payment would have to be enclosed with the request. We would not release any diagnostic reagent without complete payment. Payment could be made by any means except cash, for the reasons given above.

Penalties for Non-payment or Late Payment (Proposed Section 130.51)

We are proposing to impose penalties for non-payment or late payment of APHIS user fees. If payment for an APHIS user fee is past due by than 30 days, APHIS will impose interest charges in accordance with 31 U.S.C. 3717. If a person is delinquent in paying any APHIS user fee, or delinquent in paying any interest due on any APHIS user fee, we would provide that person no further services for which an APHIS user fee is assessed.

In addition, if an APHIS user fee is due in a situation where we are still in the process of providing the service, but the fee has not been paid within the time allowed, or the payment is inadequate or unacceptable, we would not finish providing the services. For example, if an animal was still in quarantine at an Animal Import Center, we would not release it from quarantine, or if we had completed a test but not informed the user of the results, we would withhold the results.

If animals or birds are left in quarantine at an Animal Import Center for longer than 30 days after the close of the required quarantine, we would consider them to be abandoned. If they could be released from quarantine, we would do so, seize them, and sell or otherwise dispose of them. We would recover the costs of handling the animals or birds from the proceeds. If the animals or birds could not be released from quarantine, we would dispose of them, as determined by the Administrator, and would recover the cost of handling them from the proceeds.

We believe these penalties would help ensure that users pay APHIS user fees promptly and in full. Prompt and full payment is necessary if we are to recover the costs of providing services. Without payment, we cannot continue to provide services.

Executive Order 12291 and Regulatory Flexibility Act

In accordance with Executive Order 12291, it has been determined that this rule is part of a series of documents which are being considered as a "major rule." This proposed rule is one of several rules which concern requiring certain persons to pay user fees for APHIS services they receive. We have already published, in two separate documents, final rules adopting user fees for various passengers and means of conveyance. One final rule covered user fees for commercial vessels, commercial trucks, commercial railroad cars, and passengers on commercial aircraft arriving in the United States from outside the country. It was published April 12, 1991 (56 FR 14837–14846), and was effective May 13, 1991. The other final rule covered user fees for passengers on commercial airlines departing Hawaii and Puerto for other parts of the United States. It was published April 23, 1991 (56 FR 18496–18502). As explained above, its effective date, originally scheduled for August 1, 1991, has been postponed until October 1, 1991.

These rules, together with the regulations proposed in this document, are expected to provide total savings to taxpayers of $132 million annually. The discounted value of this amount is estimated at abut $1.3 billion into perpetuity. The fees on the four categories of service proposed in this rule are expected to contribute 30 percent of the total savings.

Total administrative costs associated with implementing the three rules are estimated as $2 million annually, a discounted value of about $20 million. Only 20 percent of this amount is expected to be incurred in implementing the fees proposed in this rule.

The preliminary impact analysis indicates that the implementation of user fees for the four categories affected by this proposed rule is expected to save taxpayers over $38 million per year. The total discounted value is estimated to be roughly $380 million into perpetuity. Total administrative costs to the Department associated with fee collection (for the inspection of commercial vehicles and the issuance of phytosanitary certificates) are estimated to be $510,000 annually, a discounted cost of about $5 million.

The implementation of user fees for the inspection of commercial aircraft and commercial vessels is expected to provide tax savings of $30 million a year ($300 million discounted value). User fees for the issuance of phytosanitary certificates are expected to accrue savings of at least $3 million annually ($30 million discounted value).

Administrative costs associated with the inspection of these commercial vehicles are estimated as $209,000 annually. A discounted cost of about $2 million is estimated. Costs relating to the issuance of phytosanitary certificates are estimated as $301,000 a year, or $3 million discounted into perpetuity.

The implementation of user fees for services related to the export and import of animals or birds is expected to yield savings to taxpayers of $4 million per year ($40 million discounted value). User fees for services relating to veterinary diagnostics are expected to accrue annual savings of over $1 million (a discounted value of $10 million).

The two final user fee rules that have already been published (one for international air passengers and commercial trucks, rail cars and foreign vessels, and one for domestic air travel) were estimated to have a combined annual impact of $93 million in the form of savings to taxpayers. The savings

[7] A list of the locations of area offices can be obtained from the Office of the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

estimated to accrue from the first rule on international air passengers and commercial vehicles comprise 83 percent of this total while the remaining 17 percent in savings is attributed to passenger fees for domestic travel.

This proposed action may also have a significant economic impact on a substantial number of small entities. However, we do not currently have all the data necessary for a comprehensive analysis of the effects of this rule on small entities, and we invite comments on these impacts. In particular, we are interested in determining the number and kind of small entities which may incur benefits or costs from the implementation of users fees. These small entities, among others, include: commercial aircraft or sea companies; importers, traders, and wholesalers of agricultural commodities; animal importers and brokers; pet owners; veterinarians; commercial testing laboratories, and State or local government agencies.

Our preliminary Regulatory Impact Analysis is available for inspection at USDA, room 1141, South Building, 14th and Independence Avenue, SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays, or by telephoning (202) 382–1368.

Executive Order 12606

We have analyzed these regulations in accordance with the Executive Order 12606, and have determined that this rule has no potential impact on the family well-being. We have determined that this rule: Does not affect the stability of the family, and particularly, the marital commitment; does not affect the authority and rights of parents in the education, nurture, and supervision of their children; does not help or hinder the family to perform its functions; does not substitute governmental activity for family functions; and does not affect family earnings. We have also determined that the benefits of this action justify any impact it may have on the family budget, and that this activity cannot be carried out by a lower level of government or by the family itself. This rule sends no message, intended or otherwise, to the public concerning the status of the family or to young people concerning the relationship between their behavior, their personal responsibility, and the norms of our society.

Paperwork Reduction Act

In accordance with section 3507 of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the information collection provisions that are included in this proposed rule will be submitted for approval to the Office of Management and Budget. Your written comments will be considered if you submit them to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. You should submit a duplicate copy of your comments to: (1) Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 804, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782; and (2) Clearance Officer, OIRM, USDA, room 404–W, 14th Street and Independence Avenue SW., Washington, DC 20250.

Executive Order 12372

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

List of Subjects

7 CFR Part 354

Agricultural commodities, Exports, Government employees, Imports, Phytosanitary certificate, Plants (agriculture), Quarantine, and Transportation

9 CFR Part 130

Animals, Birds, Diagnostic reagents, Exports, Imports, Poultry, Quarantine, and Tests.

Accordingly, we are proposing to amend 7 CFR part 354 and 9 CFR chapter I as follows:

7 CFR PART 353—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS; AND USER FEES

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

Authority: 7 U.S.C. 2260, 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 49 U.S.C. 1741; 7 CFR 2.17, 2.51, and 371.2(c).

§ 354.3 [Amended]

2. In § 354.3, paragraph (a) would be amended to add, in alphabetical order, the following definitions:

* * * * *

Commercial purpose. The intention of receiving compensation, or making a gain or profit.

* * * * *

Commercial shipment. A shipment for gain or profit.

* * * * *

Designated state inspector. A state employee designated by APHIS to conduct inspections for phytosanitary export certification and to sign certificates on behalf of APHIS.

* * * * *

Phytosanitary certificate. A document certifying that agricultural products moving from one country to another are free from quarantine pests, and practically free from other injurious pests.

Phytosanitary certificate for reexport. A document certifying that agricultural products which moved into the United States from another country and which are now moving from the United States to another country, remained free from quarantine pests, and practically free from other injurious pests while in the United States.

Processed product certificate. A document certifying that processed agricultural products moving from the United States are believed to be free from injurious plant pests.

3. In § 354.3, paragraph (e) would be redesignated as paragraph (f), and a new paragraph (e) would be added to read:

§ 354.3 User fees for certain international services.

* * * * *

(e) *Fee for inspection of commercial aircraft.* (1) Except as provided in paragraph (e)(2) of this section, an APHIS user fee will be charged for each commercial aircraft which is arriving, or which has arrived and is proceeding from one United States airport to another under a United States Customs Service "Permit to Proceed," as specified in title 19, Code of Federal Regulations, §§ 122.81 through 122.85, or an "Agricultural Clearance or Safeguard Order" (PPQ Form 250), used pursuant to title 7, Code of Federal Regulations, § 330.400 and title 9, Code of Federal Regulations, § 94.5, and which is subject to inspection under part 330 of this chapter or 9 CFR chapter I, subchapter D. Each carrier is responsible for paying the APHIS user fee. The APHIS user fee is $117.50 for each arrival.

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

(i) Any aircraft moving solely between the United States and Canada;

(ii) Any aircraft used exclusively in the governmental services of the United States or a foreign government, including any agency or political subdivision of the United States or a foreign government, so long as the aircraft is not carrying persons or merchandise for commercial purposes;

(iii) Any aircraft making an emergency or forced landing when the

original destination of the aircraft was a foreign port;

(iv) Any aircraft with 30 or fewer seats, which is not carrying cargo and which is not equipped to offer inflight food service; and

(v) Any aircraft moving from the United States Virgin Islands to Puerto Rico.

(3) *Remittance and statement procedures.* (i) Each carrier must remit the appropriate fees to the United States Department of Agriculture, * * *, for receipt no later than 31 days after the close of the calendar quarter in which the aircraft arrivals occurred. Late payments will be subject to interest, penalty, and handling charges as provided in the Debt Collection Act of 1982 (31 U.S.C. 3717).

(ii) At the same time a remittance is submitted the remitter must mail a written statement to the United States Department of Agriculture, * * * the statement must include the following information:

(A) Name and address of the person remitting payment;

(B) Taxpayer identification number of the person remitting payment;

(C) Calendar quarter covered by the payment;

(D) Ports of entry at which inspections occurred;

(E) Number of arrivals at each port; and

(F) Amount remitted.

(iii) Remittances must be made by check or money order, payable in United States dollars, through a United States bank, to "The Animal and Plant Health Inspection Service."

(4) *Compliance.* Each carrier subject to this section must allow APHIS personnel to verify the accuracy of the APHIS user fees remitted and to otherwise determine compliance with 21 U.S.C. 136a and this paragraph. Each carrier must advise the United States Department of Agriculture, * * *, of the name, address, and telephone number of a responsible officer who is authorized to verify APHIS user fee calculations and remittances. The United States Department of Agriculture, * * *, must be promptly notified of any changes in the identifying information submitted.

§ 354.3 [Amended]

4. In § 354.3(f)(1), the words "paragraph (e)(2)" would be removed and "paragraph (f)(2)" would be added in their place.

5. In § 354.3, new paragraphs (g), (h), and (i) would be added to read as follows:

§ 354.3 User fees for certain international services.

* * * * *

(g) *Fees for export certification of plants and plant products.* (1) For each certificate issued by APHIS personnel, the recipient must pay the applicable APHIS user fee at the time and place the certificate is issued, or, in the case of a block of certificates, at the time the certificates are given to the shipper.

(2) There is no APHIS user fee for a certificate issued by a designated State inspector.

(3) If a designated state inspector issues a certificate, the state where the certificate is issued may charge for inspection services provided in that state.

(4) Any state which wishes to charge a fee for services it provides to issue certificates, must establish fees in accordance with the following guidelines:

(i) The state must:

(A) Estimate the annual number of certificates to be issued:

(B) Determine the total cost of issuing certificates by adding together delivery,[2] support,[3] and administrative [4] costs; and

(C) Divide the cost of issuing certificates by the estimated number of certificates to be issued to obtain a "raw" fee.

(ii) The state may round the "raw" fee up to the nearest quarter, if necessary for ease of calculation, collection, or billing.

(5) The APHIS user fees are:

(i) $30 for a certificate for a commercial shipment;

(ii) $19 for a certificate for a non-commercial shipment;

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

(iv) $6 for reissuing any certificate or certificate for reexport;

(h) *Refunds of APHIS user fees.* (1) A shipper who pays for a block of certificates to cover commercial shipments may obtain a refund or a credit against future APHIS user fees under the following circumstances:

(i) If a certificate from the block is voided:

(ii) If a certificate from the block is returned unused;

(iii) If the shipper pays for inspection outside of normal business hours (8:00 a.m. to 4:30 p.m.) under § 354.1 of this part.

(iv) If a certificate from the block is used for a non-commercial shipment; or

(v) If a certificate from the block is used to reissue another certificate.

(2) The amount of any refund or credit will be the amount over charged, less $6 to cover APHIS administrative expenses.

(i) *Payment methods.* For payment of any of the APHIS user fees required in paragraph (g) of this section, we will accept personal checks for amounts less than $100, and checks drawn on commercial accounts, cashier's checks, certified checks, traveler's checks, and money orders for any amount.

6. In § 354.4, new paragraphs (c), (d), and (e) would be added to read as follows:

§ 354.4 User fees for certain domestic services.

* * * * *

(c) *Fee for inspection of commercial aircraft from Hawaii and Puerto Rico.* (1) Except as provided in paragraph (c)(2) of this section, an APHIS user fee will be charged for each commercial aircraft which is subject to inspection under § 318.13–8 or § 318.58–8 of this chapter. Each such carrier is responsible for paying the APHIS user fee, which is $37.75 for each aircraft departing Hawaii or Puerto Rico.

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

(i) Any aircraft used exclusively in the governmental services of the United States or a foreign government, including any agency or political subdivision of the United States or a foreign government, so long as the aircraft is not carrying persons or merchandise for commercial purposes; and

(ii) Aircraft transiting Hawaii or Puerto Rico and subject to inspection under part 330 of this chapter.

(3) *Remittance and statement procedures.* (i) Each carrier must remit the appropriate fees to the United States Department of Agriculture, * * *, for receipt no later than 31 days after the close of the calendar quarter in which the aircraft departures occurred. Late payments will be subject to interest, penalty, and handling charges as provided in the Debt Collection Act of 1982 (31 U.S.C. 3717).

(ii) At the same time a remittance is submitted the remitter must mail a

[2] Delivery costs are costs such as employee salary and benefits, transportation, per diem, travel, purchase of specialized equipment, and all costs associated with maintaining field offices.

[3] Support costs are costs at supervisory levels which are similar to delivery costs, and costs such as training, automated data processing, public affairs, enforcement, communications, postage, budget and accounting services, and payroll, purchasing, billing and collecting services.

[4] Administrative costs are costs incurred as a direct result of collecting and monitoring federal phytosanitary certificates.

written statement to the United States Department of Agriculture, * * * the statement must include the following information:

(A) Name and address of the person remitting payment;

(B) Taxpayer identification number of the person remitting payment;

(C) Calendar quarter covered by the payment;

(D) Ports of entry at which inspections occurred;

(E) Number of arrivals at each port of entry; and

(F) Amount remitted.

(iii) Remittances must be made by check or money order, payable in United States dollars, through a United States bank, to "The Animal and Plant Health Inspection Service."

(4) *Compliance.* Each carrier subject to this section, must allow APHIS personnel to verify the accuracy of the APHIS user fees remitted and to otherwise determine compliance with 31 U.S.C. 9701 and this section. Each carrier must advise the United States Department of Agriculture, * * *, of the name, address, and telephone number of a responsible officer who is authorized to verify APHIS user fee calculations and remittances. The United States Department of Agriculture, * * *, must be promptly notified of any changes in the identifying information submitted.

(d) *Fee for inspection of commercial vessels from Hawaii and Puerto Rico.* (1) Except as provided in paragraph (d)(2) of this section, each commercial vessel which is subject to inspection under § 318.13–9 or § 318.58–9 of this chapter, must pay an APHIS user fee. Each such carrier is responsible for paying the APHIS user fee, which is $111.00 for each vessel departing Hawaii or Puerto Rico.

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

(i) Any vessel used exclusively in the governmental services of the United States or a foreign government, including any agency or political subdivision of the United States or a foreign government, so long as the vessel is not carrying persons or merchandise for commercial purposes; and

(ii) Any vessel transiting Hawaii or Puerto Rico and subject to inspection under part 330 of this chapter.

(3) *Remittance and statement procedures.* (i) Each carrier must remit the appropriate fees to the United States Department of Agriculture, * * *, for receipt not later than 31 days after the close of the calendar quarter in which the aircraft departures occurred. Late payments will be subject to interest, penalty, and handling charges as provided in the Debt Collection Act of 1982 (31 U.S.C. 3717).

(ii) At the same time a remittance is submitted the remitter must mail a written statement to the United States Department of Agriculture, * * *, the statement must include the following information:

(A) Name and address of the person remitting payment;

(B) Taxpayer identification number of the person remitting payment;

(C) Calendar quarter covered by the payment;

(D) Ports of entry at which inspections occurred;

(E) Number of arrivals at each port of entry; and

(F) Amount remitted.

(iii) Remittances must be made by check or money order, payable in United States dollars, through a United States bank, to "The Animal and Plant Health Inspection Service."

(4) *Compliance.* Each carrier subject to this section, must allow APHIS personnel to verify the accuracy of the APHIS user fees remitted and to otherwise determine compliance with 31 U.S.C. 9701 and this paragraph. Each carrier must advise the United States Department of Agriculture * * *, of the name, address, and telephone number of a responsible officer who is authorized to verify APHIS user fee calculations and remittances. The United States Department of Agriculture * * *, must be promptly notified of any changes in the identifying information submitted.

(e) *Individual agreements for inspection services at ports of entry.* (1) Operators and owners of vessels or aircraft, or their agents, may enter into agreements with APHIS to receive, at points of entry in the United States, inspection services in addition to the regular or on-call services available in connection with such vessels or aircraft.

(2) Agreements may be made to cover the following types of services:

(i) Opening and operating a new inspection station at a port of entry; and

(ii) Providing one-time or occasional inspection services at a location where APHIS does not normally provide such services.

(3) Owners and operators of vessels or aircraft, or their agents, must contact the Regional Director, USDA, APHIS, Plant Protection and Quarantine,[1] for the state where they want APHIS to provide services, to make an agreement.

(4) All agreement must include the following:

(i) Name, mailing address, and telephone number of the operator or owner of the vessel or aircraft, or, if applicable, the operator's or owner's agent;

(ii) Explanation of inspection services to be provided;

(iii) Date(s) and time(s) inspection services will be provided;

(vi) Location (street address, port of entry, berth, dock, gate, etc.) and if applicable, identify (identification number, name, etc.) of vessel or aircraft or other thing to be inspected;

(v) An estimate of the actual cost, as calculated by APHIS, to provide the described inspection services for 6 months;

(vi) A statement that APHIS agrees to provide the described inspection services;

(vii) A statement that the owner or operator of the vessel or aircraft, or if appropriate, his or her agent, agrees to pay, at the time the agreement is entered into, a user fee equal to the estimated cost of providing the described inspection services for 6 months;

(viii) A statement that APHIS will credit an amount equal to all user fees received for services provided at the location to the owner or operator's account, until the total amount of user fees credited to the account is equal to the amount of money paid into the account by the owner or operator of the vessel or aircraft, or if appropriate, his or her agent, at the time the agreement was entered into; and

(ix) A statement that the owner or operator of the vessel or aircraft, or if appropriate, his or her agent, agrees to maintain a balance in the user fee payment account equal to the cost of providing the services described for 6 months, as calculated monthly by APHIS.

(5) APHIS will enter into an agreement only if qualified personnel can be made available to provide the services to be provided.

(6) An agreement can be terminated by either party on 30 days written notice.

(7) If, at the time an agreement is terminated, any unobligated funds remain in the user fee account, APHIS will return them to the owner or operator, or his or her agent.

7. In part 354, a new § 354.5 would be added to read as follows:

[1] A list of the Regional Directors, USDA, APHIS, Plant Protection and Quarantine and the states for which they are responsible, may be obtained from the Deputy Administrator, Plant Protection and Quarantine, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

§ 354.5 Penalties for non-payment or late payment of user fees.

(a) If a person requesting a service for which an APHIS user fee is payable, is delinquent in paying any APHIS user fee due under either title 7 of title 9, Code of Federal Regulations, or is delinquent in paying the interest on any delinquent APHIS user fee, then APHIS will not provide the service requested.

(b) If APHIS is in the process of providing a service for which an APHIS user fee is due, and the user has not paid the fee within the time required, or if the payment offered by the user is insufficient or not in compliance with the regulations in this part, then APHIS will take the following action:

(1) If an APHIS user fee is due for a certificate or a certificate for reexport, APHIS will not issue the certificate.

(2) If an APHIS user fee is past due by than 30 days, APHIS will impose a late payment penalty and interest charges in accordance with 31 U.S.C. 3717.

9 CFR CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

8. Chapter I would be amended by redesignating subchapters F, G, H, I, J and K as subchapters G, H, I, J, K and I and all cross references would be revised accordingly and a new subchapter F consisting of part 130 would be added to read as follows:

SUBCHAPTER F—USER FEES

PART 130—USER FEES

Sec.

130.1 Definitions.
130.2 User fees for individual animals and birds quarantined in APHIS Animal Import Centers.
130.3 User fees for exclusive use of buildings at APHIS Animal Import Centers.
130.4 User fees for services at privately operated permanent quarantine facilities.
130.5 User fees for services at privately operated temporary quarantine facilities.
130.6 User fees for export health certificates.
130.7 User fees for inspection and supervision services provided within the United States for export animals and birds.
130.8 User fees for inspection services outside the United States.
130.9 User fees for tests performed at the National Veterinary Services Laboratories.
130.10 User fees for tests performed at the Foreign Animal Diseases Laboratory.
130.11 User fees for reference assistance testing.
130.12 User fees for diagnostic reagents.
130.13 through 49 [Reserved]
130.50 Payment of user fees.
130.51 Penalties for non-payment or late payment of user fees.

Authority: 21 U.S.C. 136 and 136a; 7 CFR 2.17, 2.51, and 371.2(d).

§ 130.1 Definitions.

As used in this part, the following terms shall have the meaning set forth in this section.

Administrator. The Administrator of the Animal and Plan Health inspection Service, or any person authorized to act for the Administrator.

Animal. All animals except birds, but including poultry.

Animal and Plant Health Inspection Service (APHIS). The Animal and Plant health Inspection Service of the United States Department of Agriculture.

Animal Import Center. Quarantine facilities operated by APHIS in Newburgh, New York; Miami, Florida; and Honolulu, Hawaii.[1]

Animal product or by-product. Any material of animal origin, such as, but not limited to, meat, milk, organs, glands, extracts, secretions, fat, bones, blood, lymph, hides, skins, hair, wool, hoofs, hoof meal, horn meal, blood meal, meat meal, glue stock, and test specimens.

APHIS animal health technician. An animal health technician employed by APHIS, who is authorized to perform services required by title 9, Code of Federal Regulations, chapter I.

APHIS veterinarian. A veterinarian employed by APHIS, who is authorized to perform the services required by title 9, Code of Federal Regulations, chapter I.

Bird. Any member of the class aves, other than poultry.

Diagnostic reagent. Substances used in diagnostic tests to detect disease antibodies by causing an identifiable reaction.

Domestic animal. Any animal imported into the United States for any purpose other than exhibition in a zoo, park or other place maintained for the exhibition of live animals for recreational or educational purposes.

Equine. Any horse, ass, mule, or zebra.

Export health certificate. An official document issued by an APHIS veterinarian or animal health technician, which, as required by the importing country, states that animals or birds to be exported from the United States are free of certain diseases and pests.

Game cock. Any chicken bred, trained, or imported for cock fighting.

Person. An individual, corporation, partnership, trust, association, or any other public or private entity, or any officer, employee, or agent thereof.

Poultry. Chickens, doves, ducks, geese, grouse, guinea fowl, partridges, pea fowl, pheasants, pigeons, quail, swans, and turkeys.

Reference assistance testing. Tests conducted by APHIS at the request of a veterinarian, state cooperator, or university, to either establish or confirm a diagnosis.

Standard feed. Seed, or dry feeds such as dog food or monkey biscuits, whether soaked in water or not.

Zoo animal. Any animal, including poultry, intended for exhibition in a zoo, park or other place maintained for the exhibition of live animals for recreational or educational purposes.[2]

Zoo bird. Any bird intended for exhibition in a zoo, park or other place maintained for the exhibition of live animals or birds for recreational or educational purposes.[3]

Zoo equine. Any equine intended for exhibition in a zoo, park or other place maintained for the exhibition of live animals for recreational or educational purposes.[4]

§ 130.2 User fees for individual animals and birds quarantined in APHIS Animal Import Centers.

(a) The following user fees, which include standard care, feed, and handling, must be paid for each animal or bird quarantined in an Animal Quarantine Facility:[5]

Animal or bird	Daily fee
Birds (including zoo birds):	
0–250 grams	$0.75
251–1,000 grams	2.75
over 1,000 grams, and any bird in non-standard housing or receiving non-standard care and handling	6.50
Poultry (including zoo poultry):	
A. Doves, pigeons, quail	1.75
B. Chickens, ducks, grouse, guinea fowl, partridge, pea fowl, pheasants	3.00
C. Game cocks, geese, swans, turkeys, and poultry housed in non-standard housing or receiving non-standard care and handling	7.00
Equines (including zoo equines):	
1st through 3rd day	128.50
4th through 7th day	93.25
8th and later days	79.00
Zoo animals (except equines, birds, and poultry)	28.00
Domestic animals:	
Camels, cattle, bison, buffalo	49.00

[1] The addresses of Animal Import Centers may be obtained from the Deputy Administrator, Veterinary Services, APHIS, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

[2] Regulations concerning approval of zoos and requirements for importing wild animals are found in part 92 of this chapter.

[3] See footnote 2.

[4] See footnote 2.

[5] APHIS Animal Import Centers are located in Honolulu, HI, Miami, FL, and Newburgh, NY. The addresses of these facilities are published in part 92 of this chapter.

Animal or bird	Daily fee
All others	13.00

(b) The importer may, at his or her option, request that birds or poultry be housed in non-standard housing. Non-standard housing is individual housing, any housing not normally available at the Animal Import Center, any housing constructed or purchased at the request of the importer, and housing with blinds, dense foliage, plants, or temperature regulation.

(c) The importer may, at his or her option, request that birds or poultry be given non-standard care and handling. Non-standard care and handling includes hand-feeding, more than one feeding a day, frequent observation, and any handling or observation which requires personnel to attend to the birds or poultry outside of normal business hours.[6]

(d) If any bird or poultry is fed a diet other than seed, including but not limited to diets of fruit, insects, nectar or fish, the importer must either provide feed or pay for it on an actual cost basis, including the cost of delivery to the Animal Import Center.

(e) Any reservation fee paid by the importer under part 92 of this chapter, will be applied to the APHIS user fees due for animals or birds quarantined in an Animal Import Center.

§ 130.3 User fees for exclusive use of buildings at APHIS Animal Import Centers.

(a) An importer may, at his or her option, occupy entire quarantine buildings at the Animal Import Centers specified below. A user fee will be charged for each building as follows:

Animal Import center	Building size	Monthly fee
Honolulu, Hawaii	30 feet × 75 feet.	$7,830
Newburgh, New York	72 feet × 82 feet.	39,450

(b) Users must provide APHIS personnel at the Animal Import Center, at the time they make a reservation for quarantine space, with the following information:

(1) Species of animals and birds to be quarantined;

(2) Ages of animals and birds to be quarantined; and

(3) Sizes of animals and birds to be quarantined.

(c) APHIS personnel at the Animal Importer Center will determine, based on the information provided by the importer under paragraph (b) of this section, and on routine husbandry needs, the maximum number of animals and birds permitted in the requested building.

(d) The importer must provide feed, or pay for it on an actual cost basis, including cost of delivery to the Animal Import Center.

§ 130.4 User fees for services at privately operated permanent quarantine facilities.

A daily user fee of $49.25 must be paid for each animal quarantined in a privately-operated permanent quarantine facility.

§ 130.5 User fees for services at privately operated temporary quarantine facilities.

(a) A user fee must be paid for each animal quarantined in a privately operated temporary quarantine facility.

(b) The user fees are:

(1) $33.50 per hour for service performed by an APHIS veterinarian;

(2) $21.75 per hour for service performed by an APHIS Health Technician.

§ 130.6 User fees for export health certificates.

(a) The following user fees must be paid for each export health certificate requested [7] for the following types of animals, regardless of the number of animals covered by the certificate:

Type of animal	User fee
Slaughter animals, of any type, moving to Canada or Mexico	$10.00
Non-slaughter horses to Canada	10.00
Poultry	2.00
Hatching eggs	2.00
Animal products and by-products	3.25
Other animals and birds	4.00

(b) The following user fees must be paid for each export certificate requested for animals and birds, depending on the number of animals or birds covered by the certificate and the number of tests required:

Number of tests required	Number of animals on certificate	Fee
1–2	First animal	$38.00
	Each additional animal.	1.00
3–6	First animal	41.50
	Each additional animal.	1.25
7 or more	First animal	44.00
	Each additional animal.	1.50

§ 130.7 User fees for inspection and supervision services provided within the United States for export animals or birds.

(a) A user fee must be paid for the following APHIS services provided within the United States for export animals or birds:

(1) Inspect an export isolation facility;

(2) Supervise animal or bird rest periods prior to export; and

(3) Supervise loading or unloading of animals or birds for export shipment.

(b) The user fees are:

(1) $33.50 per hour for service performed by an APHIS veterinarian;

(2) $21.75 per hours for service performed by an APHIS Animal Health Technician.

§ 130.8 User fees for inspection services outside the United States.

(a) If an inspection is required in title 9, Code of Federal Regulations, to be performed outside the United States, and the regulation does not contain a provision for payment of the cost of the service, the person requesting the service must pay a user fee under this section.

(b) Any person who wants APHIS to provide inspection services outside the United States must contact the Import/Export Staff, USDA, APHIS, Veterinary Services, Federal Building, Hyattsville, MD 20782, to make an agreement.

(c) All agreements must include the following:

(1) Name, mailing address, and telephone number of either the person requesting the inspection services, or his or her agent;

(2) Explanation of inspection services to be provided, including the regulations in title 9, Code of Federal Regulations which provide for the services;

(3) Date(s) and time(s) the inspection services are to be provided;

(4) Location (including street address) where inspection services are to be provided;

(5) An estimate of the actual cost, as calculated by APHIS, to provide the described inspection services for 6 months;

(6) A statement that APHIS agrees to provide the inspection services;

(7) A statement that the person requesting the inspection services, or, if

[6] Normal business hours at the Animal Import Centers are: 7:30 a.m. to 11:30 a.m., Honolulu, HI; 7:00 a.m. to 3:30 p.m., Miami, FL; and 8 a.m. to 4:30 p.m., Newburgh, NY.

[7] An export certificate may need to be issued for an animal being exported from the United States if the country to which the animal is being shipped requires one. APHIS issues export certificates as a service to the public.

appropriate, his or her agent, agrees to pay, at the time the agreement is entered into, a user fee equal to the estimated cost of providing the described inspection services for 6 months; and

(8) A statement that the person requesting the inspection services, or, if appropriate, his or her agent, agrees to maintain a user fee payment account equal to the cost of providing the described inspection services for 6 months, as calculated monthly by APHIS.

(d) APHIS will enter into an agreement only if qualified personnel can be made available to provide the inspection services.

(e) An agreement can be terminated by either party on 30 days written notice.

(f) If, at the time an agreement is terminated, any unobligated funds remain in the user fee payment account, APHIS will refund them to the person who requested the inspection services, or his or her agent.

§ 130.9 User fees for tests performed at the National Veterinary Services Laboratories.

The following user fees must be paid for each test performed at the National Veterinary Services Laboratories in connection with the importation or exportation of animals or birds:

Type of test	User fee
Agar gel immunodiffusion	$4.75
Buffered acidified plant antigen presumptive	3.50
Card test	3.00
Competitive enzyme linked immunosorbent assay	3.75
Complement fixation	9.00
Complement fixation-ovis	3.75
Enzyme linked immunosorbent assay	2.75
Hemagglutination inhibition	7.50
Hemagglutination inhibition-5	2.00
Indirect fluorescent antibody	4.50
Latex agglutination	5.50
Mercaptoethanol	3.50
Microscope agglutination	6.25
Neutralization test	19.50
Plate test	1.25
Rivanol	2.25
Serum neutralization	7.50
Tube test	2.50
Tube agglutination melitensis	3.50

§ 130.10 User fees for tests performed at the Foreign Animal Diseases Laboratory.

The following user fees must be paid for each test performed at the Foreign Animal Diseases Laboratory in connection with the importation or exportation of animals:

Test	User fee
Blue tongue agar gel immunodiffusion	$6.25
Foot and mouth virus infection associated antigen	12.00
Foot and mouth tissue culture virus neutralization/type A, O, and C)	13.75
Rinderpest fluorescent antibody neutralization	27.25
Swine virus diarrhea tissue culture virus neutralization	13.75
Trypanosoma vivax indirect fluorescent antibody	27.25

§ 130.11 User fees for reference assistance testing.

The following APHIS user fees must be paid for each test performed as part of reference assistance testing to either establish a diagnosis or confirm a diagnosis:

Type of test	User fee
Agar gel immunodiffusion	$5.00
Bacteria culture	2.00
Complement fixation	20.50
Hemagglutination inhibition	23.75
Histopathology	8.50
Indirect fluorescent antibody	7.50
Parasitology	9.00
Serum neutralization	15.50
Toxicology	139.00
Virus isolation	29.75

§ 130.12 User fees for diagnostic reagents.

(a) The following user fees must be paid for each diagnostic reagent obtained from the National Veterinary Services Laboratory:

Reagent	Unit (ml)	Fee/unit (dollars)
Avian Adenovirus 127:		
Antigen	5	$39.50
Antiserum	5	21.75
Avian Encephalomyelitis:		
Virus	0.6	5.25
Antiserum	5	21.75
Avian Influenza:		
Antigen	2	7.75
Antiserum	6	121.50
Avian Paramyxovirus-2:		
Virus	0.6	5.25
Antiserum	5	21.75
Antigen	5	39.50
Avian Paramyxovirus-3:		
Virus	0.6	5.25
Antiserum	5	21.75
Antigen	5	39.50
Avian Reovirus:		
Virus	0.6	5.25
Bovine Coronavirus:		
Antiserum	2	83.50
Virus	0.6	5.25
Conjugate	1	19.25
Bovine Herpes Virus:		
Antiserum:		
Type 1	2	83.50
Type 2	2	83.50
Type 3	2	83.50
Conjugate:		
Type 1	1	19.25
Type 2	1	19.25
Type 3	1	19.25
Positive Control Serum		
Type 1	2	4.50
Type 2	2	4.50
Virus:		
Type 1	0.6	5.25
Type 2	0.6	5.25
Type 3	0.6	5.25
Bovine Papular Stomatitis:		
Antiserum	2	83.75
Conjugate	1	19.25
Bovine Parvovirus:		
Antiserum	2	83.50
Conjugate	1	19.25
Positive Control Serum	1	4.50
Virus	0.6	5.25
Bovine Respiratory Syncytial Virus:		
Antiserum	2	3.50
Conjugate	1	19.25
Positive Control Serum	2	4.50
Virus	0.6	5.25
Bovine Rotavirus:		
Antiserum	2	83.50
Conjugate	1	19.25
Virus	0.6	5.25
Bovine Viral Diarrhea:		
Antiserum	2	83.50
Conjugate	1	19.25
Positive Control Serum	2	4.50
Virus	0.6	5.25
Brucella Canis:		
Antigen	25	134.00
Brucella Ovis:		
Antigen	25	22.50
Chlamydia Psittaci:		
Virus	0.6	5.25
Antigen	1	5.25
Conjugate	1	19.25
Antiserum	1	5.25
CF Modifying Factor	1	11.50
Modifying Factor	2	1.25
Contagious Ecthyma:		
Antiserum	1	5.25
CF Antigen	1	7.00
Antigen	5	3.75
Conjugate	1	19.25
Virus	0.6	5.25
Duck Viral Enteritis:		
Conjugate	1	31.25
Virus	0.6	5.25
Encephalomyocarditis:		
Antiserum	2	57.50
Conjugate	1	19.25
Virus	0.6	5.25
Positive Control Serum	2	6.25
Epizootic Hemorrhagic Disease		
Antigen	1	16.50
Conjugate	1	19.25
Virus	0.6	5.25
Equine Adenovirus:		
Antiserum	5	48.25
Conjugate	1	24.00
Virus	0.6	5.25
Equine Herpes Type 1:		
Antiserum	5	48.25
Conjugate	1	24.00
Virus	0.6	5.25
Equine Herpes Type 2:		
Antiserum	5	23.75
Virus	0.6	5.25
Equine Herpes Type 3:		
Antiserum	5	22.25
Virus	0.6	5.25
Equine Influenza:		
Antiserum	5	21.75
Virus	0.6	5.25
Exotic Newcastle Disease:		
Antigen	100	39.50

Reagent	Unit (ml)	Fee/unit (dollars)
Antiserum	400	21.75
Virus	100	5.25
Hemagglutinating Encephalomyelitis:		
Antiserum	2	57.50
Virus	0.6	5.25
Conjugate	1	19.25
Positive Control Serum	2	6.25
Infectious Bronchitis Virus		
Virus	0.6	4.50
Antiserum	5	21.75
Infectious Bursal Disease:		
Virus	0.6	5.25
Antiserum	5	21.75
Antigen	1	8.00
Infectious Laryngotracheitis:		
Virus	0.6	5.25
Johnin:		
OT	10	12.25
PPD	2	10.75
Lepto IFA:		
Conjugate	1	19.25
Leptospira:		
Antigen	10	124.00
Antisera	1	9.75
Lepto Transport Medium	10	3.00
Parainfluenza-3:		
Antiserum	2	6.25
Virus	0.6	5.25
Conjugate	1	19.25
Positive Control Serum	2	6.25
Pasteurella:		
Antigen	0.5	1.00
Antiserum	1	16.50
Porcine Adenovirus (AV):		
Antiserum	2	57.50
Virus	0.6	5.25
Conjugate	1	19.25
Porcine Parvovirus (PPV):		
Antiserum	2	57.50
Virus	0.6	5.25
Conjugate	1	19.25
Positive Control Serum	2	6.25
Porcine Reovirus:		
Antiserum	2	57.50
Virus	0.6	5.25
Conjugate	1	19.25
Porcine Rotavirus:		
Antiserum	2	57.50
Virus	0.6	5.25
Conjugate	1	14.25
Positive Control Serum	2	6.25
Psittacine Herpes Virus:		
Antiserum—Standard	5	21.75
Virus	0.6	5.25
Conjugate	1	24.00
Quail Bronchitis Virus:		
Virus	0.6	5.25
Swine Influenza:		
Antiserum	2	57.50
Virus	0.6	5.25
Conjugate	1	19.25
Positive Control Serum	2	6.25
Transmissible Gastroenteritis:		
Antiserum	2	57.50
Virus	0.6	5.25
Conjugate	1	19.25
Positive Control Serum	2	6.25

§§ 130.13 through 130.49 [Reserved]

§ 130.50 Payment of user fees.

(a) All user fees must be paid as follows:

(1) User fees for reference assistance testing to establish a diagnosis must be paid when billed;

(2) User fees for reference assistance tests to confirm a diagnosis must be paid when the test(s) is requested;

(3) User fees for animals in Animal Import Centers or privately-operated permanent quarantine facilities must be paid at the time the animals are released from quarantine;

(4) User fees for animals in privately-operated temporary quarantine facilities must be paid when billed;

(5) User fees for supervision and inspection services specified in § 130.7 must be paid when billed; and

(6) User fees for export health certificates must be paid prior to receipt of endorsed certificates.

(b) User fees may be paid by the following methods:

(1) Cash, if payment is made at an area office [8] or an Animal Import Center;

(2) All types of checks, including traveler's checks;

(3) Money orders; or

(4) Credit cards (VISA and Master Card) if payment is made at the Animal Import Centers in Newburgh, NY or in Miami, FL, or at the USDA, APHIS, VS, office at John F. Kennedy International Airport, Jamaica, NY.

§ 130.51 Penalties for non-payment or late payment of user fees.

(a) If a person requesting a service for which an APHIS user fee is payable, is delinquent in paying any APHIS user fee under either Title 7 or Title 9, Code of Federal Regulations, or is delinquent in paying the interest on any delinquent APHIS user fee, then APHIS will not provide the service requested.

(b) If APHIS is in the process of providing a service for which an APHIS user fee is due, and the user has not paid the fee within the time required, or if the payment offered by the user is inadequate or unacceptable, then APHIS will take the following action:

(1) If an APHIS user fee is due for animals or birds in quarantine at an Animal Import Center or at a privately-operated quarantine facility, APHIS will not release them;

(2) If an APHIS user fee is due for an export health certificate, APHIS will not release the certificate;

(3) If an APHIS user fee is due for tests conducted by APHIS, APHIS will not release the test results; and

(4) If an APHIS user fee is due for a diagnostic reagent, APHIS will not release the reagent.

[8] A list of APHIS Area Offices may be obtained from the Deputy Administrator, Veterinary Services, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

(c) If user fees are paid later than 30 days after payment is due, APHIS will impose a late payment penalty and interest charges as in accordance with 31 U.S.C. 3717.

(d) Animals or birds left in quarantine at an Animal Import Center for more than 30 days after the end of the required quarantine period will be deemed to be abandoned.

(1) After APHIS releases the abandoned animals or birds from quarantine, APHIS may seize them and sell or otherwise dispose of them, as determined by the Administrator, provided that their sale is not contrary to any Federal law or regulation, and may recover all expenses of handling the animals or birds from the proceeds of their sale or disposition.

(2) If animals or birds abandoned in quarantine at an Animal Import Center cannot be released from quarantine, APHIS may seize and dispose of them, as determined by the Administrator, and may recover all expenses of handling the animals or birds from the proceeds of their disposition.

Done in Washington, DC this 1st day of August 1991.

Robert Melland,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 91-18614 Filed 8-6-91; 8:45 am]

BILLING CODE 3410-34-M

Agricultural Stabilization and Conservation Service

7 CFR Part 701

Conservation and Environmental Programs

AGENCY: Agricultural Stabilization and Conservation Service (ASCS), USDA.

ACTION: Proposed rule.

SUMMARY: The purpose of this proposed rule is to amend the regulations governing the Conservation and Environmental Programs found at 7 CFR part 701, to change the definition of an eligible "State" to allow producers in American Samoa to participate in the Agricultural Conservation Program (ACP) and the Emergency Conservation Program (ECP). This change would allow certain producers in American Samoa to be eligible for cost-share assistance under the ACP and ECP.

DATES: Comments must be received by September 6, 1991 in order to be assured of consideration.

ADDRESSES: Interested persons are invited to submit written comments to: James R. McMullen, Director,

Conservation and Environmental Protection Division, ASCS, USDA, P.O. Box 2415, Washington, DC 20013, telephone 202–447–6221.

FOR FURTHER INFORMATION CONTACT: James R. McMullen, Director, Conservation and Environmental Protection Division, ASCS, USDA, P.O. Box 2415, Washington, DC 20013, telephone 202–447–6221.

SUPPLEMENTARY INFORMATION: Information collection requirements contained in this regulation (7 CFR part 701) have been approved by the Office of Management and Budget under the provisions of 44 U.S.C. chapter 35 and have been assigned OMB Number 0560–0112.

This proposed rule has been reviewed for compliance with Executive Order 12291 and Departmental Regulation No. 1512–1 and has been classified as "not major." It has been determined that these program provisions will not result in: (1) An annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The titles and numbers of the Federal Assistance Program to which this rule applies are: Title—Agricultural Conservation Program (ACP), Number—10.063; Title—Emergency Conservation Program (ECP), Number—10.054; as found in the Catalog of Federal Domestic Assistance.

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

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

The ACP is authorized generally by Sections 7–17 of the Soil Conservation and Domestic Allotment Act of 1936, as amended (16 U.S.C. 590g *et seq.*) The program provides financial incentives and technical assistance to encourage agricultural producers to voluntarily perform enduring soil and water conservation and pollution abatement measures, including practices or programs which are deemed essential to maintain soil productivity, prevent soil depletion, or prevent increased cost of production.

The ECP is authorized by the Agricultural Credit Act of 1978 (16 U.S.C. 2201 *et seq.*). This program is designed to provide cost-share assistance for emergency work to meet only the critical needs of agricultural producers due to drought or other natural disaster.

Requests have been received from representatives of producers in American Samoa for the implementation of the ACP and the ECP in this area. The Soil Conservation Service has a staff available in American Samoa to provide technical assistance to producers in the area. American Samoa is in the process of forming a Soil and Water Conservation District to service the producers in the area.

The Secretary of Agriculture is authorized to extend, in the Secretary's discretion, programs administered by the Department of Agriculture to Guam, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, the Virgin Islands, and America Samoa (hereinafter called the "territories"). (48 U.S.C. 1469d(c).) Under existing regulations the authority for producers to participate in ACP and ECP has not been extended to American Samoa.

American Samoa is a series of small islands with limited natural resources. In addition, the financial resources of the people living there are very limited. The availability of the ACP to these people will help to control and prevent the erosion of valuable natural resources. The availability of the ECP will assist them in times of natural disaster to rehabilitate the land back to a productive state. These two programs will help the people put valuable conservation measures on the land.

The Secretary is proposing that the ACP and the ECP should be extended to American Samoa and has notified the appropriate committees of Congress of this decision.

List of Subjects in 7 CFR Part 701

Disaster assistance, Forest and forest products, Grant programs—natural resources, Rural areas, Soil conservation, Water resources, Wildlife.

For the reasons set forth in the preamble, 7 CFR part 701 is proposed to be amended as follows:

PART 701—CONSERVATION AND ENVIRONMENTAL PROGRAMS

1. The authority citation for part 701 is revised to read as follows:

Authority: 16 U.S.C. 590d, 590g–590o, 590p(a), 590q; 16 U.S.C. 1501–1510; 16 U.S.C. 1606, 2101–2111; 16 U.S.C. 2201–2205; 48 U.S.C. 1469d(c).

Section 701.2 is amended by revising paragraph (e) to read as follows:

§ 701.2 Definitions.

* * * * *

(e) *State* means any one of the United States, Puerto Rico, the Virgin Islands, and:

(1) In the case of the Agricultural Conservation Program and the Emergency Conservation Program, Guam, the Commonwealth of the Northern Mariana Islands, and American Samoa; and

(2) In the case of the Forestry Incentives Program, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands and the Territories and possessions of the United States.

* * * * *

Signed at Washington, DC on February 12, 1991.

Keith D. Bjerke,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 91–18630 Filed 8–6–91; 8:45 am]

BILLING CODE 3410–05–M

Agricultural Marketing Service

7 CFR Part 985

[FV–91–264]

Spearmint Oil Producing in the Far West; Amendment of Rules and Regulations Regarding the Issuance of Additional Base to New Producers

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Reopening and extending the comment period.

SUMMARY: Notice is hereby given that the time period for filing comments is reopened and extended on the proposed rule published in the May 31, 1991, issue of the **Federal Register** (56 FR 24742) under the marketing order for spearmint oil produced in the Far West. The comment period is reopened and extended until August 10, 1991.

DATES: Comments must be received by August 10, 1991.

ADDRESSES: Interested persons are invited to submit written comments in triplicate to the Docket Clerk, F&V, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456. 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: Christian Nissen, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; telephone (202) 447–5127.

SUPPLEMENTARY INFORMATION: This action is issued under Marketing Order No. 985 (7 CFR part 985) regulating the handling of spearmint oil produced in the Far East. The marketing 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 proposed rule was issued on May 28, 1991, and published in the May 31, 1991, issue of the Federal Register (56 FR 24742). It proposed that § 985.153 of the administrative rules and regulations of the spearmint oil marketing order be amended by dividing the production area into four regions for the purpose of distributing additional allotment base to new producers. The production area, which includes the States of Washington, Idaho, and Oregon and portions of the States of California, Nevada, Montana, and Utah, would be divided as follows: Region 1 would consist of those portions of Montana and Utah included in the production area; Region 2 would consist of Oregon and those portions of Nevada and California included in the production area; Region 3 would consist of Idaho; and Region 4 would consist of Washington.

The proposed amendment would make an equal portion of the additional allotment base available to each of the four regions for each class of spearmint oil during a marketing year. It would provide a greater opportunity to new producers in some regions of the production area, such as portions of Montana, Utah, Nevada, Central Oregon, and California, to receive allotment base and undertake the production of spearmint oil.

The U.S. Department of Agriculture has received a request to reopen and extend the deadline to provide more time for interested persons to analyze the proposed rule and prepare comments. Reopening and extending the comment period will provide such interested persons more time to review the proposed rule and submit written views and information pertinent to the proposed change. Accordingly, the comment period is reopened and extended to August 10, 1991.

List of Subjects in 7 CFR Part 985

Marketing agreements, Oils and fats, Reporting and recordkeeping requirements, and Spearmint oil.

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

Dated: August 2, 1991.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 91–18739 Filed 8–6–91; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[Notice No. 721]

RIN 1512–AA07

Atlas Peak Viticultural Area

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms proposes to establish a viticultural area located in Napa County, California, to be known by the appellation "Atlas Peak." The proposal is the result of a petition filed by Mr. Richard Mendelson on behalf of Atlas Peak Vineyards. The proposed area is located entirely within the approved "Napa Valley" viticultural area, which is in turn located within the approved "North Coast" area. ATF believes that the establishment of viticultural areas and the subsequent use of viticultural area names as appellations of origin in wine labeling and advertising will help consumers better identify the wines they purchase. The establishment of viticultural areas also allows wineries to specify further the origin of wines they offer for sale to the public.

DATES: Written comments must be received by September 23, 1991.

ADDRESSES: Send written comments to: Chief, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 50221, Washington, DC 20091–0221, Ref: Notice No. 721.

Copies of the petition, the proposed regulations, the appropriate maps, and written comments will be available for public inspection during normal business hours at: ATF Public Reading Room, room 6480, 650 Massachusetts Avenue, NW., Washington, DC 20226.

FOR FURTHER INFORMATION CONTACT: Marjorie Dundas, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226 (202) 566–7626.

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF–53 (43 FR 37672, 54624) revising regulations in 27 CFR, part 4. These regulations allow the establishment of definite American viticultural areas. The regulations also allow the name of an approved viticultural area to be used as an appellation of origin in the labeling and advertising of wine. On October 2, 1979, ATF published Treasury Decision ATF–60 (44 FR 56692) which added a new part 9 to 27 CFR, providing for the listing of approved American viticultural areas.

Section 4.25a(e)(1), title 27 CFR defines an American viticultural area as a delimited grape-growing region distinguishable by geographical features, the boundaries of which have been delineated in subpart C of part 9. Section 4.25a(e)(2), title 27 CFR outlines the procedure for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area. The petition should include:

(a) Evidence that the name of the proposed viticultural area is locally and/or nationally known as referring to the area specified in the petition;

(b) Historical or current evidence that the boundaries of the viticultural area are as specified in the petition;

(c) Evidence relating to the geographical characteristics (climate, soil, elevation, physical features, etc.) which distinguish the viticultural features of the proposed area from surrounding areas;

(d) A description of the specific boundaries of the viticultural area, based on features which can be found on United States Geological Survey (U.S.G.S.) maps of the largest applicable scale; and

(e) A copy or copies of the appropriate U.S.G.S. map(s) with the proposed boundaries prominently marked.

Petition

ATF received a petition proposing a viticultural area in Napa County, California, to be known as Atlas Peak. The proposal was submitted by Mr. Richard Mendelson, on behalf of Atlas Peak Vineyards, the first established winery in the proposed viticultural area. The proposed viticultural area is located six to ten miles north-northeast of Napa, California on the western slope of the Vaca Range (which separates Napa Valley and Sacramento Valley). As proposed, the "Atlas Peak" viticultural area includes the mountain of that name as well as the Foss Valley and portions of the Rector and Milliken Canyons. The proposed viticultural area has a land area of approximately 11,400 acres, with approximately 565 acres planted to vineyards. In addition to Atlas Peak Vineyards, one more winery is under construction. There are 14 commercial vineyards in the proposed area.

If the name Atlas Peak is adopted, then the use of Atlas Peak as a brand name is governed by 27 CFR 4.39(i), which means that (unless it is used in an existing certificate of label approval issued prior to July 7, 1986) the brand name may not be used unless the wine meets the appellation of origin requirements for the viticultural area (not less than 85% of the wine is derived from grapes grown within the boundaries of the viticultural area and the wine has been fully finished in the State in which the viticultural area is located).

Evidence of Name

Atlas Peak is the most prominent feature of the proposed area at an elevation of 2663 feet. The petition states that the original derivation of the name "Atlas Peak" for the mountain and the surrounding Foss Valley remains unclear but that the name has been applied since at least 1875.

As evidence of the name, the petitioner provided copies of newspaper articles from the 1870s discussing the merits of Atlas Peak as a resort area. The first, from the July 10, 1875, Napa County Recorder, describes Atlas Peak as the "divide between Foss and Capelle Valleys" and lists the fine scenery, the pure water, the moderate temperature and the dry air as its advantages over nearby areas for camping. The second article, in the November 18, 1876, Napa County Recorder, described the health benefits of a visit to Atlas Peak. The petitioner also provided a copy of the Report of the Committee on the Establishment of a State Hospital for Consumptives to the California State Legislature in 1880. Atlas Peak was considered as a site for such a hospital on the basis of its "equability of temperature, freedom from fogs, or from harsh winds, the dryness of the atmosphere," and "abundant supply of pure water." The petitioner also states that "Atlas Peak" is the recognized name for the Foss Valley since the name is used for the valley's main road and only school.

Viticultural History

According to the petition, the first vineyard, of 1000 vines, was planted in 1870 by James Reed Harris. By 1881, Harris' vineyard had grown to 5 acres, and by 1893, to 47 acres. The petitioner provided an 1895 assessor's map marked with the locations of six vineyards shown by the assessor's records to be located within the proposed area. According to the petitioner, the vineyards in the Atlas Peak area survived the Phylloxera epidemic of the 1890s, but were abandoned after the enactment of Prohibition in 1920, and no new vines were planted until 1940. In that year, the first new vineyard was planted on Mead Ranch, in the southwest portion of the proposed area. Between the publication in 1951 and photorevision in 1968 of the two U.S.G.S. maps which contain the proposed area, six new vineyards were added. Beginning in 1981, "several new vineyard plantings have been developed in the proposed viticultural area, often utilizing sites previously planted to vines in the 19th century."

The petitioner states that Zinfandel is presently the grape variety most recognized for its regional character, but he anticipates that as "young vineyards in the region reach maturity, other grapes varieties—including Cabernet Sauvignon and Chardonnay—may well receive individual recognition for their special character." The petitioner submitted samples of Zinfandel labels utilized by one California winery which identifies the grapes in the wine as being from the Atlas Peak area, as well as copies of the lists of offerings at the annual Napa Valley Wine Auctions of 1981, 1982 and 1988, which show the source of grapes used in some of the Rutherford Hill wines as "Vines at the Giles Mead Ranch atop Atlas Peak."

Proposed Boundary

As indicated above, the petitioner requests designation of the mountain known as Atlas Peak and the surrounding Foss Valley as the Atlas Peak viticultural area. As evidence for the proposed boundary, the petitioner points out that the name "Atlas Peak" is used to designate the region's oldest access road with a route that traverses Milliken Canyon and Foss Valley as well as Atlas Peak. The boundaries of the proposed area consist mainly of ridge lines which separate Atlas Peak and the Foss Valley from the surrounding valleys and canyons, such as Soda Canyon to the west; Wooden Valley and Capell Valley to the east; and Sage Canyon and Pritchard Hill to the north. The petitioner describes these canyons and valleys as different in history, climate and geology. The boundaries of the proposed "Atlas Peak" viticultural area may be found on two United States Geological Survey maps of the 7.5 minute series. The boundary is described in proposed § 9.140.

Distinguishing Features

The petitioner provided the following evidence relating to features which distinguish the proposed viticultural area from the surrounding areas:

Topography

The proposed area's highest elevation is 2663 feet above sea level at the summit of Atlas Peak. The lowest points are 760 feet above sea level at the bottom of Rector Canyon, in the northwest corner of the proposed area, and 924 feet above sea level at the bottom of Milliken Canyon, in the southeastern portion of the area. Most of the proposed area, even the Foss Valley, which is described by the petitioner as an "elevated hanging valley," is more than 1400 feet above sea level. According to the petitioner, the topography, "an elevated valley surrounded by volcanic mountains of relatively shallow relief," is unusual for the area.

Soils

According to a report prepared by Eugene L. Begg, Soils Consultant, and submitted by the petitioner, the soils of the proposed Atlas Peak area are predominantly volcanic in origin. The soil series reported within the area by the "Soil Survey of Napa County, California" (updated 1978), are Aiken, Boomer, Felta, Guenoc, and Hambright soils from andesite and basalt; the Forward soils from rhyolite; the Bale, Perkins, and Maxwell soils from valley fill alluvium; and the Henneke and Montara soils from serpentine. According to Mr. Begg's report, only the Henneke and Montara soils, which represent a small percentage of the soils within the proposed area, are from a non-volcanic source. By way of contrast, the soils in surrounding areas such as Soda Canyon, Capell Valley, Wooden Valley and Stags Leap are diverse since

they are derived from both volcanic and sedimentary rock sources.

Climate

The petitioner included a separate report on the climate of the proposed area prepared by Michael Pechner, a consulting meteorologist, which describes the proposed area as "very distinctive, and perhaps unique in Northern California." In support of this claim, the report describes the effect of the location and topography of the proposed area on the growing conditions. Although the area is only 40 miles from the Pacific ocean and subject to the afternoon and evening cooling which are characteristic of maritime influence, the area is free from the fogs which are drawn up into the rest of the Napa Valley. Mr. Pechner attributes the lack of fog to the fact that the proposed area is east of Napa, has a high elevation, and is connected to Napa Valley by narrow canyons. The report also indicates that cooling in the proposed area is influenced by the fact that the area is characterized by shallow volcanic soils and large areas of volcanic rock.

This contributes to radiant cooling, resulting in late afternoon temperatures which can drop as much as 30 degrees in two hours, and in daily minimum temperatures which are usually lower than those in nearby Stags Leap, Yountville, or Napa. Finally, Mr. Pechner's report indicates that the annual rainfall in the Atlas Peak area is greater than in surrounding areas, "due to the terrain forcing the moist air masses of winter storms upward as they move inland along a southeasterly path from the coast, causing condensation." The report contrasts average rainfall within the Atlas Peak area of 37.5 inches per year with averages of 25 to 35 inches of rain per year in other parts of Napa Valley. According to the petition, only Howell Mountain, "well to the north, has higher rainfall totals."

Executive Order 12291

It has been determined that this document is not a major regulation as defined in E.O. 12291 because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

It is hereby certified that this regulation will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required because the proposal, if promulgated as a final rule, is not expected (1) to have significant secondary or incidental effects on a substantial number of small entities, or (2) to impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Public Law 96–511, 44 U.S.C. chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this notice because no requirement to collect information is proposed.

Public Participation

ATF requests comments from all interested persons concerning this proposed viticultural area. Comments received on or before the closing date will be carefully considered. Comments received after that date will be given the same consideration if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before the closing date. ATF will not recognize any material in comments as confidential. Comments may be disclosed to the public.

Any material which the commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comments. The name of the person submitting a comment is not exempt from disclosure. Any interested person who desires an opportunity to comment orally at a public hearing on the proposed regulations should submit his or her request, in writing, to the Director within the 45-day comment period. The Director, however, reserves the right to determine, in light of all circumstances, whether a public hearing will be held.

Drafting Information

The principal author of this document is Marjorie Dundas, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 9

Administrative practices and procedures, Consumer protection, Viticultural areas, Wine.

Issuance

Title 27, Code of Federal Regulations, part 9, American Viticultural Areas is amended as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Paragraph 1. The authority citation for part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Par. 2. The table of sections in subpart C is amended to add the title of § 9.140 to read as follows:

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.140 Atlas Peak.

Par. 3. Subpart C is amended by adding 9.140 to read as follows:

Subpart C—Approved American Viticultural Areas

§ 9.140 Atlas Peak.

(a) *Name.* The name of the viticultural area described in this section is "Atlas Peak."

(b) *Approved maps.* The appropriate maps for determining the boundaries of the "Atlas Peak" viticultural area are 2 U.S.G.S. (7.5 minute series) maps. They are titled:

(1) Yountville, Calif., 1951 (photorevised 1968);

(2) Capell Valley, Calif., 1951 (photorevised 1968).

(c) *Boundary.* The Atlas Peak viticultural area is located in portions of Napa County, in the State of California. The boundary is as follows:

(1) The beginning point is Haystack (peak) in section 21, T. 7 N., R. 4 W. on the Yountville, California, U.S.G.S. map;

(2) From the beginning point, the boundary follows a straight line in a southeasterly direction, until it reaches the highest point of the unnamed peak (1443 feet elevation) on the boundary of sections 21 and 28 of T. 7 N., R. 4 W. on the Yountville map;

(3) The boundary then proceeds southeast in a straight line to an unnamed pass with an elevation of 1485 feet, located on Soda Canyon Road;

(4) The boundary then turns east and proceeds in a straight line

approximately 0.5 miles until it reaches an unnamed peak with an elevation of 2135 feet;

(5) The boundary then turns southeast and proceeds in a straight line approximately 0.4 miles to an unnamed pass, elevation 1778 feet;

(6) The boundary continues in a generally southeasterly direction, following a series of straight lines connecting the highest points of unnamed peaks with elevations of 2102, 1942, 1871 and 1840 feet, ending in section 2, T. 6 N., R. 4 W. on the Yountville map;

(7) The boundary then proceeds southeast in a straight line approximately 1.8 miles, onto the Capell Valley, Calif., U.S.G.S. map, continuing until it reaches the highest point of an unnamed peak, elevation 1268 feet in section 12, T. 6 N., R. 4 W.;

(8) The boundary proceeds east-southeast in a straight line approximately 1.1 miles until it reaches the point where an unnamed tributary stream enters the Milliken Creek, just south of the Milliken Reservoir in T. 6 N., R. 3 W. on the Capell Valley map;

(9) The boundary follows the unnamed stream east-northeast to its source and then continues east in a straight line approximately 0.5 miles, through the highest point of an unnamed peak, elevation 1846 feet, and to the 1600 foot contour line;

(10) The boundary follows the 1600 foot contour line generally north and west for approximately 10 miles, crosses on to the Yountville, Calif., U.S.G.S. map to the point where it intersects the section boundary line between sections 12 and 13 of T. 7 N. R. 4 W.;

(11) The boundary then follows the section boundary line west approximately 0.8 miles until it reaches an unnamed pass, elevation 2055 feet;

(12) The boundary proceeds west-northwest in a straight line to the highest point of an unnamed peak, elevation 2114 feet, then to the highest point of an unnamed peak, elevation 2023 feet;

(13) From that peak, the boundary goes southwest in a straight line approximately 2.2 miles to Haystack, the beginning point on the Yountville, Calif., U.S.G.S. map.

Approved: July 30, 1991.

Stephen E. Higgins,

Director.

[FR Doc. 91-18647 Filed 8-6-91; 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD 91-016]

RIN 2115-AD77

Drawbridge Operation Regulations, Waterborne Emergency

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to amend the regulations which govern the nation's drawbridges by requiring that emergency vessels and vessels in an emergency situation, that have given the proper emergency signal, be passed through an attended draw at any time. This proposal is being made because there is provision for the passage of emergency land vehicles, but nothing similar has been done to make allowance for the passage of emergency vessels or vessels in an emergency situation. This action should not seriously interfere with the needs of vehicular traffic, yet still provides for the reasonable needs of navigation in an emergency.

DATES: Comments must be received on or before September 23, 1991.

ADDRESSES: Comments may be mailed to the Executive Secretary, Marine Safety Council (G-LRA-2/3406) (CGD 91-016) U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593-0001, or may be delivered to Room 3406 at the above address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267-1477.

The Executive Secretary maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at room 3406, U.S. Coast Guard Headquarters.

FOR FURTHER INFORMATION CONTACT: Mr. Larry R. Tyssens, Alterations, Regulations and Systems Branch (G-NBR-1), at (202) 267-0376.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their name and address, identify this rulemaking (CGD 91-016) and the specific section of this proposal to which each comment applies, and give a reason for each comment. Persons wanting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Marine Safety Council at the address under **"ADDRESSES."** If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register.**

Drafting Information

The principal persons involved in drafting this document are Mr. Larry R. Tyssens, Project Manager, and Lieutenant Ralph L. Hetzel, Project Counsel, Office of Chief Counsel.

Background and Purpose

An issue has been raised regarding the need for a regulation requiring emergency vessels and vessels in distress—where a delay would endanger life or property—to be passed through drawbridges during scheduled closure periods. Presently, drawtenders are required to close the draw when emergency vehicles wish to cross. However, there is no general requirement to open drawbridges during schedules closure periods for vessels that should be passed without delay.

Discussion of Proposed Amendment

The proposed amendment will allow immediate passage for emergency vessels or vessels in distress, commercial vessels engaged in rescue or emergency salvage operations, and vessels seeking shelter from severe weather equivalent to Force 7 or greater on the Beaufort Wind Scale.

Regulatory Evaluation

This proposal is not major under Executive Order 12291 and not significant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a Regulatory Evaluation is unnecessary. There will be no cost to the general public other than that associated with the inconvenience to vehicular traffic occasioned by an opening of the draw for an emergency.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard

must consider whether this proposal will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632).

Because this proposal imposes no special expense on small business, and because the rule is expected to be infrequently used, the Coast Guard expects the economic impact of this proposal to be minimal. No new equipment will be required. The delay to vehicular traffic will result in a minimal loss of time. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposal, if adopted, will not have a significant economic impact on a substantial number of small entities.

Collection of Information

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

Federalism

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

Environment

The Coast Guard considered the environmental impact of this proposal and concluded that under section 2.B.2. of Commandant Instruction M16475.1B, this proposal is categorically excluded from further environmental documentation, because it is a Bridge Administration Program action involving the promulgation of operating requirements or procedures for drawbridges. A Categorical Exclusion Determination is available in the docket for inspection or copying where indicated under "**ADDRESSES.**"

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

Part 117—DRAWBRIDGE OPERATION REGULATIONS

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

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g).

2. Section 117.29 is added to read as follows:

§ 117.29 Opening of draw for emergency vessels and vessels in an emergency situation.

Federal, state, and local government vessels used for public safety, vessels in distress where a delay would endanger life or property, commercial vessels engaged in rescue or emergency salvage operations, and vessels seeking shelter from severe weather equivalent to Force 7 or greater on the Beaufort Wind Scale must, upon proper emergency signal, be passed through an attended drawbridge as soon as possible at any time regardless of the operating schedule of the draw.

Dated: July 12, 1991.

L.J. Black,

Acting Chief, Office of Navigation, Safety and Waterway Services.

[FR Doc. 91–18721 Filed 8–6–91; 8:45 am]

BILLING CODE 4910–14–M

FEDERAL MARITIME COMMISSION

46 CFR Chapter IV

[Docket No. 91–14]

Inquiry Concerning Use and Effect of Surcharges by Common Carriers and Conferences

AGENCY: Federal Maritime Commission.

ACTION: Notice of inquiry; enlargement of time to reply.

SUMMARY: The Federal Maritime Commission, by notice published March 22, 1991 (56 FR 12143) solicited public comment and replies to comments on the use and effect of ocean common carrier and conference surcharges. The information received will be used by the Commission for the purpose of determining whether agency regulatory action to address potential problems regarding surcharges is warranted. Subsequently, the Commission extended the time for comments and replies (56 FR 20003; May 1, 1991, and 56 FR 22871; May 17, 1991). The Commission now, upon consideration of requests of interested persons has determined to grant a further limited extension of time to file replies to comments. Parties are reminded to serve copies of replies on all participants in this proceeding and to include a certificate of service on their reply.

DATES: Replies to comments (original and fifteen copies) on or before August 30, 1991.

ADDRESSES: Send comments to: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573–0001, (202) 523–5725.

FOR FURTHER INFORMATION CONTACT: Robert D. Bourgoin, General Counsel, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573–0001, (202) 523–5740.

By the Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 91–18692 Filed 8–6–91; 8:45 am]

BILLING CODE 6730–01–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 107, 171, 172, 173, 175, 177, and 178

[Docket No. HM–166X; Notice No. 91–3]

RIN 2137–AA44

Transportation of Hazardous Materials; Proposed Miscellaneous Amendments

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

ACTION: Notice of proposed rulemaking.

SUMMARY: RSPA is proposing to make several miscellaneous amendments to the Hazardous Materials Regulations (HMR; 49 CFR parts 171–180) pertaining to the transportation of hazardous materials. This action is necessary to update the regulations and to respond to petitions for rulemaking.

DATES: Comments must be received October 7, 1991.

ADDRESSES: Address comments to the Dockets Unit (DHM–30), Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590–0001. Comments should identify the docket and notice number and be submitted in five copies. Persons wishing to receive confirmation of receipt of their comments should include a self-addressed stamped post card. The Docket Unit is located in room 8421 of the Nassif Building, 400 Seventh Street, SW., Washington, DC. Public Dockets may be reviewed between the hours of 8:30 a.m. and 5 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Diane LaValle, (202) 366–4488, Office of Hazardous Materials Standards, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION: This document is primarily designed to reduce regulatory burdens by incorporating changes in the HMR based on either petitions for rulemaking submitted in accordance with 49 CFR 106.31 or agency initiative. These proposed amendments are in keeping with Executive Order 12291 and are designed to update and simplify existing regulations. On December 21, 1990, RSPA published a final rule in the **Federal Register** (55 FR 52402) under Docket No. HM-181. The final rule, which becomes effective on October 1, 1991, makes significant changes to the HMR with respect to the format of the HMR, and the hazard communication, classification and packaging requirements. The proposals contained in this notice are aligned with the changes adopted under HM-181.

Part 107

In § 107.331, paragraph (d) would be amended by adding the word "(violations)" after the words "prior offenses" to clarify that the words "offense" and "violations" are used interchangably in the Hazardous Materials Transportation Act (HMTA) and HMR. Neither "prior offense" nor "prior violation" includes an act which merely has been the subject of a letter of warning. Both terms, however, include any violation of the HMTA or HMR found in a compromise, settlement, or other order or action taken with prejudice to respondent by an authorized Departmental official (i.e., a model agency head, a chief counsel, a delegee of either, or an administrative law judge).

Part 171

In § 171.7, of part 171, the table in paragraph (a)(3) would be amended by updating the AAR Specifications for Tank Cars, Specification M-1002, from the 1988 edition to the 1990 edition. This proposed change is based on a petition for rulemaking (P-1101) from the Association of American Railroads.

In § 171.8, the definition for "solid" would be revised to correct a technical discrepancy related to the testing of materials.

Part 172

In part 172, the § 172.101 Table would be amended by adding "173.304" in column 8C as a packaging section reference in the entries, "Carbon dioxide, refrigerated liquid" and "Nitrous oxide, refrigerated liquid", and by changing the packaging section references in columns 8A and 8B for "Fire extinguisher" from "173.306" to "173.309". Section 172.400(a)(1) would be revised to include an exception from labeling for dewar flasks containing oxygen, refrigerated liquid (*cryogenic liquid*) conforming to § 173.320(a) when properly marked in accordance with CGA Pamphlet C-7, appendix A. For consistency with requirements contained in § 173.29(d), a new § 172.401(d) would be added to clarify that empty packagings not containing hazardous residues may bear hazard warning labels if transported in closed motor vehicles.

Part 173

In § 173.7, paragraph (b) would be revised to except national security shipments of hazardous materials, other than radioactive materials, from requirements of the HMR, if such shipments are escorted by personnel in transport vehicles other than those carrying the hazardous materials and are accompanied by a document certifying that the shipment is for national security. The current exception in § 173.7 addresses only radioactive materials. The change is based, in part, on a petition from the Department of Energy (P-1084).

In § 173.31, paragraph (b)(4) would be added to permit the shipment of a tank car tank, under certain conditions, after expiration of the retest date. In § 173.32, a new paragraph (e)(5) would be added to clarify that a portable tank filled prior to expiration of the retest date may be shipped, under certain conditions, after the retest date. In § 173.34, paragraph (e)(15)(i) would be changed to remove the 35 year age restriction for DOT-3A and 3AA cylinders manufactured after December 31, 1945. This proposed change is based on a petition for rulemaking (P-1105) from Liquid Carbonic Specialty Gas Corporation.

In § 173.62, in the Table of Packing Methods, in paragraph (c), "US006" would be amended to authorize the transportation of jet perforating guns, charged, by contract motor carriers in addition to private carriers. This proposed change is based on a petition for rulemaking (P-1029) submitted by the Petroleum Equipment Suppliers Association. Interested persons are directed to Docket HM-181 for additional information on explosives. DOT-E 9372 authorizes the transportation of charged oil well casing jet perforating guns, with detonators attached, from the gun assembly site (wireline shop) to the job site. It is proposed to incorporate this provision into the HMR.

In § 173.159, paragraph (d) would be revised to provide for marking "DOT NONSPILLABLE BATTERY" on wet, electric storage batteries which meet "nonspillable" test criteria and to clarify that these batteries are regulated for transport by aircraft and vessel. The marking requirement is based on a petition (P-1097) submitted by the Air Transport Association of America (ATA) which requests that batteries be marked "MEETS U.S. DOT TEST CRITERIA FOR NONSPILLABLE". In § 173.185, paragraph (k) would be added to provide an exception from the HMR for certain DOD shipments of lithium batteries transported for disposal. This request is based on a petition (P-1065) submitted by DOD. DOD's Military Traffic Management Command has provided supporting data from EPA that these batteries are not subject to EPA's hazardous wastes requirements.

In § 173.304, the table in paragraph (a)(2) would be amended and a new paragraph (g) would be added to authorize the use of DOT 4L cylinders for Carbon dioxide, refrigerated liquid and Nitrous oxide, refrigerated liquid. This proposed change is based on petitions (P-1036 from Taylor-Wharton and P-1107 from the Compressed Gas Association, Inc.) and DOT-E 7638, E 8063 and E 8938, which authorize the use of DOT 4L cylinders for these materials. In § 173.306, paragraph (c) would be removed and reserved. The requirements in current § 173.306(c) would be moved to new § 173.309 and expanded to authorize certain DOT specification cylinders to be used as fire extinguishers. This proposed change is based, in part, on a petition (P-0792) submitted by Amerex Corporation and DOT-E 8886. In § 173.314, a new paragraph (g)(3) would be added pertaining to the return of tank cars containing a residual of hydrogen chloride, refrigerated liquid. This proposed change is based on a petition (P-1013) submitted by Dow Chemical U.S.A. In § 173.318, paragraph (g) would be revised to authorize use of the abbreviation "OWTT" for "One-way travel time". This proposed change is based on a petition (P-1072) submitted by Union Carbide and DOT-E 9710, which authorizes the use of this abbreviation. In § 173.423, Table 7 would be amended by correcting a format error which was brought to RSPA's attention by the Nuclear Regulation Commission, i.e., "Other liquids" should be indented the same number of spaces as "Tritiated water".

Part 175

In part 175, several editorial changes would be made for consistency with changes adopted under Docket No. HM-181. In addition, certain safety initiatives, which were either

recommended by industry or developed by DOT, are proposed. In § 175.10, paragraph (a)(7) is revised for clarity. In paragraphs (a)(12) introductory text, and (a)(12)(ii) and (v), the phrase "aviation security program" would be replaced with the phrase "hazardous materials program". Paragraph (a)(12)(v) is also amended to reflect that some states do not have licensing authority for blasters. Paragraph (a)(12) introductory text would be revised and a new paragraph (a)(12)(vi) would be added to provide for the transportation and routine testing of certain special fireworks manufactured for DOD (based on DOT–E 7648). The § 175.10 requirements in paragraphs (a)(19), addressing the transport of wheelchairs equipped with nonspillable batteries, and (a)(20), for wheelchairs equipped with spillable batteries, would be revised based on a petition (P–1097) from ATA and on RSPA's initiative. Both paragraphs would be reformatted for clarity. The provisions of both paragraphs would be made applicable to battery-powered mobility aids other than wheelchairs, consistent with the International Civil Aviation Organization's (ICAO's) Technical Instructions for the Safe Transport of Dangerous Goods by Air. Provision would be made in paragraph (a)(19) to clarify that a nonspillable battery may be removed from the wheelchair and packaged separately, if necessary (e.g., if the battery were not adequately secured to the wheelchair) and to require that both battery and packaging, if any, be marked "DOT NONSPILLABLE BATTERY". Paragraph (a)(20) would be revised to clarify that a liner may be used to render a packaging leak-tight and impervious to battery fluid, and to delete the requirement that absorbent material "surround" the battery. The term "outside" would be deleted to remove any implication that the packaging is a combination packaging. These changes are intended to facilitate airlines' efforts to implement standardized procedures for routinely handling battery-equipped wheelchairs, while maintaining a high level of safety in the transport of the batteries. Finally, in § 175.10, new paragraph (a)(23) would be added to provide for the transport of a small carbon dioxide cylinder fitted into a life jacket. This latter proposed change is based on a petition (P–1076) submitted by the ATA and requirements contained in the ICAO Technical Instructions.

A new § 175.26 would require the display of certain warning signs or posters at cargo-loading facilities, based on FAA and RSPA initiative. In § 175.78, requirements pertaining to stowage and segregation of hazardous materials would be revised to clarify that they apply to stowage facilities at airports. In § 175.700, proposed changes would require that an air carrier notify the shipper of an incident involving hazardous materials no later than the close of business the following work day.

Part 177

Section 177.804 would be amended by removing the words "to the extent they apply" to eliminate confusion about the extent to which RSPA is incorporating into the HMR the Federal Motor Carrier Safety Regulations (FMCSR), i.e., 49 CFR Parts 390–397 (excluding §§ 397.3 and 397.9). By fully incorporating the applicable provisions of the FMCSR into the HMR, RSPA also would be giving full preemptive effect under the HMR to those provisions when hazardous materials transportation is involved. Specifically, the preemptive effect of those provisions, when the HMR apply, would be determined under the "substantively the same," "dual compliance," and "obstacle" tests set forth in § 107.202 of the HMR (as amended by a February 28, 1991 final rule (Docket HM–207, 56 FR 8616)).

Part 178

In § 178.251–2, pertaining to DOT 56 and 57 portable tanks, paragraph (a) would be revised to provide for caps or plugs covering discharge openings to be made of non-metallic material compatible with the lading (petitions P–1078 from Bishop, Cook, Purcell and Reynolds and P–1092 from Nalco Chemical Company).

Administrative Notices

A. Regulatory Flexibility Act

The proposals in this notice impact persons who offer for transportation and transport hazardous materials, some of whom are small entities. Based on the minimal impact of these proposals and limited information available concerning size and nature of entities likely to be affected, I certify that this proposed regulation will not, if promulgated, have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

B. Executive Order 12291 and Administrative Notices

In view of the type of changes, the RSPA has further determined that this Notice (1) is not "major" under Executive Order 12291; (2) is not "significant" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact would be minimal; and (4) does not require an environmental impact statement under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*).

C. Executive Order 12612

I have reviewed this regulation in accordance with Executive Order 12612 ("Federalism"). It has no substantial direct effects on the States, on the Federal-State relationship or the distribution of power and responsibilities among levels of government. Thus, this regulation contains no policies that have Federalism implications, as defined in Executive Order 12612, and no Federalism Assessment is necessary.

List of Subjects in 49 CFR

Part 107

Administrative practice and procedure, Hazardous materials transportation, Packaging and containers, Penalties, Reporting and recordkeeping requirements.

Part 171

Exports, Hazardous materials transportation, Hazardous waste, Imports, Incorporation by Reference, Reporting and recordkeeping requirements.

Part 172

Hazardous materials transportation, Hazardous waste, Labeling, Packaging and containers, Reporting and recordkeeping requirements.

Part 173

Hazardous materials transportation, Packaging and containers, Radioactive materials, Reporting and recordkeeping requirements, Uranium.

Part 175

Air carriers, Hazardous materials transportation, Radioactive materials, Reporting and recordkeeping requirements.

Part 177

Hazardous materials transportation, Motor carriers, Radioactive materials, Reporting and recordkeeping requirements.

Part 178

Hazardous materials transportation, Packagings and containers, Motor vehicle safety, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 49 CFR Chapter I is amended as follows:

PARTS 171, 172, 173, 175, and 178 [AMENDED]

1. The authority citation for part 107 would continue to read as follows:

Authority: 49 App. U.S.C. 1421(c); 49 App. U.S.C. 1802, 1806, 1808–1811; 49 App. U.S.C. 1653(d), 1655; 49 CFR part 1.

2. The authority citation for part 171 would continue to read as follows:

Authority: 49 App. U.S.C. 1802, 1803, 1804, 1805, 1808; 49 CFR part 1.

3. The authority citation for part 172 would continue to read as follows:

Authority: 49 App. U.S.C. 1803, 1804, 1808; 49 CFR part 1.

4. The authority citation for part 173 would continue to read as follows:

Authority: 49 App. U.S.C. 1803, 1804, 1805, 1806, 1807, 1808; 49 CFR part 1, unless otherwise noted.

5. The authority citation for part 175 would continue to read as follows:

Authority: 49 App. U.S.C. 1803, 1804, 1807, 1808, 49 CFR part 1.

6. The authority citation for part 177 would continue to read as follows:

Authority: 49 App. U.S.C. 1803, 1804, 1805, 49 CFR part 1.

7. The authority citation for part 178 would continue to read as follows:

Authority: 49 App. U.S.C. 1803, 1804, 1805, 1806, 1808; 49 CFR part 1, unless otherwise noted.

Regulation affected	Reason(s) for proposed change	Proposed amendment
§ 107.331(d)	To reflect the fact that the words "offenses" and "violations" are used interchangeably in the HMTA and the HMR.	In § 107.331(d) the parenthetical expression "(violations)" would be added after the words "prior offenses" and before the semicolon.
§ 171.7	To reflect the current edition of the AAR standard. (P–1101).	In § 171.7, paragraph (a)(3) table, for the entry "AAR Specification for Tank Cars, Specification M–1002, 1988" the date would be changed to "1990".
§ 171.8	To correct a discrepancy in the definition for "solid". A material having a separation of one gram of liquid is included in the definition of a "liquid".	In § 171.8, the definition for "Solid" would be revised to read as follows: * * * * * * * *Solid* means a material which has a vertical flow of two inches (50 mm) or less within a three-minute period, or a separation of less than one gram (1g) of liquid when determined in accordance with the procedures specified in ASTM D 4359–84, "Standard Test Method for Determining Whether a Material is a Liquid or Solid." * * * * *
§ 172.101 (Table)	To authorize use of DOT 4L cyclinders for carbon dioxide, refrigerated liquid and nitrous oxide, refrigerated liquid.	In the § 172.101 Table, the line entries "Carbon dioxide, refrigerated liquid" and "Nitrous oxide, refrigerated liquid" would be amended by adding "304" in column 8B.
§ 172.101 (Table)	To relocate requirement for fire extinguishers from § 173.306 to § 173.309.	In the § 172.101 Table, the line entry "Fire extinguishers" would be revised by changing columns 8A and 8B from "306" to "309".
§ 172.400a(a)(1)	To except from labeling a Dewar flask containing oxygen, refrigerated liquid (*cryogenic liquid*) when marked in accordance with CGA Pamphlet C–7, appendix A.	In § 172.400a, the introductory text to paragraph (a)(1) would be amended by adding the words "or Dewar flask conforming to § 173.320 of this subchapter" immediately after the word "cylinder".
§ 172.401	To revise paragraph (a) introductory text and add new paragraph (d) to provide that when an empty packaging is labeled and transported in a transport vehicle, the packaging would not be subject to the HMR if it is not visible.	In § 172.401, paragraph (a) introductory text would be revised and paragraph (d) would be added to read as follows: *§ 172.401 Prohibited labeling.* (a) Except as otherwise provided in this section, no person may offer for transportation and no carrier may transport a package bearing a label specified in this subpart unless: * * * * * (d) The provisions of paragraph (a) of this section do not apply to a packaging bearing a label if that packaging is: (1) Unused or cleaned and purged of all residue; (2) Transported in a transport vehicle or freight container in such a manner that the packaging is not visible during transportation; and (3) Loaded by the shipper and unloaded by the shipper or consignee.
§ 173.7	To provide that national security shipments of hazardous materials under escort not be subject to requirements of the HMR.	In § 173.7, paragraph (b) would be revised to read as follows: *§ 173.7 U.S. Government material.* (a) * * * (b) Shipments of hazardous materials, made by or under the direction or supervision of the U.S. Department of Energy (DOE) or the Department of Defense (DOD), and which are escorted by personnel specifically designated by or under the authority of those agencies, for the purpose of national security, are not subject to the requirements of this subchapter. For transportation by a motor vehicle or a rail car, the escorts must be in a separate transport vehicle from the transport vehicle carrying the hazardous materials that are excepted by this paragraph. A document certifying that the shipment is for the purpose of national security must be in the possession of the person in charge of providing security during transportation. * * * * *
§ 173.31(b)(4)	To permit shipment of a tank car tank which has been loaded with a hazardous material prior to expiration of the retest date. After emptying, the tank may not be refilled and shipped until it has been retested.	In § 173.31, paragraph (b)(4) would be added to read as follows: *§ 173.31 Qualification, maintenance, and use of tank cars.* * * * * * (b) * * * (4) A tank car for which the retest has become due may not be filled and offered for transportation until it has been properly tested. * * * * *
§ 173.32(e)(5)	To clarify that a portable tank, which has been loaded with a hazardous material prior to expiration of the retest date, may be offered for transportation. After emptying, the tank may not be refilled and shipped until it has been properly retested.	In § 173.32, paragraph (e)(5) would be added to read as follows: *§ 173.32 Qualification, maintenance and use of portable tanks.* * * * * * (e) * * * (5) A portable tank for which the prescribed retest or reinspection under paragraph (e)(1) of this section has become due may not be filled and offered for transportation until the retest or reinspection has been successfully completed. * * * * *

Regulation affected	Reason(s) for proposed change	Proposed amendment
§ 173.34(e)(15)(i)	To remove the 35 year restriction for retesting DOT-3A or 3AA cylinders every ten years. (P-1105).	In § 173.34, paragraph (e)(15)(i) would be revised to read as follows: *§ 173.34 Qualification, maintenance and use of cylinders.* * * * * * * * (e) * * * (15) * * * (i) This requirement does not apply to cylinders manufactured after December 31, 1945. * * * * * * *
§ 173.62(c)	To revise packing method "US006" to permit the transport of jet perforating guns with detonators attached and to allow carriage by contract carriers.	In § 173.62(c), the Table of Packing Methods, "US006" would be revised by removing paragraph "a" and revising paragraph "e" by inserting the phrase "or contract" after the word "private". Paragraphs "b" through "f" are redesignated as paragraphs "a" through "e" respectively.
§ 173.159(d)	To add a marking requirement to identify nonspillable wet electric storage batteries.	In § 173.159, paragraphs (d)(1) and (d)(2) would be redesignated as paragraphs (d)(3)(i) and (d)(3)(ii) and the remainder of paragraph (d) would be revised to read as follows: *§ 173.159 Batteries, wet.* * * * * * * * (d) Except for transportation by aircraft or vessel, a nonspillable wet electric storage battery is excepted from all other requirements of this subchapter under the following conditions: (1) The battery must be protected against short circuits and securely packaged. (2) The battery, outer packaging and overpack, if applicable, must be marked "DOT NONSPILLABLE BATTERY"; and (3) The battery must be capable of withstanding the following two tests, without leakage of battery fluid from the battery: * * * * * * *
§ 173.185	To provide an exception from the HMR for the disposal of certain lithium batteries.	In § 173.185, paragraph (k) would be added to read as follows: *§ 173.185 Lithium batteries and cells.* * * * * * * * (k) Lithium Sulfur dioxide cells and batteries, for disposal, are not subject to the requirements of this subchapter under the following conditions: (1) When new, each cell contained not more than 2.8 grams of lithium and was electrochemically balanced with a ratio of lithium to sulfur dioxide of 1.0 ± 0.1; (2) Each battery is composed of not more than 10 cells and is appropriately marked to indicate the battery was produced in accordance with current U.S. Army Military Specifications; (3) Each battery is discharged with a discharge device to a remaining average of 0.30 grams of metallic lithium per cell after complete discharge. Such a device may be built into the battery or may be separate and external to the battery. The device must be able to completely discharge the battery in 5 days; and (4) After being activated for discharge, the batteries are held not less than five days before being offered for transportation.
§ 173.304(g)	To authorize DOT 4L cylinders for "Carbon dioxide, refrigerated liquid" and "Nitrous oxide, refrigerated liquid". To add a paragraph (g) containing pressure control valve settings for these materials.	In § 173.304, paragraph (g) would be added to read as follows: *§ 173.304 Charging of cylinders with liquefied compressed gas.* (a) * * * (g) *Carbon dioxde, refrigerated liquid or nitrous oxide, refrigerated liquid.* The following provisions apply to carbon dioxide, refrigerated liquid and nitrous oxide, refrigerated liquid: (1) DOT 4L cylinders conforming to the provisions of this paragraph are authorized. (2) Each cylinder must be protected with at least one pressure relief valve and at least one frangible disc conforming to §§ 173.34(d) and 173.304(b)(2). The relieving capacity of the pressure relief device system must be equal to or greater than that calculated by the applicable formula in paragraph 5.9 of CGA Pamphlet S-1.1. (3) The temperature and pressure of the gas at the time of loading may not exceed −18°C (0°F) and 2007 kPa(291 psig) for carbon dioxide and −15.6°C (+4°F) and 2007 kpa (291 psig) for nitrous oxide. Maximum time in transit may not exceed 120 hours. The following pressure control valve settings, design service temperatures and filling densities apply:

Pressure Control Valve Setting maximum start-to discharge gauge pressure in kpa (psig)	Maximum permitted filling density (percent by weight)	
	Carbon dioxide, refrigerated liquid	Nitrous oxide, refrigerated liquid
724 kPa (105 psig)	108	104
1172 kPa (170 psig)	105	101
1586 kPa (230 psig)	104	99
2034 kPa (295 psig)	102	97
2483 kPa (360 psig)	100	95
3103 kPa (450 psig)	98	83
3723 kPa (540 psig)	92	87
4309 kPa (625 psig)	86	80
Design service temperature °C (°F)	−196°C (−320°F)	−196°C (−320°F)

Regulation affected	Reason(s) for proposed change	Proposed amendment
§ 173.306	To relocate the provisions of paragraph (c) to new § 173.309.	In § 173.306, paragraph (c) would be removed and reserved.
§ 173.309	To add § 173.309 containing requirements for fire extinguishers, to provde for fire extinguishers conforming to DOT 3A, 3AA, 4B, 4BW and 4B240ET cylinder specifications, and to allow retest requirements in accordance with § 173.34(e)(8) and (e)(9).	Section 173.309 would be added to read as follows: *§ 173.309 Fire extinguishers.* (a) Fire extinguishers charged with a limited quantity of compressed gas to not more than 1660 kpa (241 psig) at 21°C (70°F) are excepted from labeling (except when offered for transportation by air) and the specification packaging requirements of this subchapter when shipped under the following conditions. In addition, shipments are not subject to subpart F of part 172 of this subchapter, to part 174 of this subchapter except § 174.24 or to part 177 of this subchapter except § 177.817. (1) Each fire extinguisher must have contents which are not flammable poisonous, or corrosive as defined under this subchapter. (2) Each fire extinguisher must be shipped as an inner packaging. (3) Nonspecification cylinders, are authorized subject to the following conditions: (i) The internal volume of each cylinder may not exceed 18 liters (1,100 cubic inches). For fire extinguishers not exceeding 900 ml (55 cubic inches) capacity, the liquid portion of the gas plus any additional liquid or solid must not completely fill the container at 55°C (130°F). Fire extinguishers exceeding 900 ml (55 cubic inches) capacity may not contain any liquefied compressed gas. (ii) Each fire extinguisher manufactured on and after January 1, 1976, must be designed and fabricated with a burst pressure of not less than six times its charged pressure at 21°C (70°F) when shipped. (iii) Each fire extinguisher must be tested, without evidence of failure or damage, to at least three times its charged pressure at 21°C (70°F) but not less than 825 kpa (120 psig) before initial shipment, and must be marked to indicate the year of the test (within 90 days of the actual date of the original test) and "MEETS DOT REQUIREMENTS." This marking will be considered a certification that the fire extinguisher was manufactured in accordance with the requirements of this section. The words "This extinguisher meets all requirements of 49 CFR 173.306" may be displayed on fire extinguishers manufactured prior to January 1, 1976. (iv) For any subsequent shipment, each fire extinguisher must be in compliance with the retest requirements of the Occupational Safety and Health Administration Regulations of the Department of Labor, 29 CFR 1910.157(e). (4) Specification 2P or 2Q (§§ 178.33 and 178.33a of this subchapter) inner nonrefillable metal packagings are authorized for use as fire extinguishers subject to the following conditions: (i) The liquid portion of the gas plus any additional liquid or solid may not completely fill the packaging at 55°C (130°F); (ii) Pressure in the packaging shall not exceed 1250 kpa (181 psig) at 55°C (130°F). If the pressure exceeds 920 kpa (141 psig) at 55°C (130°F), but does not exceed 1100 kpa (160 psig) at 55°C (130°F), a specification DOT 2P inner metal packaging must be used; if the pressure exceeds 1100 kpa (160 psig) at 55°C (130°F), a specification DOT 2Q inner metal packaging must be used. The metal packaging must be capable of withstanding, without bursting, a pressure of one and one-half times the equilibrium pressure of the contents at 55°C (130°F); and (iii) Each completed inner packaging filled for shipment must have been heated until the pressure in the container is equivalent to the equilibrium pressure of the contents at 55°C (130°F) without evidence of leakage, distortion, or other defect. (b) Specification 3A, 3AA, 4B, 4BW or 4B240ET (§§ 178.50, 178.61 and 178.55 of this subchapter) cylinders are authorized for use as fire extinguishers subject to the following conditions: (1) Cylinders must be used exclusively for ammonium phosphate, sodium bicarbonate, potassium bicarbonate, potassium imido dicarboxamide and bromochlorodifluromethane or bromotrifluoromethane, (2) cylinders must be charged with a nonflammable, non-toxic, noncorrosive, dry gas, having a dewpoint at or below minus 46.7°C (52°F) at 101 kpa (1 atmosphere) to not more than the service pressure of the cylinder. (3) Cylinders must be protected externally by suitable corrosion-resisting coatings; (4) Cylinders with service pressures not exceeding 2070 kpa (300 psi), and a water weight not over 5.4 kg (12 pounds), are authorized to be retested in accordance § 173.34(e)(8) or Note 2 of § 173.34(e)(9); and (5) Cylinders having a water weight capacity of greater than 5.4 kg (12 pounds) are authorized to be retested in accordance with § 173.34(e)(9).
§ 173.314(g)	To add a new paragraph (g)(3) to ensure that a tank car containing a residue of hydrogen chloride, refrigerated liquid does not build up pressure sufficient to cause a release of the material through the pressure relief valves.	In § 173.314, paragraph (g)(3) would be added to read as follows: *§ 173.314 Requirements for compressed gases in tank car tanks.* * * * * * * * (g) * * * (3) Tank cars containing hydrogen chloride, refrigerated liquid, must be unloaded so that any residue remaining in the tank, when vaporized, will not actuate the safety relief device at 21°C (70°F) during transportation * * * * * * *

Regulation affected	Reason(s) for proposed change	Proposed amendment
§ 173.318(g)	To allow the use of the abbreviation "OWTT" in place of the phrase "One Way Travel Time" to be marked on cargo tanks.	In § 173.318, a sentence is added at the end of the introductory text of paragraph (g), preceding paragraph (g)(1), to read as follows: *§ 173.318 Cryogenic liquids in cargo tanks.* * * * * * (g) * * * The abbreviation "OWTT" may be used in place of the words "One-way-travel-time" in the marking required by this paragraph. * * * * *
§ 173.423	To correct a format error in § 173.423, Table 7, by indenting "Other liquids" the same number of spaces as "Tritiated water".	In § 173.423, the format of the portion of Table 7 under the caption "Liquids" and the line entry "Other liquids" would be revised to read as follows: *§ 173.423 Table of activity limits—excepted quantities and articles.* * * * * *

TABLE 7—ACTIVITY LIMITS FOR LIMITED QUANTITIES, INSTRUMENTS, AND ARTICLES

Nature of contents	Instruments and articles		Materials package limits
	Instrument and article limits [1]	Package limits	
* * * * * * *			
Liquids:			
Tritiated water:			
<0.1 Ci/liter			1000 Curies.
0.1 Ci to 1.0			100 Curies.
>1.0 Ci/liter			1 Curie.
Other Liquids:	$10^{-3}A_2$	$10^{-1}A_2$	$10^{-4}A_2$
* * * * * * *			

[1] For mixture of radionuclides see § 173.433(b).

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Regulation affected	Reason(s) for proposed change	Proposed amendment
§ 175.10	To revise paragraphs (a)(7), (a)(19), (a)(20)(i), and (a)(20)(ii) for clarity. To revise paragraphs (a)(12) (ii) and (v) for consistency with FAA's review procedures. To add new paragraphs (a)(12)(vi) and (a)(23) to provide for the transportation and routine testing of certain special fireworks manufactured for DOD in the same manner as such testing is currently authorized under exemption DOT E-7648. To add new paragraph (a)(23) to allow for transportation of one small carbon dioxide cylinder in baggage and provide for consistency between requirements contained in the ICAO Technical Instructions and the HMR.	In § 175.10, paragraphs (a)(7), (a)(19), (a)(20), (a)(12) introductory text, (a)(12)(v) and the penultimate sentence of paragraph (a)(12)(ii) would be revised, and paragraphs (a)(12)(vi) and (a)(23) would be added to read as follows: *§ 175.10 Exceptions.* (a) * * * (7) Oxygen, or any hazardous material used for the generation of oxygen, for medical use by a passenger, which is furnished and maintained aboard the aircraft by the aircraft operator in accordance with 14 CFR 121.574 or 135.91. * * * * * (12) Hazardous materials which are loaded and carried on or in cargo aircraft only and which are to be dispensed or expended during flight for weather control, forest preservation and protection, flood control, or avalanche control purposes or routine quality control testing of special fireworks manufactured for the Department of Defense when the following requirements are met: * * * * * (ii) * * * The manual must be approved by the FAA Civil Aviation Security Office responsible for reviewing the operator's hazardous materials program or the FAA Civil Aviation Security Office in the region where the operator is located. * * * * * * * * (v) When dynamite and blasting caps are carried for avalanche control flights, the explosive must be handled by, and at all times be under the control of, a qualified blaster. When required by state or local authority, the blaster must be licensed and the authority must be identified in writing to the FAA Civil Aviation Security Office responsible for reviewing the operator's hazardous materials program or the FAA Civil Aviation Security Office in the region where the operator is located. (vi) When special fireworks aerial illuminating flares, manufactured specifically for the DOD, are carried for in-flight routine quality control testing, the fireworks must be handled by, and at all times be under the control of, a qualified person who has been trained in accordance with a program approved by the local FAA Civil Aviation Security Field Office. The aircraft must be specially modified to conduct the testing operation and must be specifically approved for such operations by the local FAA Civil Aviation Security Field Office before the flight. * * * * * (19) A wheelchair or other battery-powered mobility aid equipped with a nonspillable battery, as checked baggage, provided that— (i) The battery meets the provisions of § 173.159(d) for nonspillable batteries and is marked "DOT NONSPILLABLE BATTERY"; (ii) Visual inspection of the battery reveals no obvious defects; (iii) The battery is disconnected and terminals are insulated to prevent short circuits; (iv) The battery is securely attached to the wheelchair or mobility aid, or is removed and placed in a strong, rigid packaging; and (v) Any packaging or housing which encloses the battery is marked "DOT NONSPILLABLE BATTERY".

Regulation affected	Reason(s) for proposed change	Proposed amendment
		(20) A wheelchair or other battery-powered mobility aid equipped with a spillable battery, as checked baggage, provided that— (i) Visual inspection of the battery reveals no obvious defects; (ii) The battery is disconnected and terminals are insulated to prevent short circuits; (iii) The pilot-in-command is advised, either orally or in writing, prior to departure as to the location of the battery aboard the aircraft; and (iv) The wheelchair or mobility aid is loaded, stowed, secured and unloaded in an upright position or the battery is removed, the wheelchair or mobility aid is carried as checked baggage without further restriction, and the removed battery is carried in a strong, rigid packaging under the following conditions: (A) The packaging must be leak-tight and impervious ot battery fluid. An inner liner may be used to satisfy this requirement if the liner completely surrounds the battery with absorbent material and has a leakproof closure; (B) The battery must be protected against short circuits, secured upright in the packaging, and packaged with enough compatible absorbent material to completely absorb liquid contents in the event of rupture of the battery; and (C) The packaging must be labeled with a CORROSIVE label, marked to indicate proper orientation, and marked with the words "Battery, wet, with wheelchair." * * * * * (23) With approval of the aircraft operator, one small carbon dioxide cylinder fitted into a self-inflating life-jacket plus one spare cartridge may be carried by a passenger or crew member in checked or carry-on baggage.
§ 175.25	To require that airport operators display warning signs at prominent locations within the airport for passengers carrying undeclared hazardous materials aboard the aircraft.	In § 175.25, paragraph (a) would be revised to read as follows: *§ 175.25 Informing passengers about hazardous materials restrictions.* (a) Each aircraft operator who engages in for-hire transportation of passengers shall display notices to passengers concerning the requirements for and penalties associated with, the carriage of hazardous materials aboard aircraft. Each notice must be legible, be prominently displayed in visible airport locations and be seen by passengers where the aircraft operator issues tickets, checks baggage, and maintains aircraft boarding areas. * * * * *
§ 175.26 (new)	To require airport operators to display, at certain locations within airports, warning signs alerting persons of requirements and penalties associated with offering undeclared hazardous materials for transportation aboard an aircraft.	A new § 175.26 would be added to read as follows: *§ 175.26 Notification to cargo customers of the hazardous materials requirements.* (a) Each operator who engages in the acceptance and transport of cargo by aircraft shall display notices to persons offering cargo concerning the requirements and penalties associated with the carriage of hazardous materials aboard aircraft. Such notices shall be prominently displayed in each location where the operator conducts cargo operations and accepts cargo for transport by aircraft. Each notice must contain the following information: Federal law forbids the offering and acceptance of cargo containing hazardous materials (dangerous goods) for transportation by aircraft, except as provided in the Federal Hazardous Materials Regulations (49 CFR parts 171–180). A violation can result in civil penalties of up to $25,000 and criminal penalties of up to $500,000 and 5 years imprisonment (49 U.S.C. 1809). Hazardous materials (dangerous goods) include explosives, compressed gases, flammable liquids and solids, oxidizers, poisons, corrosives and radioactive materials. For transportation as cargo, hazardous materials must conform to applicable national or international regulations and be— Properly classified, authorized and within prescribed quantity limitations for transportation by aircraft. Packaged in authorized packages which are properly marked and labeled, authorized and in condition for transportation by aircraft. Accompanied by a signed shipping paper describing the contents and certifying conformance to the applicable regulations. (b) The information contained in paragraph (a) of this section must be printed: (1) In legible English; (2) In lettering of at least 9.5 mm (3/8 inch) in height. (3) On a background of contrasting color. (c) Size and color of the notice are optional. Additional information, examples, or illustrations, if not inconsistent with required information, may be included
§ 175.78(a)	To clarify that storage segregation requirements apply in storage facilities at airports.	The introductory text preceding Table 1 in paragraph (a) of § 175.78 would be revised to read as follows: *§ 175.78 Stowage compatibility of cargo.* (a) For stowage on an aircraft, in a cargo facility, or at any other area at an airport designated for the stowage of hazardous materials, packages containing hazardous materials which might react dangerously with one another may not be placed next to each other or in a position that would allow a dangerous interaction in the event of leakage. * * * * *
§ 175.700(b)	To specify a time frame within which an air carrier must notify the shipper of an incident involving a hazardous material.	In § 175.700, two sentences would be added between the first and second sentence of paragraph (b) to read as follows: § 175.700 *Special limitations and requirements for radioactive materials.* (a) * * * (b) * * * In addition to the reporting requirements of § 175.45, the carrier must notify the shipper at the earliest practicable moment following any incident in which there has been breakage, spillage or suspected radioactive contamination involving a radioactive material shipment. In no instance may the notification be later than the close of business of the following workday. * * * * * * * *

Regulation affected	Reason(s) for proposed change	Proposed amendment
§ 177.804	To remove the qualifying words "to the extent those rules apply" to fully incorporate the provisions of the FMCSR.	Section 177.804 would be revised to read as follows: *§ 177.804 Compliance with the Federal Motor Carrier Safety Regulations.* Motor carriers and other persons subject to this part shall comply with 49 CFR parts 390 through 397 (excluding §§ 397.3 and 397.9).
§ 178.251-2(a)	To provide for a discharge cap or plug made of nonmetallic material compatible with the intended lading, on DOT 56 and 57 portable tanks.	In § 178.251-2, paragraph (a) would be revised to read as follows: *§ 178.251-2 Materials of construction.* (a) Except for gaskets, pressure relief devices, valve seats, liners, linings, and caps or plugs used as secondary closing devices over discharge openings, materials of construction must be metal. • • • • •

Issued in Washington, DC on July 29, 1991, under authority delegated in 49 CFR part 106, appendix A.

Alan I. Roberts,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 91-18357 Filed 8-6-91; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AB62

Endangered and Threatened Wildlife and Plants; Proposed Determination of Experimental Population Status for an Introduced Population of Red Wolves in North Carolina and Tennessee

AGENCY: Fish and Wildlife Service.

ACTION: Proposed rule.

SUMMARY: The Service proposes to introduce mated pairs of red wolves (*Canis rufus*) into the Great Smoky Mountains National Park (Park), Haywood and Swain Counties in North Carolina, and Blount, Cocke, and Sevier Counties in Tennessee, and to determine this population to be a nonessential, experimental population according to section 10(j) of the Endangered Species Act of 1973 (Act), as amended. There is presently one other nonessential, experimental population that was introduced in 1987 on the Alligator River National Wildlife Refuge in North Carolina. The currently proposed introduction is part of a continuing effort by the Service to reestablish the red wolf within its historic range so that it may continue to function as a part of the natural environment. Experimental population status is being proposed because section 10(j) authorizes more discretion in devising an active management program for an experimental population than for a regularly listed species, a critical factor in insuring that other agencies and the public will accept the proposed reintroduction. No conflicts are envisioned between the red wolf reintroduction in the Park and any existing or anticipated Federal agency actions or traditional public uses of the Park or adjacent U.S. Forest Service lands.

In relation to the existing experimental population on Alligator River National Wildlife Refuge, the Service proposes to revise the associated special rule to (1) modify the project review date deadline and (2) add Beaufort County, North Carolina, to the list of nearby counties where the experimental population designation would apply.

DATES: Comments from all interested parties must be received by September 6, 1991.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Red Wolf Coordinator, U.S. Fish and Wildlife Service, 330 Ridgefield Court, Asheville, North Carolina 28806. Comments and materials received will be available for public inspection by appointment during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. V. Gary Henry, Red Wolf Coordinator, at the above address (telephone 704/665-1195).

SUPPLEMENTARY INFORMATION:

Background

Among the significant changes made by the Endangered Species Act Amendments of 1982, Public Law 97-304, was the creation of a new section 10(j) which provides for the designation of specific introduced populations of listed species as "experimental populations." Under previous authorities in the Act, the Service was permitted to reintroduce populations into unoccupied portions of a listed species' historic range when it would foster the conservation and recovery of the species. Local opposition to reintroduction efforts, however, stemming from concerns about the restrictions and prohibitions on private and Federal activities contained in sections 7 and 9 of the Act, severely handicapped the effectiveness of this as a management tool.

Under section 10(j), past and future reintroduced populations established outside the current range, but within the species' historic range, may be designated, at the discretion of the Service, as "experimental." Such designations increase the Service's flexibility to manage these reintroduced populations, because such experimental populations may be treated as threatened species for purposes of section 9 of the Act. The Service has much more discretion in devising management programs for threatened species than for endangered species, especially on matters regarding incidental or regulated takings. Moreover, experimental populations found to be "nonessential" to the continued survival of the species in question are treated as if they were only proposed for listing for purposes of section 7 of the Act, except as noted below.

A "nonessential" experimental population is not subject to the formal consultation requirement of section 7(a)(2) of the Act, but if the experimental population is found on a National Wildlife Refuge or National Park, the full protection of section 7 applies to such animals. (The provision in section 7(a)(1) applies to all experimental populations.) The individual organisms comprising the designated experimental population can be removed from an existing source or donor population only after it has been determined that their removal itself is not likely to jeopardize the continued existence of the species, and must be done under a permit issued in accordance with the requirements in 50 CFR 17.22.

The red wolf (*Canis rufus*) is an endangered species that is currently found in the wild only as an experimental population on the Service's Alligator River National Wildlife Refuge in Dare and Tyrrell Counties, North Carolina, and as an endangered species in three small island propagation projects located on Bulls Island, South Carolina; Horn Island, Mississippi; and St. Vincent Island, Florida. These four carefully managed

wild populations contain a total of at least 23 animals, including pups. The remaining red wolves are located in 23 captive breeding facilities in the United States. The captive population presently numbers 146 animals, including pups.

The red wolf was originally native to the Southeastern United States from the Atlantic Coast westward to central Texas and Oklahoma, and from the Gulf of Mexico to central Missouri and southern Illinois. The historic relationship of the red wolf to other wild canids is poorly understood, but it is thought that the red wolf coexisted with the coyote (*Canis latrans*) along its western range generally along the line where deciduous cover gave way to open prairie in Texas and Oklahoma. The gray wolf (*Canis lupus*) is believed to have frequented the range north and west of the red wolf, but also occurred among the higher elevations of the Appalachian Mountains as far south as Georgia and Alabama. Fossil records indicate both species inhabiting these higher elevations at one time or another. Historical evidence, however, seems to characterize the red wolf as most common in the once vast pristine bottomland riverine habitats of the Southeast, and especially numerous in and adjacent to the extensive "canebrakes" that occurred in these habitats. The canebrakes harbored large populations of swamp and marsh rabbits, considered likely to be the primary prey of the red wolf under natural conditions. The demise of the red wolf was directly related to man's activities, especially land changes, such as the drainage of vast wetland areas for agricultural purposes; the construction of dam projects that inundated prime bottomland habitat; and predator control efforts at the private, State, and Federal levels. At that time the natural history of the red wolf was poorly understood, and like most other large predators, it was considered a nuisance species.

Today, the red wolf's role as a potentially important part of a natural ecosystem, if it can be restored to portions of its historic range, is certainly better appreciated. Furthermore, it is now clear that traditional controls would not be needed in any case; the red wolf poses no threat to livestock in situations where its natural prey, especially such mammal species as groundhogs, rabbits, raccoons, and deer, is abundant. Park Service surveys and studies in the Park have documented that there is an adequate prey base, especially in the Cades Cove quadrant in Tennessee.

Man-caused pressures eventually forced the red wolf into the lower Mississippi River drainage and lastly into the prairie marshes of southeast Texas and southwest Louisiana. This was where the only surviving population remained in the mid-1970s when the Service decided to trap as many surviving animals as possible and place them in a captive breeding program. This decision was based on the obviously low number of red wolves left in the wild, poor physical condition of these animals due to internal and external parasites and disease, and the threat posed by an expanding coyote population and consequent interbreeding problems.

A Red Wolf Captive Breeding Program was established by contract with the Point Defiance Zoological Park and Aquarium in Tacoma, Washington. Soon thereafter 40 wild-caught adult red wolves were provided to the breeding program, and the first litter of pups was born in May 1977. Since then, the wolves have continued to prosper at this and 22 other captive facilities throughout the United States. Without this extreme action it is certain that the red wolf would now be extinct. Throughout this time, however, the goal of the Service's red wolf recovery program has continued to be the eventual release of at least some of the captive animals into the wild to establish populations within the species' historic range.

To demonstrate the feasibility of reintroducing red wolves, the Service conducted carefully planned one-year experiments in 1976 and 1978. These experiments involved the release of mated pairs of wild-caught red wolves onto Bulls Island, a 5,000-acre component of the Cape Romain National Wildlife Refuge near Charleston, South Carolina. The results of these carefully planned releases indicated that it is feasible to reestablish adult wild-caught red wolves in selected habitats in the wild. The experiments were eventually terminated, and the wolves recaptured and returned to captivity. Bulls Island was not large enough to support a population of red wolves indefinitely, and it was never intended to be a permanent reintroduction site. Observations and conclusions derived from these experiments, plus knowledge gained with wild-caught but captive-reared pups in Texas, also indicated the potential probability of being able to successfully establish captive-reared populations in the wild.

A great deal of investigative effort by Service personnel during the mid-1980s revealed that good habitat for the red wolf existed on lands in northeastern North Carolina that eventually became the Alligator River National Wildlife Refuge. These properties in Dare and Tyrrell Counties comprise nearly 120,000 acres of the finest wetland ecosystems remaining in the Mid-Atlantic region of the United States. Adjacent to the refuge is a 47,000-acre U.S. Air Force weapons range with similar habitats. Intensive studies revealed a good prey base within these Federal properties, a low human population within the general area, and virtually no livestock. The small agricultural base in the area was row crop farming for corn and soybeans. After briefing the North Carolina Congressional delegation, the North Carolina Wildlife Resources Commission, the Commissioner of Agriculture, and the Governor's staff, an intensive effort to inform the local public of the red wolf and its plight resulted in local acceptance of a reintroduction project. This acceptance was voiced by local residents during four public meetings held in the project area. In addition to public information and education, the use of new technology was highlighted. This was the use of the "capture collar," an electronic device that permitted project personnel to track released red wolves and also tranquilize an animal if needed.

On November 12, 1986, four pairs of adult red wolves were shipped to the Alligator River National Wildlife Refuge to begin a 6-month acclimation process. Because of unexpected delays in development of the capture collar, wolves were not released until September 1987. Despite anticipated mortalities during the first 6 months of release, the reintroduction effort has proven that captive-reared red wolves can be successfully released and survive in the wild. Reproduction occurred the first year the animals were released, and at the moment there are 15 red wolves alive in the wild on lands comprising the Alligator River National Wildlife Refuge and the adjacent Air Force Weapons Range in Dare County.

A strategy to propagate wild red wolf offspring was initiated on November 19, 1987, when a pair of adult wolves was shipped from the captive breeding project in Washington State to Bulls Island. Two other island projects have subsequently been initiated, one on Horn Island, Mississippi, and the other on St. Vincent Island, Florida. The island propagation strategy has proven to be very successful. These island projects are now providing wild young red wolves to the project, as well as serving as ideal training sites for captive-born adult wolves to learn their skills in a wild but controlled situation.

At the present time there are five red wolves on the three island projects. The three island projects are not reintroduction sites, but simply temporary efforts to rear young wild animals for later use in mainland reintroduction efforts.

The Fish and Wildlife Service Captive Breeding Program in Washington State has 48 animals, including pups. There are 98 other red wolves, including pups, in the remaining 22 public and private zoos and captive facilities in the United States. The Service has full responsibility for all red wolves in captivity. It is from these captive breeding projects and the island propagation projects that wolves selected for reintroduction in the Park will come.

For the past year Fish and Wildlife Service and National Park Service personnel have been developing a reintroduction strategy for the red wolf in the Park. Considerable effort has been expended in assessing local interests and concerns with such a project. North Carolina and Tennessee congressional representatives, respective State wildlife agencies, state agricultural agencies, Farm Bureaus, local agricultural interests, and a variety of local organizations have been apprised of the project. The project is designed to address significant questions that have to be clarified before additional red wolf reintroductions can be contemplated. The most pressing need is to ascertain the interactions of red wolves and coyotes under wild conditions. The successes at Alligator River National Wildlife Refuge have been achieved in an area that is free of coyotes. Since approximately 90 percent of historic red wolf habitat now has resident coyotes, it is essential that this biological issue be addressed. It is generally thought that a hierarchy exists among the various wild canids. Studies have demonstrated that red fox populations gradually decline as coyote numbers increase, and coyotes decline in number where their range overlaps with gray wolf range. It appears that the decline of the red wolf in the coastal marshes of Louisiana and Texas was complicated by a parallel expansion of coyote range with subsequent instances of interbreeding. It is thought that this was an exceptional biological phenomenon brought on by man's intervention. Very little is actually known of red wolf-coyote interactions in the wild. The first phase of the Park proposal is oriented at addressing this need.

A coyote tracking investigation was initiated in the Park during the spring of 1990. That study is currently assessing the population density of resident coyotes.

A phased reintroduction into the Park has initially required the removal of two adult pairs of red wolves from the captive breeding and island propagation projects. Animals were selected and flown to Knoxville, Tennessee, in January 1991 and were transported by truck to the Park. Each pair is being held in a 2,500-square-foot acclimation pen for a period of approximately 6 months. Acclimation pens are isolated and provided maximum security. During their acclimation the pairs were allowed to breed. Only one pair successfully bred, producing five pups. This family unit would be utilized for release. At about 10 weeks of age each of the pups in the release group would receive a small, surgically implanted radio transmitter, and the adult animals would be fitted with new capture-tracking collars. The animals would be released a week later. They would be closely monitored via telemetry tracking for the first 10 to 12 weeks, then the frequency of monitoring would be gradually reduced after the family unit establishes predictable patterns of movement. Most of the telemetry tracking would be done from fixed wing aircraft. Special emphasis would be given to determining interactions of released red wolves and resident coyotes, as well as adaptability of the animals to the Park environment.

The acclimation pens function as additional captive propagation facilities, and the captive population figures in this proposed rule include these animals. Although used to acclimate the wolves to the Park environment, this acclimation does not commit the wolves to release or affect the wolves' utility for captive breeding. If the project is not implemented, the acclimated wolves would be transferred to permanent captive breeding facilities elsewhere and be maintained as part of the captive population.

If this initial release is successful, the project would move to a second stage of effort. This stage would entail the acclimation and release of six to eight pairs of adult red wolves and their offspring in various sectors of the Park. Monitoring processes would follow the same protocols as in the first stage. Monitoring would continue to be a primary objective for 2 to 3 years. If the project proceeds to stage two, it is anticipated that the Park and adjacent U.S. Forest Service lands in North Carolina and Tennessee could eventually sustain a red wolf population of about 50 to 70 animals.

Status of Reintroduced Populations

This reintroduced population of red wolves is proposed to be designated as a nonessential experimental population according to the provisions of section 10(j) of the Act. The experimental population status means that the reintroduced population will be treated as a threatened species, rather than an endangered species, for the purposes of sections 4(d) and 9 of the Act, which regulate taking, and other actions. This enables the Service to propose a special rule which can be less restrictive than the mandatory prohibitions covering endangered species.

The proposed special rule provides that there will be no violation of the Act for taking by the public incidental to otherwise lawful hunting, trapping, or other recreational activities or defense of human life, provided such takings are immediately reported to the Park Superintendent or his staff. National Park Service, Fish and Wildlife Service and State employees and agents will be additionally authorized to take animals which need special care or which are posing a threat to livestock or property. Livestock owners may also take red wolves that are actually engaged in the pursuit or killing of livestock on private properties. Such take, however, will only be permitted after due notification to the Superintendent and if efforts to capture offending red wolves prove unsuccessful. Such take must be immediately reported to the Park Superintendent. These flexible rules are considered a key to public acceptance of the reintroduced population. The States of North Carolina and Tennessee have entered into cooperative agreements with the Service as provided by Section 6 of the Act. These cooperative agreements are reviewed annually by the Service to ensure that the States have regulatory authority to conserve listed species, including the red wolf. Hunting and trapping are regulated outside the Park; in the event of wolves' dispersing from the Park, they would be immediately captured and returned to the Park. Therefore, risks of incidental taking outside the Park are virtually nonexistent. No additional Federal regulations are needed.

The nonessential status is appropriate for the following reasons: Although once extirpated from its historic range, the red wolf has recently been reintroduced successfully to a small portion of that range; it exists in low numbers on three widely separated island projects; and the population is secured in 23 captive breeding facilities and zoos in the United States. In addition, recent efforts

to safeguard red wolf genetic material through cryogenic storage have proven successful. The existing captive population numbers 146 animals, and 23 animals are being managed in the wild. Given the health checks and careful monitoring that these animals receive, it is highly unlikely that disease or other natural phenomenon will threaten the survival of the species. Furthermore, the species breeds readily in captivity. Therefore the taking of 18 to 20 adult animals from this assemblage (assuming a second stage release is realized) will pose no threat to the survival of the species even if all of these animals, once placed in the wild, were to succumb to natural or man-caused factors.

The management advantage derived from the nonessential status comes from the fact that it will change the application of section 7 of the Act (interagency consultation) to the reintroduced population. Outside of the Park (i.e., on U.S. Forest Service lands, on Cherokee Indian tribal lands, or on private lands), the nonessential experimental population will be treated as if it were a species proposed for listing, rather than a listed species. This means that only two provisions of section 7 will apply on these non-Service lands: Section 7(a)(1), which authorizes all Federal agencies to establish conservation programs; and section 7(a)(4), which requires Federal agencies to confer informally with the Fish and Wildlife Service on actions that are likely to jeopardize the continued existence of the species. The results of a conference are only advisory in nature; agencies are not required to refrain from commitment of resources to projects as a result of a conference. There are in reality no conflicts envisioned with any current or anticipated management actions of the U.S. Forest Service or other Federal agencies in the area. Forest Service properties are a benefit to the project since they form a buffer in many areas to private properties, and management activities on National Forests are typically conducive to production of numerous prey animals. There will be no threats to the success of the reintroduction project or the overall continued existence of the red wolf from these less restrictive section 7 requirements.

In the Park, on the other hand, the experimental population will continue to receive the full range of protections of section 7. This will prohibit the National Park Service or any other Federal agency from authorizing, funding, or carrying out an action within the Park which is likely to jeopardize the continued existence of the red wolf. Service regulations at 50 CFR 17.83(b) specify that section 7 provisions shall apply collectively to all experimental and nonexperimental populations of a listed species, rather than solely to the experimental population itself. The Fish and Wildlife Service has reviewed all ongoing and proposed uses of the Park and found none that are likely to jeopardize the continued existence of the red wolf, nor will they adversely affect the success of the reintroduction effort. Uses that could adversely affect success are hunting, trapping, and high-speed vehicular traffic. Hunting and trapping are prohibited in the Park, and vehicular traffic speed limits are reduced to levels not likely to result in vehicle/wolf impacts. Speed limits are 30–35 miles per hour on most roads in the Park and 20 miles per hour in the immediate area of the proposed release. The highest speed limits are 45 miles per hour on a few sections of U.S. Route 441 in North Carolina, approximately 30 miles from the proposed release site.

Location of Reintroduced Population

Since the red wolf is recognized as extinct on all but four small, carefully managed sites within its historic range, this proposed reintroduction site would fulfill the requirement of section 10(j) that an experimental population be geographically isolated and/or easily discernible from existing populations. As previously described, the release site would be the Great Smoky Mountains National Park in Haywood and Swain Counties in North Carolina, and Blount, Cocke, and Sevier Counties in Tennessee. The area is located in the extreme western portion of North Carolina and the extreme eastern portion of Tennessee.

Management

This reintroduction project would be undertaken by the Fish and Wildlife Service. Additional work and assistance would be undertaken by National Park Service personnel operating under an interagency agreement funded by the Fish and Wildlife Service. Phase one plans call for the acclimation of two pairs of wolves for 6 months in captive pens within the Park. One of these pairs has bred and produced five pups during acclimation. During the summer or fall there will be a careful evaluation of where the pups, and the pair (with some or all of the pups) would be released at that time. Released red wolves would be closely monitored via telemetry. It is hoped that the long acclimation period and presence of pups would prove to be effective in keeping the wolves within the boundaries of the Park. Private landowners adjacent to the Park would be requested to immediately report any observation of a red wolf off Park lands to the Park Superintendent. The Fish and Wildlife Service, with Park Service assistance, would take appropriate actions to recapture and return the animal to the Park. After an as yet unspecified period of assessment (probably 10 to 12 months in duration) the released animals would probably be recaptured and data gathered about their movements and interactions with native prey species, resident coyotes, human interactions, and other parameters assessed.

Take of red wolves by the public would be discouraged by an extensive information and education program and by the assurance that all animals would be radio-collared or implanted and therefore easy to locate if they leave the Park. The public would be encouraged to cooperate with the Fish and Wildlife Service and National Park Service in the attempt to maintain the animals on the release site. In addition, the special rule provides there would be no penalty for incidental take in the course of otherwise lawful hunting, trapping, or other recreational activity, or in defense of human life, provided that the taking is immediately reported to the Park Superintendent. Fish and Wildlife Service, National Park Service, and State employees and agents would be additionally authorized to take animals that need special care, pose a threat to livestock or property, or need to be moved for genetic purposes. Take procedures in such instances would involve live capture and removal to a remote area, or if the animal is clearly unfit to remain in the wild, return to the captive breeding facility. Killing of animals would be a last resort and authorized only if live capture attempts failed or there was some clear danger to human life. Private livestock owners would be permitted to take red wolves actually engaged in the pursuit or killing of livestock on private lands only after reporting such conflicts to the Park Superintendent, and only after an early response by Interior Department or State officials has failed to live capture offending animals. In the unlikely event that red wolves are proven to be successfully preying on livestock on private properties, the owner of such livestock would be reimbursed through an established source of non-Federal funds. These flexible rules are considered a key to public acceptance of the reintroduced population.

Utilizing information gained from the initial phase of the project, an overall assessment of the success of the family

unit to adjust to the Park environment would be made. It is thought that this initial phase will be terminated after 10 to 12 months. In consultation with the North Carolina Wildlife Resources Commission, the Tennessee Wildlife Resources Agency, and the National Park Service, the Fish and Wildlife Service would determine the feasibility of reintroducing the red wolf into the Park. Public response to the wolves would also be a factor in the determination. Information and experience gained with the red wolf reintroduction at Alligator River National Wildlife Refuge has provided the confidence needed to consider a project of this magnitude. This reintroduction attempt is consistent with the recovery goals identified for this species.

This proposed reintroduction is not expected to conflict with existing or proposed human activities or hinder the public utilization of the Park. Additionally, the presence of these animals is not expected to impact the ongoing activities designated for this National Park. Utilization of the Park for the establishment of a red wolf population is consistent with the legal responsibility of the National Park Service to enhance the native wildlife resources of the United States.

As described above, two pairs of red wolves were taken from captive breeding and/or island propagation projects for the initial phase of the project. If a second reintroduction phase is attained, animals would generally be taken from these same sources. Additional red wolves would also be available from the stock of wild animals at Alligator River National Wildlife Refuge. If this reintroduction proves successful, it will represent only the second, and by far the largest, viable wild population of red wolves. More importantly, this project would significantly enhance the long-term recovery potential for this critically endangered species. There are no existing or anticipated Federal and/or State actions identified for this release site which are expected to affect this experimental population. For all these reasons, the Fish and Wildlife Service proposes to find that the release of an experimental population into the Park would further the conservation of this species in accordance with section 10(j)(2)(A) of the Endangered Species Act.

Special Rule Changes for Alligator River Population

In the period since codification of the special rule for the experimental population introduced on Alligator River National Wildlife Refuge (50 CFR 17.81(b)), it has become apparent that two changes are needed in the rule for this population. Originally it was indicated that the Service would conduct a review of the project within 5 years of the effective date of the regulation. However, since the actual date for reintroducing wolves on the Refuge did not occur until approximately 11 months after the rule's effective date, the Service proposes to revise the deadline for reevaluating the project to indicate that reevaluation will be accomplished by October 1, 1992, instead of November 19, 1991. Additionally, based on experience gained to date, it now appears that there is some possibility that introduced wolves may wander into Beaufort County, which is in close proximity to the project area. In order to assure that in such an eventuality the wolves would be legally covered under the experimental population designation, the Service proposes to add Beaufort County, North Carolina, to the area covered by the special rule.

Public Comments Solicited

The Fish and Wildlife Service intends that any rule finally adopted be as effective as possible. Therefore, comments or recommendations concerning any aspect of this proposed rule are hereby solicited [see **ADDRESSES** section] from the public, concerned government agencies, the scientific community, industry, or any other interested party. Comments should be as specific as possible.

A final decision on this proposed action will take into consideration any comments or additional information received by the Fish and Wildlife Service. Such communications may lead to a final rule that differs from this proposal.

National Environmental Policy Act

A draft Environmental Assessment prepared under authority of the National Environmental Policy Act of 1969 is available to the public at the Service's Asheville, North Carolina, Office (see **ADDRESSES** section) or the Division of Endangered Species, U.S. Fish and Wildlife Service, Department of the Interior, Washington, DC 20240. This assessment will form the basis for a decision as to whether this is a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act (implemented at 40 CFR parts 1500–1508).

Required Determinations

The Fish and Wildlife Service has determined that this is not a major rule as defined by Executive Order 12291, and that the rule would not have a significant economic effect on a substantial number of small entities as described in the Regulatory Flexibility Act (5 U.S.C. 601, et. seq). The reintroduction of a nonessential experimental population of red wolves into the Park and the use by these animals of the Park and adjacent Federal lands is compatible with current utilization of the Park and adjacent Federal properties, and is expected to have no adverse impact on public use days. It is reasonable to expect some increase, although probably too small to be measured, in visitor use of the Park after the release of the wolves. The Service has also determined that this action would not involve any taking of constitutionally protected property rights under Executive Order 12630 that require preparation of a takings implication assessment. The rule does not require a Federalism assessment under Executive Order 12612 since it would not have any significant federalism effects as described in the order. The rule as proposed does not contain collections of information which require approval by the Office of Management and Budget under 44 U.S.C. 3501, et. seq.

Author

The principal authors of this proposal are Warren T. Parker and V. Gary Henry (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

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

Proposed Regulation Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend part 17, subchapter B of chapter I, Title 50 of the Code of Federal Regulations as set forth below:

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

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

2. It is proposed to amend § 17.11(h) by revising the existing entry for "Wolf, red" under MAMMALS to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
MAMMALS *	*	* *	*		*	*	
Wolf, red	*Canis rufus*	U.S.A. (SE U.S.A., west to central TX).	Entire, except where listed as Experimental Populations below.	E	1,248,___	NA	NA
Do	do	do	U.S.A. (portions of NC and TN—see § 17.84(c)(9)).	XN	248,___	NA	17.84(c)
*	*	* *	*		*	*	

3. It is proposed that § 17.84 be amended by revising paragraphs (c)(1), (c)(4), (c)(5)(iii), (c)(6), (c)(9), (c)(10), and (c)(11) and adding paragraph (c)(5)(iv) as follows:

§ 17.84 Special rules—vertebrates.

* * * * *

(c) * * *

(1) The red wolf populations identified in paragraphs (c)(9)(i) and (c)(9)(ii) of this section are nonessential experimental populations.

* * * * *

(4)(i) Any person may take red wolves found in the area defined in paragraph (c)(9)(i) of this section in defense of that person's own life or the lives of others, *Provided* that such taking shall be immediately reported to the refuge manager, as noted in paragraph (c)(6) of this section.

(ii) Any person may take red wolves found in the area defined in paragraph (c)(9)(ii) of this section incidental to lawful recreational activities, in defense of that person's own life or the lives of others, or to protect livestock actually pursued or being killed by red wolves on private properties after notifying park personnel and efforts to capture depredating red wolves by project personnel have proven unsuccessful, *Provided* that all such taking shall be immediately reported to the Park Superintendent.

(5) * * *

(iii) Take an animal which constitutes a demonstrable but non-immediate threat to human safety, or which is responsible for depredations to lawfully present domestic animals or other personal property, if it has not been possible to otherwise eliminate such depredation or loss of personal property, *provided* that such taking must be done in a humane manner, and may involve killing or injuring the animal only if it has not been possible to eliminate such threat by live capturing and releasing the specimen unharmed on the refuge or park;

(iv) Move an animal for genetic purposes.

(6) Any taking pursuant to paragraphs (c) (3) through (5) of this section must be immediately reported to either the Refuge Manager, Alligator River National Wildlife Refuge, Manteo, North Carolina, telephone 919/473–1131, or the Superintendent, Great Smoky Mountains National Park, Gatlinburg, Tennessee, telephone 615/436–1294. Either of these two persons will determine disposition of any live or dead specimens.

* * * * *

(9)(i) The Alligator River National Wildlife Refuge reintroduction site is within the historic range of the species in North Carolina, in Dare and Tyrrell Counties; because of their proximity, Beaufort, Hyde, and Washington Counties are also included in the experimental population designation.

(ii) The red wolf also historically occurred on lands that now comprise the Great Smoky Mountains National Park. The park encompasses properties within Haywood and Swain Counties in North Carolina, and Blount, Cocke, and Sevier Counties in Tennessee. Graham, Jackson, and Madison Counties in North Carolina, and Monroe County in Tennessee, are also included in the experimental designation because of the close proximity of these counties to the Park boundary.

(iii) Except for three coastal island propagation projects and these small reintroduced populations, the red wolf is extirpated from the wild. Therefore, there are no other extant populations with which the refuge or park experimental populations could come into contact.

(10) The reintroduced populations will be monitored closely for the duration of the project, generally by use of radio telemetry as appropriate. All animals will be vaccinated against diseases prevalent in canids prior to release. Any animal which is determined to be sick, injured, or otherwise in need of special care, or which moves off Federal lands, will be immediately recaptured by Fish and Wildlife Service and/or National Park Service and/or designated State wildlife agency personnel and given appropriate care. Such animals will be released back to the wild on the refuge or park as soon as possible, unless physical or behavioral problems make it necessary to return the animals to a captive breeding facility.

(11) The status of the Alligator River National Wildlife Refuge project will be reevaluated by October 1, 1992, to determine future management status and needs. This review will take into account the reproductive success of the mated pairs, movement patterns of individual animals, food habits, and overall health of the population. The duration of the first phase of the park project is estimated to be 10 to 12 months. After that period, an assessment of the reintroduction potential of the park for red wolves will be made. If a second phase of reintroduction is attempted, the duration of that phase will be better defined during the assessment. However, it is presently thought that a second phase would last for 3 years, after which time the red wolf would be treated as a

resident species within the park. Throughout these periods, the experimental and nonessential designation of the animals will remain in effect.

* * * * *

Dated: July 2, 1991.

Richard N. Smith,

Acting Director, Fish and Wildlife Service.

[FR Doc. 91-18633 Filed 8-6-91; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 56, No. 152
Wednesday, August 7, 1991

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

Agricultural Research Service

Intent To Grant Exclusive Licenses; Sonoco Products Co.

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of intent.

SUMMARY: Notice is hereby given that the U.S. Patent Application Serial No. 06/895,639, "Apparatus for Forming Uniform Density Structural Fiberboard," issued as Patent Number 4,753,713, is available for licensing. Notice is also given that the U.S. Department of Agriculture, Agricultural Research Service, intends to grant a partially exclusive license to Sonoco Products Company, Hartsville, South Carolina, on said invention and also on U.S. Patent Application Serial No. 06/864,920, "Method and Apparatus for Forming Three Dimensional Structural Components from Wood Fiber," issued as Patent Number 4,702,870. Notice of Availability on the latter invention was given on January 14, 1988.

DATES: Comments must be received on or before November 5, 1991.

ADDRESSES: Send comments to: USDA–ARS–Office of Cooperative Interactions, Beltsville Agricultural Research Center, Baltimore Boulevard, Building 005, room 401–A, BARC–W, Beltsville, Maryland 20705–2350.

FOR FURTHER INFORMATION CONTACT: M. Ann Whitehead of the Office of Cooperative Interactions at the Beltsville address given above; telephone: 301/344–2786, (FTS) 344–2786.

SUPPLEMENTARY INFORMATION: The USDA–ARS intends to grant to Sonoco Products Company, Hartsville, South Carolina, a partially exclusive license to practice the aforementioned inventions. Patent rights to these inventions are assigned to the United States of America, as represented by the Secretary of Agriculture. It is in the public interest to so license these inventions for Sonoco Products Company has submitted a complete and sufficient application for a license, promising therein to bring the inventions into public use upon reasonable terms and within a reasonable period of time.

The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within ninety days from the date of this published Notice, ARS receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

M.A. Whitehead,

Coordinator, National Patent Program.

[FR Doc. 91–18755 Filed 8–6–91; 8:45 am]

BILLING CODE 3410–03–M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to 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: 1992 Economic Censuses Affiliation Report.

Form Number(s): NC–9921.

Agency Approval Number: None.

Type of Request: New collection.

Burden: 122,500 hours.

Number of Respondents: 490,000.

Avg Hours Per Response: 15 minutes.

Needs and Uses: The Bureau of the Census will use the Form NC–9921 to obtain company affiliation information and the corresponding Standard Industrial Classification (SIC) for establishments in transportation; communications; public utilities; finance, insurance and real estate; and services not elsewhere classified. It will also be used to update the Standard Statistical Establishment List (SSEL), the basic sampling frame for many of our surveys. The collection of this information will improve the accuracy and reliability of both the industry and geographic classifications in the 1992 Economic Censuses, which constitute the primary source of facts about the structure and functioning of key sectors of our economy.

Affected Public: Businesses or other for–profit organizations, Small businesses or organizations.

Frequency: Every five years.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Marshall Mills, 395–7340.

Copies of the above information collection proposal can be obtained by calling or writing Edward Michals, DOC Forms Clearance Officer, (202) 377–3271, 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 to Marshall Mills, OMB Desk Officer, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: August 2, 1991.

Edward Michals,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 91–18750 Filed 8–6–91; 8:45 am]

BILLING CODE 3510–07–F

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to 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: Economic Development Administration.

Title: Public Works Preapplication and Application.

Form Number: Agency Form ED–101P and 101A, OMB 0610–0011.

Type of Request: Extension of the expiration date.

Burden: 674 respondents; 35,996 hours.

Average Hours Per Response: ED–010P: 30 hours. ED–101A: 88 hours.

Needs and Uses: To provide preliminary evaluation of a proposed project as well as to determine if applicants meet legal requirements to be considered for financial assistance.

Affected Public: State and local units of Government, Indian tribes, public authorities, and nonprofit organizations.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Marshall Mills, 395–7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377–3271, Department of Commerce, room H5327, 14th and Constitution Avenue NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Marshall Mills, OMB Desk Officer, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: August 1, 1991.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 91–18746 Filed 8–6–91; 8:45 am]

BILLING CODE 3510–CW–M

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to 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: International Trade Administration.

Title: Petition Format for Requesting Relief under U.S. Antidumping Duty Law.

Form Numbers: Agency—ITA–357P and 19 CFR 353.12, OMB—0625–0105.

Type of Request: Extension of the expiration date of a currently approved collection.

Burden: 85 respondents; 3,400 reporting hours.

40 hours.

Average Hours Per Response: 40 hours.

Needs and Uses: Under section 732 of the Tariff Act of 1930, as amended, the Department of Commerce is required to initiate an antidumping duty investigation when a domestic interested party alleges the elements necessary for the imposition of an antidumping duty on an imported product. The antidumping petition is used to gather the information necessary to determine whether an antidumping duty investigation is warranted. The information requested relates to the existence of sales at less than fair value and injury to the affected U.S. industry. This information is necessary in setting forth an allegation that foreign merchandise is being dumped in the United States and forms the basis for initiating an investigation.

Affected Public: Businesses or other for profit; small businesses or organizations.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Marshall Mills, 395–7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377–3271, Department of Commerce, room 5327, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Marshall Mills, OMB Desk Officer, room 3208 New Executive Office Building, Washington, DC 20503.

Dated: August 1, 1991.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 91–18747 Filed 8–6–91; 8:45 am]

BILLING CODE 3510–CW–M

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to 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: International Trade Administration.

Title: Overseas Trade Fair Certification Program: Application and Evaluation.

Form Numbers: Agency—ITA–4100P and ITA 4103P, OMB—0625–0130.

Type of Request: Revision of a currently approved collection.

Burden: 80 respondents; 601 reporting hours.

Average Hours Per Response: 14.25 hours.

Needs and Uses: The International Trade Administration (ITA) designed the Overseas Trade Fair Certification Program to encourage private sector show organizers to develop, operate, and manage U.S. industry participation in trade fairs overseas. The application form (ITA–4100P) provides specifics about a proposed project that will allow ITA to determine if the trade fair and the requesting organization stand a reasonable chance of success and if it meets ITA's promotion program objectives and general selection criteria. The evaluation form (ITA–4103P) is used by (1) the show organizer to critique the event as well as the government's performance and (2) by the overseas post to provide basic analysis of the event. Evaluation of the results gives feedback to both the private sector organizer and ITA for repeating certification of future editions of the fair.

Affected Public: Businesses or other for profit; small businesses or organizations.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Marshall Mills, 395–7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377–3271, Department of Commerce, room 5327, 14th and Constitution Avenue NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Marshall Mills, OMB Desk Officer, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: August 1, 1991.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 91–18748 Filed 8–6–91; 8:45 am]

BILLING CODE 3510–CW–M

Bureau of Export Administration

Automated Manufacturing Equipment Technical Advisory Committee; Partially Closed Meeting

A meeting of the Automated Manufacturing Equipment Technical Advisory Committee will be held August 27 and 28, 1991, 9:30 a.m., in the Herbert C. Hoover Building, room 1617F, 14th and Pennsylvania Avenue NW., Washington, DC. The General Session, which is open to the public, will begin at 9:30 a.m. on August 27. The Committee advises the Office of Technology and Policy Analysis with respect to technical questions that affect the level of export controls applicable to automated manufacturing equipment and related technology.

Agenda:

General Session

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the public.
3. Review of Core List 2 regulations.

4. Review of controls on laser feedback devices.
5. Review of controls on motion control boards.

Executive Session

6. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM 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 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: Lee Ann Carpenter, TAC Staff/BXA/ room 1621, U.S. Department of Commerce, 14th and Pennsylvania Ave. NW., Washington, DC 20230.

The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on January 5, 1990, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series 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 6628, U.S. Department of Commerce, Washington, DC 20230. For further information or copies of the minutes, contact Lee Ann Carpenter on (202) 377–2583.

Dated: August 2, 1991.

Betty Anne Ferrell,

Director, Technical Advisory Committee Staff.

[FR Doc. 91–18749 Filed 8–6–91; 8:45 am]

BILLING CODE 3510-DT-M

International Trade Administration

[A–588–505]

Dynamic Random Access Memory Semiconductors of 256 Kilobits and Above From Japan; Termination of Antidumping Duty Investigation

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: On September 14, 1990, the Department of Commerce published a notice of initiation of antidumping duty administrative review and requests for termination of suspended investigation on dynamic random access memory semiconductors of 256 kilobits and above from Japan. On July 18, 1991, the Department requested comments on its proposal to terminate the suspended antidumping duty investigation on dynamic random access memory semiconductors of 256 kilobits and above from Japan. The Department is now terminating this suspended investigation.

EFFECTIVE DATE: August 1, 1991.

FOR FURTHER INFORMATION CONTACT: Steven Presing, Office of Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377–4106.

SUPPLEMENTARY INFORMATION:

Background

On December 6, 1985, the Department of Commerce (the Department) self-initiated an antidumping duty investigation under section 732(a) of the Tariff Act of 1930, as amended (the Act), to determine whether dynamic random access memory semiconductors of 256 kilobits and above (DRAMs) are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and whether these imports are materially injuring, or are threatening material injury to, a United States industry, or are materially retarding the establishment of a United States industry (50 FR 51450, December 17, 1985).

On March 19, 1986, the Department published a preliminary determination that DRAMs from Japan were being sold at less than fair value in the United States (51 FR 9475). On August 7, 1986, the Department published a notice of suspension of investigation and amendment of preliminary determination of the antidumping investigation involving DRAMs from Japan (51 FR 28396). The basis for the suspension was an agreement by the Japanese producers/ exporters which account for substantially all of the known imports of these products from Japan, to revise their prices to eliminate sales of this merchandise to the United States at less than fair value.

On August 31, 1990, the Department received timely requests from seven of the signatories to the suspension agreement, in accordance with 19 CFR 353.25(b) (1990) of the Department's regulations, for termination of the suspended investigation on DRAMs from Japan. Included in those requests, the signatories provided certifications that their respective companies: (1) Did not sell products subject to the suspension agreement at less than the foreign market value during the period from the effective date of the suspension agreement to present; and (2) would not in the future sell covered products at less than foreign market value. Pursuant to 19 CFR 353.25(c), the Department considered these requests as including requests for administrative review, and on September 14, 1990, the Department initiated a review to determine whether termination is appropriate (55 FR 37925).

By letter of July 18, 1991, the Department notified parties to the proceeding of its intent to terminate the suspended investigation pursuant to § 353.17(a)(1) of the Department's regulations (19 CFR 353.17(a)(1) (1990)). We received comments from interested parties concerning the proposed termination on July 24, 1991.

Scope of Investigation

The merchandise covered by the investigation are Japanese DRAMs having a memory capacity of 256 kilobits and above, of both the N-channel and the complementary metal oxide semiconductor type, whether in the form of processed wafers, unmounted die, mounted die, or assembled devices however packaged (ceramic, plastic, or other). Processed wafers and dice produced in Japan and assembled into finished DRAMs in another country prior to importation into the United States from the other country are included in the scope of the investigation.

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1,

1989, the U.S. tariff schedules were fully converted to the Harmonized Tariff Schedule (HTS), as provided for in section 1201 et seq. of the Omnibus Trade and Competitiveness Act of 1988. Currently, DRAMs between 80,000 bits and 300,000 bits (including 256K DRAMs), but not over 300,000 bits are classified under subheading 8542.11.336 of the HTS. DRAMs over 300,000 bits are provided for under HTS item number 8542.11.354. Unmounted chips, dies and wafers are classified under HTS subheading 8542.11.023. Prior to January 1, 1989, finished DRAMs of 256K and above were classified under items 687.7443 and 687.7444 of the Tariff Schedules of the United States Annotated (TSUSA). Unassembled DRAMs, including processed wafers and mounted and unmounted die, were provided for under item 687.7405 of the TSUSA.

Termination of Investigation

Based on information contained in the record, the Department has decided to terminate the antidumping duty investigation of DRAMs from Japan. The record contains statements from the Computer System Policy Project (CSPP) and the Semiconductor Industry Association (SIA) supporting the proposed termination. Domestic producers of the subject merchandise are members of the SIA.

Under § 353.17(a) of the Department's regulations (19 CFR 353.17(a) (1990)), the Department may terminate an investigation on its own initiative in an investigation initiated under § 353.11, after notifying all parties to the proceeding and after consultation with the International Trade Commission (ITC). Section 353.17(a) further provides that the Department may not terminate an investigation unless it concludes that the termination is in the public interest. We have notified all parties to the proceeding and have consulted with the ITC. We conclude that termination of the investigation is in the public interest. Accordingly, we are terminating the suspended antidumping duty investigation on DRAMs from Japan.

This action is taken pursuant to section 734(a)(1) of the Tariff Act of 1930, as amended (19 U.S.C. 1673c(a)(1)), and § 353.17(a)(2) of Commerce's regulations (19 CFR 353.17(a)(2)).

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 91-18754 Filed 8-6-91; 8:45 am]

BILLING CODE 3510-05-M

[A-588-504]

Erasable Programmable Read Only Memory Semiconductors From Japan; Termination of Antidumping Administrative Review and Revision of Suspension Agreement

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: On September 14, 1990, the Department of Commerce published a notice of initiation of antidumping duty administrative review and requests for termination of suspended investigation on erasable programmable read only memory semiconductors from Japan. On July 11, 1991, the Department published a request for comments on proposed revision on the agreement suspending the antidumping investigation on erasable programmable read only memory semiconductors from Japan. The Department is now terminating this review and revising the agreement suspending this antidumping investigation.

EFFECTIVE DATE: August 1, 1991.

FOR FURTHER INFORMATION CONTACT: Melissa Skinner or Steven Presing, Office of Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-4851 or (202) 377-4106, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 6, 1986, the Department of Commerce (the Department) suspended the antidumping investigation involving erasable programmable read only memory semiconductors (EPROMs) from Japan (51 FR 28253). The basis for the suspension is an agreement by the Japanese producers/exporters which account for substantially all of the known imports of these products from Japan, to revise their prices to eliminate sales of this merchandise to the United States at less than fair value.

On August 31, 1990, the Department received timely requests from six of the signatories to the suspension agreement, in accordance with 19 CFR 353.25(b) (1990) of the Department's regulations, for termination of the suspended investigation on EPROMs from Japan. Included in those requests, the signatories provided certifications that their respective companies: (1) Did not sell products subject to the suspension agreement at less than the foreign market value during the period from the effective date of the suspension agreement to present; and (2) would not in the future sell covered products at less than foreign market value. Pursuant to 19 CFR 353.25(c), the Department considered these requests as including requests for administrative review, and on September 14, 1990, the Department initiated a review to determine whether termination is appropriate (55 FR 37925).

On July 11, 1991, the Department published a notice requesting comments on the proposed revision of the agreement suspending the antidumping investigation on EPROMs from Japan (56 FR 31613). In order to ascertain whether the signatories to the suspension agreement continue to account for substantially all imports of these products from Japan, on June 28, 1991, the Department requested information on total quantity and sales value of EPROMs exported to the United States [19 CFR 353.18(c) (1990) requires that the agreement be signed by exporters (producers and resellers) who account for not less than 85 percent by value or volume of the merchandise]. The Department provided a copy of the proposed revision of the agreement suspending the antidumping investigation on EPROMs to current signatories and known exporters of EPROMs to the United States on July 3, 1991.

We received data on total quantity and value of EPROM exports to the United States from: Fujitsu Limited and Fujitsu Microelectronic, Inc. (Fujitsu); Hitachi, Ltd. (Hitachi); Mitsubishi Electric Corporation and Mitsubishi Electronics America, Inc. (Mitsubishi); NEC Corporation (NEC); OKI Electric Industry Company, Ltd. (Oki); Sanyo Electric Company Ltd. (Sanyo); Sharp Corporation (Sharp); Texas Instruments Japan Limited (TIJ); and Toshiba Corporation (Toshiba). On July 22, 1991, the Department received comments from NEC regarding the proposed revision to the suspension agreement.

The Department has taken into consideration all information and comments received. In response to data received, the Department has determined that Fujitsu, Hitachi, Mitsubishi, NEC, Sanyo, Sharp, and Toshiba, account for substantially all imports of these products from Japan and therefore, in accordance with 19 CFR 353.18(c) (1990), must sign the revised suspension agreement.

In response to comments received from NEC, we have amended section IV.B.1. of the revised agreement to clarify that data would be collected on a calendar quarterly basis, except as

provided in section VI(C) of the revised agreement.

Based on comments from interested parties, we have determined that the revised suspension agreement will eliminate sales of this merchandise to the United States at less than fair value, that the revised agreement can be monitored effectively, and that the revised agreement is in the public interest. We find, therefore, that the criteria for suspension of an investigation pursuant to section 734 of the Act have been met by the revised EPROM suspension agreement. The terms and conditions of the revised agreement, signed July 31, 1991, are set forth in appendix 1 to this notice.

This notice is published pursuant to section 734(f)(1)(A) of the Tariff Act of 1930, as amended (19 U.S.C. 1673c(f)(1)(A)), and section 353.18(h)(1) of Commerce regulations (19 CFR 353.18(h)(1)).

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

Appendix 1: Revision of Suspension Agreement— Erasable Programmable Read Only Memory Semiconductors From Japan

Pursuant to the provision of sections 734(b) and 734(d) of the Tariff Act of 1930, as amended (19 U.S.C. 1673c(b), 1673c(d)) (the "Act"), and § 353.18 of the Department of Commerce (the "Department") Regulations (19 CFR 353.18) (1990), the Department and the signatory producers/exporters of erasable programmable read only memory semiconductors ("EPROMS") from Japan enter into this revised suspension agreement ("the Agreement"). This Agreement revises and supersedes the suspension agreement covering EPROMS from Japan signed on July 30, 1986. On the basis of this revised suspension agreement, the Department shall continue to suspend its antidumping investigation initiated on October 21, 1985 (50 FR 43603, October 28, 1985), with respect to EPROMS from Japan subject to the terms and provisions set forth below.

I. Product Coverage

The following merchandise is subject to this Agreement: (1) EPROMS produced in Japan, whether in the form of processed wafers, unmounted die, mounted die, or assembled devices however packaged (ceramic, plastic, or other) ("merchandise subject to this Agreement").

(2) Processed wafers and dice produced in Japan and assembled into finished EPROMS, or other merchandise of the same class or kind, in another country prior to importation into the United States.

Finished EPROMS are currently classifiable under item numbers 8542.11.00586, 8542.11.00595 and 8542.11.00602 of the Harmonized Tariff Schedules of the United States ("HTS"). Unassembled EPROMS, including processed wafers and mounted and unmounted die, are currently classifiable under HTS item number 8542.11.00014.

II. U.S. Import Coverage

The signatory producers/exporters collectively are the producers and resellers in Japan which currently account for substantially all (not less than 85 percent) of the merchandise imported into the United States, as provided in the Department's regulations. The Department may at any time during the period of this Agreement require additional producers/exporters in Japan to sign this Agreement in order to ensure that no less than substantially all imports into the United States are covered by this Agreement.

III. Basis for the Agreement

In order to satisfy the requirements of section 734(b) of the Act, each signatory producer/exporter of semiconductors from Japan, individually, agrees to make any necessary price revisions to eliminate completely any amount by which the foreign market value of its merchandise exceeds the United States price. For this purpose, the foreign market value will be determined in accordance with section 773 of the Act, and U.S. price in accordance with section 772 of the Act.

IV. Monitoring of the Agreement

A. General Monitoring Provisions

1. The Department will monitor entries of EPROMS from Japan to ensure compliance with Section III of this Agreement.

2. Each signatory producer/exporter agrees to supply the Department with any information and any documentation which the Department may require to ensure that the signatory producer/exporter is in full compliance with the terms and conditions of this Agreement.

3. The Department may conduct administrative reviews under section 751 of the Act, upon request or upon its own initiative, to ensure that exports of EPROMS from Japan are at prices consistent with the terms of this Agreement. The Department may perform verifications pursuant to administrative reviews conducted under section 751 of the Act.

4. The Department may also request the U.S. Customs Service to direct ports of entry to forward an Antidumping Report of Importations for entries of semiconductors during the period this Agreement is in effect.

B. Specific Monitoring Provisions

1. The signatory producers/exporters shall collect and maintain transaction specific data by representative product type, on the quantity and value of sales of the merchandise subject to this Agreement to the United States and in the home market price in accordance with sections 772 and 773 of the Act and the Department's current practice. Cost of production information shall also be collected and maintained, by representative product type, on the total quantity and value of sales: (1) To the United States; (2) in the home market; (3) to countries other than the United States; and (4) on a country-by-country basis, to the five largest countries other than the United States. All information will be collected and maintained on a continuous basis for the most recent four calendar quarters (*i.e.*, January-March, April-June, July-September, and October-December) completed beginning after the effective date of this Agreement. Cost and price data would be collected no later than 60 days from the end of the relevant calendar quarter except as provided in section VI(C) of this Agreement.

2. Each of the individual signatory producers/exporters will review the price and cost data collected under section IV(B)(1) of this Agreement to ensure that its exports of EPROMS from Japan are at prices consistent with the terms of this Agreement.

3. The Department will review publicly available data as well as Customs Form 7501, entry summaries, and other official import data from the Bureau of the Census, on a monthly basis, to determine whether there have been imports that are inconsistent with the provisions of section III of this Agreement.

4. The Department will monitor Bureau of the Census IM–115 computerized records, which include the quantity and value of each entry. Because these records do not provide other specific entry information, such as the identity of the signatory producer/exporter which may be responsible for such sales, the Department may request the U.S. Customs Service to provide such information. The Department may request other additional documentation from the U.S. Customs Service.

V. Violation of the Agreement

A. "Violation" means noncompliance with the terms of this suspension agreement caused by an act or omission of a signatory producer/exporter, except, at the discretion of the Secretary, an act or omission which is inadvertent or inconsequential. Prior to making a determination of a violation, the Department will provide the signatories 10 days within which to provide comments.

B. If the Department determines that this Agreement is being or has been violated or no longer meets the requirements of sections 734 (b) or (d) of the Act, the Department will take such action as it determines is appropriate under section 734(i) of the Act and § 353.19 of the Department's regulations. In the event that the Department determines there is a violation under § 734(i) of the Act and issues an antidumping order, a signatory may request in writing a changed circumstances review and, in response to such request, the proceedings in accordance with § 353.22(f) of the Department's regulations, including an expedited action at the Secretary's discretion, may be conducted.

VI. Other Provisions

A. For purposes of section IV(B) of this Agreement, the representative product types of EPROMS are specified in the annex to this Agreement as the items for which the signatories will collect and maintain cost and price information. These items are representative of the EPROMS currently exported to the United States by the signatory producers/exporters. The Department reserves the right to revise the annex to ensure that the representative product types for which the signatories will collect and maintain cost and price information are representative of the types of EPROMS exported to the United States by the signatories and to prevent product selective dumping by the signatories. After notifying the signatories of the proposed changes to the list of representative product types, the Department will provide the signatories 10 days within which to provide technical comments on the intended changes.

B. If the Department has reason to believe that the signatories are not complying with section III of this Agreement, the Department may request the signatories to submit the price and cost information maintained under section IV(B)(1) of this Agreement. The signatories will submit this information to the Department in accordance with the provisions of subpart C of part 353 of the Department's regulations within 14 days of receipt of such a request.

C. Transitional Rule—The signatories will be required to collect and maintain data on a continuous basis for the period beginning August 1, 1991 and ending on December 1, 1991. If, under section VI(B) of this Agreement, the Department requests the signatories to submit price and cost information during this period, the signatories will be required to submit information for the period from August 1 through the date of the Department's request. This information will be submitted to the Department within 14 days of receipt of such a request. Information collected during the period August 1 through September 30, 1991, will be maintained by the signatories until January 1, 1993. Information collected during the period October 1 through December 1, 1991, will be maintained by the signatories until March 1, 1993. For the period beginning after December 1, 1991, data will be collected and maintained as described in section IV(B)(1) of this Agreement.

D. In reviewing the operation of this Agreement for the purpose of determining whether this Agreement has been violated or is no longer in the public interest, the Department will consider imports into the United States from all sources of the merchandise described in section I of this Agreement. For this purpose, the Department will consider factors including, but not limited to, the following: volume of trade, pattern of trade, whether or not the reseller is an original equipment manufacturer, and the reseller's purchase price.

E. The Department will notify the signatories of any relevant amendments to the antidumping law and the Department's corresponding regulations. In addition, upon request, the Department will advise any signatory producer/exporter on the Department's methodology for calculating its United States price and foreign market value.

F. In entering into this Agreement, the signatory producers/exporters do not admit that any sales of the merchandise subject to this Agreement have been made at less than fair value.

G. For purposes of sections IV(B)(2) of this Agreement, each signatory will compare, by representative product type, its home market price with its United States price of the merchandise subject to this Agreement. However, if its sales in the home market are at prices less than its cost of production, each of the signatory producers/exporters will compare, by representative product type, its United States price of the merchandise subject to this Agreement with its constructed value of the merchandise in accordance with section 773(e) of the Act and § 353.50 of the Department's regulations.

VII. Termination

Absent a likelihood of dumping, the Department expects to terminate this suspended investigation and Agreement by August, 1996.

VIII. Definitions

For purposes of this Agreement, the following definitions apply: A. U.S. Price—means the price at which merchandise is sold by the producer or reseller to the first unrelated party in the United States, including the amount of any discounts, rebates, price protection or ship and debit adjustments, and other adjustment affecting the net amount paid or to be paid by the unrelated purchaser, as determined by the Department under section 772 of the Act.

B. Foreign Market Value—means foreign market value as defined in section 773 of the Act and the corresponding sections of the Department's regulations.

C. Date of Sale—is the date on which the essential terms of sale, specifically price and quantity, are finalized to the extent that they are outside the parties' control, normally the date of confirmation of sales.

IX. Effective Date

The effective date of this revision on the agreement suspending the antidumping investigation on EPROMS is August 1, 1991.

Signed on this 31st day of July, 1991.

For Japanese producers/exporters.

Mark D. Herlach,
NEC Corporation.
Carl W. Schwarz,
Hitachi, Ltd.
Warren E. Connelly,
Fujitsu, Ltd.
Thomas P. Ondeck,
Mitsubishi Electric Corp.
David P. Houlihan,
Toshiba Corp.
Gail T. Cumins,
Sanyo Electric Co.
Peter J. Gartland,
Sharp Electric Co.

For U.S. Department of Commerce.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

ANNEX TO REVISED SUSPENSION AGREEMENT.—EPROMS FROM JAPAN

Product	Subgroup	Representative product type (Note: All speeds)
EPROM:		
	64K	8K*8 NMOS CER DIP
	128K	16K*8 CMOS CER DIP
	256K	32K*8 CMOS CER DIP
	512K	64K*8 CMOS CER LCC
		64K*8 CMOS CER DIP
	1Mb	128K*8 CMOS CER DIP
		128K*8 CMOS PLCC
		64K*16 CMOS CER DIP
		64K*16 CMOS PLCC
	2Mb	256K*8 CMOS CER DIP
		256K*8 CMOS PLCC
		128K*16 CMOS CER DIP
		128K*16 CMOS PLCC
	4Mb	512K*8 CMOS CER DIP
		512K*8 CMOS PLCC
		256K*16 CMOS CER DIP
		256K*16 CMOS PLCC

[FR Doc. 91-18753 Filed 8-6-91; 8:45 am]

BILLING CODE 3510-DS-M

[A-122-813]

Initiation of Antidumping Duty Investigation: Nepheline Syenite From Canada

AGENCY: Import Administration, International Trade Administration, Commerce

EFFECTIVE DATE: August 7, 1991.

FOR FURTHER INFORMATION CONTACT: John Gloninger, Office of Antidumping Investigations, Import Administration, U.S. Department of Commerce, room B099, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377-2778.

Initiation

The Petition

On July 12, 1991, The Feldspar Corporation (TFC) filed with the Department of Commerce (the Department) an antidumping duty petition on behalf of a regional United States industry producing feldspar and aplite, alleged to be like products to nepheline syenite. In accordance with 19 CFR 353.12, the petitioner alleges that imports of nepheline syenite from Canada are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports are materially injuring, or threaten material injury to, domestic producers of the like products, feldspar and aplite, located within the region.

The petitioner has stated that it has standing to file the petition because it is an interested party, as defined in 19 CFR 353.2(k), and because it has filed the petition on behalf of the regional U.S. industry producing like products.

On July 25, 1991, the Department received a letter from Unimin Corporation (Unimin), a domestic feldspar producer located near to, but outside, the region identified in the petition. Unimin is also the parent of the sole Canadian exporter of nepheline syenite. The Department agreed to receive Unimin's submission because it was uncertain whether Unimin was a target and/or a member of the domestic industry, and because Unimin was raising the issue of the petitioner's standing. In its submission, Unimin argued that TFC lacks standing to file this petition because: (1) TFC's products are not like products, and (2) if TFC's products are determined to be like products, then the Department's analysis of whether TFC represents the industry should include producers of other like products. Unimin requested that the Department immediately make a like product determination regarding TFC's feldspar and aplite products.

The Department has determined that since Unimin is sole owner of the Canadian nepheline syenite exporter, the Department is precluded under *Roses Inc.* v. *United States*, 706 F.2d 1563 (Fed. Cir. 1983) and 19 CFR 353.12(i) from considering Unimin's arguments. Further, since Unimin is also located outside the region as alleged by the petitioner, the Department is precluded from considering Unimin a part of the regional domestic industry under *Gilmore* v. *United States*, 7 CIT 219, 585 F.Supp. 670 (1984). However, the Department will reexamine the standing issue should the International Trade Commission (ITC) determine that the boundaries of the region are such that Unimin would fall within them. If any interested party, as described in 19 CFR 353.2(k)(3), (4), (5), or (6), wishes to register support for, or opposition to, this investigation, please file written notification with the Assistant Secretary for Import Administration.

United States Price and Foreign Market Value

The petitioner bases United States Price for glass-grade and fiberglass-grade nepheline syenite on information from U.S. parties and its own experience. The information consists of sales reports or other similar documentation identifying a price which the petitioner would need to meet to receive an order, or the margin by which a quotation was not competitive. The petitioner adjusted the FOB Canada prices by deducting freight charges.

The petitioner bases foreign market value for glass-grade (grade 340) nepheline syenite on information from a source in Canada. The petitioner calculated foreign market value for fiberglass-grade (grade 333) nepheline syenite by first calculating the difference between Unimin's price on grade 340 and grade 333 as published in Industrial Minerals and then subtracting this difference from the grade 340 price. Petitioner made no adjustments to foreign market value.

Based on a comparison of U.S. price and foreign market value, petitioner alleges dumping margins of 1.13 percent to 18 percent, depending on grade and quantity.

Initiation of Investigation

Under 19 CFR 353.13(a), the Department must determine, within 20 days after a petition is filed, whether the petition properly alleges the basis on which an antidumping duty may be imposed under section 731 of the Act, and whether the petition contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on nepheline syenite from Canada and find that it meets the requirements of 19 CFR 353.13(a). Therefore, we are initiating an antidumping duty investigation to determine whether imports of nepheline syenite from Canada are being, or are likely to be, sold in the United States at less than fair value.

In accordance with 19 CFR 353.13(b) we are notifying the ITC of this action.

Any producer or reseller seeking exclusion from a potential antidumping duty order must submit its request for exclusion within 30 days of the date of the publication of this notice. The procedures and requirements regarding the filing of such requests are contained in 19 CFR 353.14.

Scope of Investigation

The product covered by this investigation is nepheline syenite which is a coarse crystalline rock consisting principally of feldspathic minerals (*i.e.*,

sodium-potassium feldspars and nepheline), with little or no free quartz, and ground no finer than 140 mesh. Nepheline syenite is currently classifiable under item 2529.30.0010 of the Harmonized Tariff Schedule (HTS). Although the HTS subheading is provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Preliminary Determination by ITC

The ITC will determine by August 26, 1991, whether there is a reasonable indication that imports of nepheline syenite from Canada are materially injuring, or threaten material injury to, a U.S. industry. If its determination is negative, the investigation will be terminated. If affirmative, the Department will make its preliminary determination on or before December 19, 1991, unless the investigation is terminated pursuant to 19 CFR 353.17 or the preliminary determination is extended pursuant to 19 CFR 353.15.

This notice is published pursuant to section 732(c)(2) of the Act and 19 CFR 353.13(b).

Dated: August 1, 1991.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 91-18751 Filed 8-6-91; 8:45 am]

BILLING CODE 3510-DS-M

[A-122-401]

Red Raspberries From Canada; Final Results of Antidumping Duty Administration Review

AGENCY: International Trade Administration/Import Administration Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: In response to requests from the petitioners and three respondents, the Department of Commerce has conducted an administrative review of the antidumping duty order on fresh and frozen red raspberries from Canada. The review covers twelve processors/exporters of this merchandise to the United States and the period June 1, 1989 through May 31, 1990.

We gave interested parties an opportunity to comment on our preliminary results, published on April 25, 1991 (56 FR 19087). Based on our analysis of the comments received, the final results of review have changed for one respondent, Universal Packers. The final margins now range from zero to 4.43 percent.

EFFECTIVE DATE: August 7, 1991.

FOR FURTHER INFORMATION CONTACT: Sylvia Chadwick, Mark Spellun, or Maria MacKay, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On April 25, 1991, the Department of Commerce (the Department published in the **Federal Register** (56 FR 19087) a notice of the preliminary results of review of the antidumping duty order on certain red raspberries from Canada (50 FR 26019; June 24, 1985) for the period June 1, 1989 through May 31, 1990. The Department has now completed the administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act).

Scope of the Review

Imports covered by this review are shipments of fresh and frozen red raspberries packed in bulk containers and suitable for further processing. These products are classifiable under the Harmonized Tariff Schedule (UTS) item numbers 0810.20.90, 0810.20.10, and 0811.20.20. The HTS item numbers are provided for convenience and customs purposes. The written description remains dispositive.

The review covers twelve processors/exporters of Canadian red raspberries and the period June 1, 1989 through May 31, 1990.

Five processors/exporters reported no shipments during the review period.

Analyis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received comments from the respondents, B.C. Blueberry Co-op, Clearbrook Packers Inc., Mukhtiar & Sons Packers Ltd., Universal Packers Inc., and Valley Berries Inc. and from the petitioners, the Washingtron Red Raspberry Commission and the Red Raspberry Committee of the Oregon Caneberry commission.

Comment 1: Respondents contend that the petitioners lack standing to request reviews because there is no evidence on the record of this segment of the proceeding that the Washington Red Raspberry Commission (WRRC) and the Red Raspberry Regional Relations Committee of the Oregon Caneberry Commission (OCC) qualify as interested parties within the meaning of section 771(9) (E) or (G) of the Tariff Act (19 U.S.C. 12677(9)(E) and 19 U.S.C. 1677(9)(G), respectively). Respondents assert that there is no evidence on the record indicating that WRRC or OCC is a trade or business association, a majority of whose members are producers or wholesalers of bulk-packed red raspberries. Nor is there evidence on the record that the WRCC and OCC are members of an industry engaged in producing a processed agricultural product. Therefore, petitioners' request for review of Universal Packers Inc. (Universal) and Valley Berries Inc. (Valley is invalid and Universal and Valley should be excluded from the review.

Petitioners point out that the Department has consistently rejected respondents' claim that WRRC and OCC lack standing as interested parties in this as well as in the two previous segments of this proceeding and granted APO requests to the petitioners. Petitioners cite their submission of July 17, 1990 as factual evidence in the record of these proceedings regarding the composition and organization of both Commissions. Petitioners point out that at no time in the review have respondents presented any new evidence to contradict the Department's prior standing determination. For these reasons, petitioners contend that the Department properly initiated and conducted the review on Universal and Valley.

Department's Position: Respondents have raised the identical argument about WRCC's and OCC's status as interested parties on numerous occasions and the Department has stated its position on those occasions. See, e.g., the Department's letter to Cameron and Hornbostel dated October 4, 1990 with enclosed APO and Red Raspberries from Canada—Notice of Final Results of Antidumping Duty Administrative Review (56 FR 677; January 8, 1991) (hereinafter Raspberries, Final Results).

Since the respondent has submitted no new information concerning the WRRC or the OCC, we stand by our position that the WRRC and OCC qualify as interested parties. Therefore, the request for review of Universal and Valley remains valid.

Comment 2: Respondents Clearbrook, Mukhtiar and Universal contend that their claimed adjustments for imputed commissions should be allowed on sales made by management in the home market. Alternatively, respondents argue that, under the special rule of 19 CFR 353.56(b), adjustments should be allowed for selling expenses incurred on home market sales made by management.

Petitioners argue that no commission was actually paid to management and

the Department has refused to allow the imputed commission in the previous review.

Department's Position: In Raspberries; Final Results, the companies claimed a management commission based on the fact that selling was one of management's responsibilities. The amount claimed was based on the percentage that would have been paid had a broker arranged the sale. Since the imputed commission claimed for management was not an actual commission expense that the companies incurred, we disallowed the adjustment. Where actual commissions were paid, the Department appropriately allowed the commission adjustment. In this review, where an actual commission was paid in the U.S. market and not in the home market, we allowed an adjustment for home market indirect selling expenses up to the amount of the U.S. commission for Muhktiar, Clearbrook and Universal.

Comment 3: Respondent requests that the Department revise its calculations to include an omitted margin calculation for one of B.C. Blueberry's invoices.

Department's Position: The margin calculation has been included and the B.C. Blueberry calculations revised resulting in no change to the final margin.

Final Results of the Review.—As a result of our review, we determine the weighted average dumping margins to be as follows:

Processor/exporters	Margin (percent) 6/1/89–5/31/90
BB Fruit Packing	(1)
BC Blueberry Co-op	0.00
Berry Best	22.76
Clearbrook Packers	0.07
East Chilliwack Fruit Growers Co-op	(1)
Jesse Processing, Ltd	22.76
Marco Estates/Landgrow	(1)
Mukhtiar & Sons	0.00
Pacific Coast Fruit Products	(1)
Sabolay	(1)
Universal Packers	4.43
Valley Berries	1.77

[1] No shipments reported during the review period.

The Department will instruct the Customs Service to assess antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions directly to the Customs Service. Further, as provided for by section 751(a)(i) of the Tariff Act, a cash deposit of estimated antidumping duties based on the above margins will be required for these processors/exporters. Since B.C. Blueberry and Mukhtiar & Sons had no margins, and the margin for Clearbrook Packers is *de minimis,* no cash deposit will be required for these processors/exporters. For shipments from the remaining known processors/exporters, the cash deposit will continue to be at the latest rate applicable to each of those firms. For all other processors/exporters of this merchandise, the cash deposit rate shall be 4.43 percent. This is the highest non-BIA rate for any firm included in this review with shipments during the period. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: July 31, 1991.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 91–18752 Filed 8–6–91; 8:45 am]

BILLING CODE 3510–DS–M

National Oceanic and Atmospheric Administration

Marine Mammals: Issuance of Permit Modification; NMFS, Southeast Fisheries Science Center (P77#51)

Modification No. 1 to Permit No. 738

Notice is hereby given that pursuant to the provisions of §§ 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), Scientific Research Permit No. 738 issued to the Southeast Fisheries Science Center, National Marine Fisheries Service, 75 Virginia Beach Drive, Miami, Florida 33149, on May 16, 1991 (56 FR 23684) is modified in the following manner:

A. Number and Kind of Marine Mammals

Item 3 is added:

3. Up to 10,000 Atlantic bottlenose dolphins (*Tursiops truncatus*) may be taken by harassment while conducting low-level monitoring of bottlenose dolphin stocks. Stock surveys of bottlenose dolphin will occur throughout the NMFS Southeast Region.

B. Special Conditions

All applicable conditions of Permit No. 738 shall apply and are made a part of the this Modification.

This Modification becomes effective upon publication in the **Federal Register.**

The Permit and Modification documentation are available for review in the following offices:

By appointment: Permit Division, Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Hwy., Silver Spring, Maryland 20910 (301/427–2289); and

Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Blvd., St. Petersburg, Florida 33702 (813/893–3141).

Dated: July 26, 1991.

Nancy Foster,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 91–18646 Filed 8–6–91; 8:45 am]

BILLING CODE 3510–22–M

COPYRIGHT OFFICE, LIBRARY OF CONGRESS

[Docket No. 91–10]

Policy Decision: Revised Special Handling Procedures

AGENCY: Copyright Office, Library of Congress.

ACTION: Policy Decision: Notice of revised procedures.

SUMMARY: The Copyright Office of the Library of Congress issues this Policy Decision to inform the public of changes in the procedure for requesting and obtaining special handling, i.e., expedited service, in connection with registration of claims to copyright, recordation of documents, and other services rendered to the public under the Copyright Act, title 17 of the U.S. Code. The basic procedures and the fee for the special handling service are unchanged. The Copyright Office will now accept payment for the special handling service by personal check and the required justification has been simplified.

EFFECTIVE DATE: August 7, 1991.

FOR FURTHER INFORMATION CONTACT: Dorothy Schrader, General Counsel, U.S Copyright Office, Library of Congress, Washington, DC 20559; (202) 707–8380.

SUPPLEMENTARY INFORMATION:

1. Background

Section 708(a) of the Copyright Act, title 17 of the United States Code, prescribes a schedule of fees that must be remitted to the Copyright Office on filing applications to register claims to copyright, to record documents pertaining to copyright, and for other services rendered to the public under the Act. Subsection (10) of section 708(a) gives the Register of Copyrights the

authority to fix a fee for any special services requiring a substantial amount of time or expense based on the cost of providing the special service.

"Special handling" is a procedure established within the Copyright Office to reduce the length of time required to process an application for registration of a claim of copyright or to record a document pertaining to copyright. Special handling is granted at the discretion of the Register of Copyrights in a limited number of cases as a service to copyright registrants who have compelling reasons for the expedited issuance of a certificate of registration or a certificate of recordation of a document. In June 1982, a special handling fee for registration was fixed by the Register of Copyrights.

Special handling of requests for issuance of a certificate of registration impacts upon every step of the registration process. Under normal procedures applications for registration pass through the various processing steps in groups which are administratively efficient. A claim that receives special handling must be processed outside of the normal work flow necessitating individual handling at each step and individual routing between work stations. A separate system of controls must be maintained for the special handling of claims to assure both that they move expeditiously through the necessary procedures and that they can be located quickly if the need should arise. Each of these activities involves more employee time than claims in the normal work flow since employees could otherwise be more efficiently occupied processing ordinary claims.

The copyright Office reviewed its experience under these procedures in 1984 and re-evaluated the costs associated with special handling of registration applications. The Office found that processing of special handling requests involved more special administrative procedures than had been identified at the time the Register set the original special handling fee. The Office also found that the large number of special handling requests was more disruptive of routine processing procedures than we anticipated. The Register of Copyrights consequently determined that the special handling fee would be increased to $200 to recover the administrative costs of providing this special service. At that time the Office also established a fee for processing multiple applications. In 1985 the Register of Copyrights determined that the fee for the special handling of a recordation of a document should be $200, based on the cost of this service.

Under the authority of section 708(a)(10) the Register of Copyrights determined that the requestor of special handling service should pay, in addition to the normal applicable filing fee or recordation fee, the cost of additional staff time involved in the special handling of cases, computed at overtime rates plus a reasonable administrative fee.

The special handling fee is charged for each application for registration or for each recordation of a document pertaining to copyright for which special handling service is requested and granted, with the following exception: If special handling is requested for only one of several claims submitted at the same time with a single deposit, which is an acceptable deposit for all the claims, the fee for processing the additional claims is $50.00 each plus the filing fee for each claim. The claim for which special handling is requested is processed for the $200.00 special handling fee plus the filing fee. This narrow exception applies only where a single set of deposit copies may appropriately be submitted to register multiple claims, in accordance with the practices of the Copyright Office. The applicant is given the option of submitting an additional set of copies for each application to avoid assessment of the special $50.00 fee. If multiple applications are accompanied by individual sets of deposit copies, claims for which special handling is not requested are processed routinely. Only the claims(s) for which special handling is requested and granted are processed specially.

If the request for special handling is granted, the fee is not refundable. The Copyright Office makes every effort to process the claim within five working days after the request has been approved. Within that period the Office either issues the certificate of registration or notifies the applicant of any defect in the claim. If correspondence is required, the Office will make every effort to process the claim expeditiously after the reply is received.

2. Policy Revisions

Recently, the Copyright Office reviewed the general policies governing special handling. Based on this review, the Office confirms the policies described about but makes the following adjustments regarding the payment of the fee and the averment required to justify a request for special handling.

a. *Personal checks.* Under existing policies, the Copyright Office has required payment of the special handling fee in the form of cash, certified check, cashier's check, or money order. Personal checks have not been accepted. The Office has noted that this policy poses problems for those who request special handling by mail: The Office returns the personal check and must delay processing the special handling request until acceptable payment is received. After several years of experience with special handling, the Office is prepared to change its policy and accept personal checks in payment of the special handling fee. The Office cautions, however, that the registration or recordation will be cancelled if the check is returned for insufficient funds. The Office will refuse to accept future personal checks from a special handling requestor once any personal check is returned for insufficient funds.

b. *Justification for special handling.* Requests for special handling are only granted in cases involving pending or prospective litigation, customs matters, or contract or publishing deadlines that necessitate the expedited issuance of a certificate. The existing policy requires requestors to use the form available in the Public Office or to submit a cover letter answering various questions concerning the need for special handling. The Office has decided to accept either the special form or a letter that clearly answers the question: "Why is there a need for special handling?" In either case the request must include a signed statement certifying that the information contained in the request is true.

3. Procedure for Requesting Special Handling

Requests for special handling may be made in person on the form available in the Public Information Office of the Copyright Office, room LM–401, James Madison Memorial Building, Library of Congress, 101 Independence Avenue, SE., Washington, DC. The Office will also consider requests by mail provided that the Special Handling Request form is used or a cover letter submitted, which gives an answer to the following question: "Why is there an urgent need for special handling?" It is also necessary to certify that the answer to this question is correct to the best of the requestor's knowledge. A mailed request for special handling should be sent to: Library of Congress, Box 100, Washington, DC 20540.

Note: Use this address exactly as shown. Do not include a reference to the Copyright Office or any other information.

The letter inside should clearly indicate that it is a request for special handling.

The request for special handling of a registration must be accompanied by a completed application, the required deposit copies, phonorecords, or identifying material, and the $200.00 fee plus the applicable filing fee. The request for special handling of a recordation of a document pertaining to copyright must be accompanied by a document meeting the requirements for recordation and the $200 fee plus recordation fees ($20 for a document listing no more than 1 title, plus $10 for each group of 10 or fewer additional titles). The fee may be charged to a deposit account established in the Copyright Office. If the deposit account contains insufficient funds to cover the total special handling fee, or if the remitter does not maintain a deposit account, the total special handling fee may be paid either in person at the Public Information Office in Washington, DC, or it may be remitted by mail. Such payment must be in cash, check, or money order made payable to the Register of Copyrights. Cash should not be sent by mail, however.

A request for special handling will be granted only in cases involving pending or prospective litigation, customs matters, or contract or publishing deadlines that necessitate the expedited issuance of a certificate. Special handling procedures may be applied to cases pending in the Copyright Office, provided the previously mentioned criteria are met.

Dated: July 30, 1991.

Ralph Oman,

Register of Copyrights.

[FR Doc. 91-18686 Filed 8-6-91; 8:45 am]

BILLING CODE 1410-07-M

COPYRIGHT ROYALTY TRIBUNAL

[CRT Docket No. 91-5-90SCD]

Ascertainment of Whether Controversy Exists Concerning Distribution of 1990 Satellite Carrier Royalty Fund

AGENCY: Copyright Royalty Tribunal.

ACTION: Notice.

SUMMARY: The Copyright Royalty Tribunal directs all claimants to royalty fees paid by satellite carriers for secondary transmissions during 1990 to submit any comments concerning whether a controversy exists with regard to the distribution of the 1990 satellite carrier royalty fees. All claimants intending to participate in the 1990 proceeding shall include with their comments a Notice of Intent to Participate. The Tribunal also seeks comments concerning the advisability of consolidating the 1990 distribution proceeding with the 1989 distribution proceeding.

DATE: September 6, 1991.

ADDRESSES: An original and five copies should be sent to: Chairman, Copyright Royalty Tribunal, 1825 Connecticut Avenue NW., suite 918, Washington, DC 20009.

FOR FURTHER INFORMATION CONTACT: Robert Cassler, General Counsel, Copyright Royalty Tribunal, 1825 Connecticut Avenue NW., suite 918, Washington, DC 20009 (202-606-4400).

Dated: August 2, 1991.

Mario F. Aguero,

Chairman.

[FR Doc. 91-18738 Filed 8-6-91; 8:45 am]

BILLING CODE 1410-09-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Department of Defense Wage Committee; Closed Meetings

Pursuant to the provisions of section 10 of Public Law 92-463, the Federal Advisory Committee Act, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, August 6, 1991; Tuesday, August 13, 1991; Tuesday, August 20, 1991; and Tuesday, August 27, 1991, at 10 a.m. in room 1E801, The Pentagon, Washington, DC.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Force Management and Personnel) concerning all matters involved in the development and authorization of wage schedules for federal prevailing rate employees pursuant to Public Law 93-392. At this meeting, the Committee will consider wage survey specifications, wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Public Law 92-463, meetings may be closed to the public when they are "concerned with matters listed in 5 U.S.C. 552b." Two of the matters so listed are those "related solely to the internal personnel rules and practices of an agency," (5 U.S.C. 552b(c)(2)), and those involving "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. 552b(c)(4)).

Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy/Equal Opportunity) hereby determines that all portions of the meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 U.S.C. 552b(c)(2)), and the detailed wage data considered were obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552(b)(c)(4)).

However, members of the public who may wish to do so are invited to submit material in writing to the chairman concerning matters believed to be deserving of the Committee's attention.

Additional information concerning this meeting may be obtained by writing the Chairman, Department of Defense Wage Committee, room 3D264, The Pentagon, Washington, DC 20301.

Dated: August 2, 1991.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 91-18737 Filed 8-6-91; 8:45 am]

BILLING CODE 3810-01-M

Department of the Air Force

USAF Scientific Advisory Board; Meeting

The USAF Scientific Advisory Board's Ad Hoc Committee on Alternative Strategies for Software and Computer Processor Upgrades to Softward Intensive Aircraft will meet on 13-15 August 1991 from 8 a.m. to 5 p.m., HQ AFLC, Wright-Patterson AFB, Ohio.

The purpose of this meeting is to gather information in support of the study.

The meeting will be closed to the public in accordance with section 552b(c) of title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the Scientific Advisory Board Secretariat at (703) 697-4811.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 91-18713 Filed 8-6-91; 8:45 am]

BILLING CODE 3910-01-M

USAF Scientific Advisory Board; Meeting

The USAF Scientific Advisory Board of the Ad Hoc Committee Study of Off-Board Sensors—Summer Study 1991 will meet on 24 August 1991 from 8 a.m. to 1:00 p.m. at the Pentagon, DC.

The purpose of this meeting is to present the results of the study to the Air Force Vice Chief of Staff and senior Air Force leaders. This meeting will involve discussions of classified defense matters listed in section 552b(c) of title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientic Advisory Board Secretariat at 703–697–4648.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 91–18648 Filed 8–6–91; 8:45 am]

BILLING CODE 3910–01–M

USAF Scientific Advisory Board; Meeting

July 26, 1991.

The USAF Scientific Advisory Board of the Ad Hoc Committee on Science and Technology (S&T) Broad Program Appraisal (BPA) will meet on August 26, 1991, from 8 a.m. to 5 p.m. at ANSER Corporation, 1215 Jefferson Davis Highway, Arlington, VA 22202.

The purpose of this meeting is to develop the Committee's observations and comments on the Air Force S&T programs for presentation to the Air Force Acquisition Executive (AFAE) to assist him in his decisions to approve/disapprove the Technology Area Plans (TAPs) and the Technology Investment Plans (TIPs) submitted for the management of these programs. This meeting will involve discussions of: (1) Classified defense and (2) contractor proprietary matters listed in section 552b(c) of title 5, United States Code, specifically subparagraphs (1) and (4) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (703) 697–8404.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 91–18649 Filed 8–6–91; 8:45 am]

BILLING CODE 3910–01–M

USAF Scientific Advisory Board; Meeting

The USAF Scientific Advisory Board (SAB) Ad Hoc Committee on Hypersonic Technologies will meet from 8 a.m. to 5 p.m. on 9–11 September 1991 at ANSER Corporation, 1215 Jefferson Davis Highway, Arlington, VA.

The purpose of this meeting is to work on the final study report. The meeting will be closed to the public in accordance with section 552b(c) of title 5, United States Code, specifically subparagraphs (1) and (4).

For further information, contact the SAB Secretariat at (703) 697–8404.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 91–18650 Filed 8–6–91; 8:45 am]

BILLING CODE 3910–01–M

Department of the Army

Closure of U.S. Army Materials Technology Laboratory, Watertown, MA; Availability of Final Environmental Impact Statement

AGENCY: U.S. Army, DOD.

ACTION: Notice of Availability of the Final Environmental Impact Statement (FEIS) for the closure of the U.S. Army Materials Technology Laboratory (AMTL), Watertown, Massachusetts.

SUMMARY: The Army announced today the availability of its Final Environmental Impact Statement (FEIS) relating to the closure of the U.S. Army Materials Technology Laboratory (AMTL), Watertown, Massachusetts.

No significant impacts of closure were found. The Army will prepare separate National Environmental Policy Act (NEPA) documents to address the effects of construction at receiving installations and for AMTL remediation, property excessing, and specific reuse alternatives.

The closure of AMTL is the result of the December 29, 1988 recommendation of the Secretary of Defense's Commission on Base Realignments and Closures. Implementation complies with the Defense Authorization Amendments and Base Closure and Realignment Act, Public Law 100–526.

The closure of AMTL will result in the relocation of 351 positions (12 military and 339 civilians) by 30 September 1995. Fort Belvoir is scheduled to gain 178 positions (six military and 172 civilians). Picatinny Arsenal will gain 101 positions (one military and 100 civilians). Detroit Arsenal will gain 62 positions (one military and 61 civilians). There will be minor transfers to Natick Laboratory, Massachusetts (three military and five civilians), Fort Devens, Massachusetts (one civilian), and Adelphi, Maryland (one military). Approximately two military and 225 civilian positions will be eliminated. Aggressive personnel outplacement actions will continue to find new jobs (DOD, Federal agencies, or other government or private organizations) for these personnel.

Execution of all or some of the decisions analyzed in this document are subject to change based on the Defense Base Closure and Realignment Act of 1990. Specifically, the Secretary of Defense recommended to the 1991 Defense Base Closure and Realignment Commission the formation of the Combat Materials Research Laboratory (CMRL). Those AMTL activities, less Structures element, scheduled to move to Picatinny Arsenal, New Jersey, Fort Belvoir, Virginia and Detroit Arsenal, Michigan, move to Aberdeen Proving Ground, a secondary CMRL site. The Structures element moves to the National Aeronautic and Space Administration—Langley Research Center at Hampton, Virginia.

This recommendation, if not disapproved, is subject to additional environmental impact analysis and documentation.

No action will be taken until thirty days from the FEIS filing with the Environmental Protection Agency and publication of the Notice of Availability in the Federal Register. Following the 30 day waiting period, a Record of Decision will be filed with the Army Environmental Office.

The FEIS is available to the public through the U.S. Army Corps of Engineers, New England Division, 424 Trapelo Road, Waltham, Massachusetts 02254–9149 or by calling (617) 647–8029.

Lewis D. Walter,

Deputy Assistant Secretary of the Army, (Environment, Safety and Occupational Health) OASA (I,L&E).

[FR Doc. 91–18730 Filed 8–6–91; 8:45 am]

BILLING CODE 3710–08–M

Patent Availability

ACTION: Notice.

AGENCY: Walter Reed Army Institute of Research, DOD.

SUMMARY: The Department of the Army announces the general availability of exclusive, partially exclusive, or nonexclusive licenses under United States Patent Application Serial No. 07/609,318 filed on 5 November 1990, and entitled, "Method For The In Vitro Production of Protein From a DNA Sequence Without Cloning: Expression-Polymerase Chain Reaction (E–PCR) Technique." Any licenses granted shall comply with U.S.C. 209 and 37 CFR part 404.

FOR FURTHER INFORMATION CONTACT: Earl T. Reichert, Office of The Judge Advocate General, Intellectual Property Law Division, 5611 Columbia Pike, attn:

JALS–IP, Falls Church, VA 22041–5013 (703) 756–2623.

Kenneth L. Denton,

Alternate Army Federal Register Liaison Officer.

[FR Doc. 91–18651 Filed 8–6–91; 8:45 am]

BILLING CODE 3710–08–M

Performance Review Boards; Membership

ACTION: Notice.

SUMMARY: Notice is given of the names of members of the Performance Review Boards for the Department of the Army.

EFFECTIVE DATE: July 26, 1991.

FOR FURTHER INFORMATION CONTACT: Jeanne Raymos, Senior Executive Service Office, Directorate of Civilian Personnel, Headquarters, Department of the Army, the Pentagon, room 2C670, Washington, DC 20310–0300.

SUMMARY INFORMATION: Section 4314(c) (1) through (5) of title 5, U.S.C., requires each agency to establish, in accordance with regulations, one or more Senior Executive Service performance review boards. The boards shall review and evaluate the initial appraisal of senior executives' performance by supervisors and make recommendations to the appointing authority or rating official relative to the performance of these executives.

The members of the Performance Review Board for the Consolidated Commands include:

1. Mr. Ralph Gunn, Director, Information Systems Command—Pentagon.

The members of the Performance Review Board for the Army Materiel Command include:

1. Ms. Maureen Miller, Assistant Deputy Chief of Staff for Program Management, Headquarters, U.S. Army Materiel Command.

2. Mr. Joseph J. Pucilowski, Jr., Director, Product Assurance and Test, U.S. Army Communications-Electronics Command.

3. Mr. Ronald L. Treusdell, Assistant Deputy Chief of Staff for Readiness, Headquarters, U.S. Army Materiel Command.

John O. Roach II,

Army Liaison Officer With the Federal Register.

[FR Doc. 91–18652 Filed 8–6–91; 8:45 am]

BILLING CODE 3710–08–M

Corps of Engineers, Department of the Army

Assistant Secretary of the Army (Civil Works): Request for Nominations to the Inland Waterways Users Board; Correction

AGENCY: Corps of Engineers (Civil Works).

ACTION: Notice of correct dates.

SUMMARY: This notice corrects certain dates published in the **Federal Register** on July 19, 1991 (56 FR 33267). The date in the Summary section should read January 1, 1992. The Effective Date should read July 19, 1992. And, the deadline for nominations date should read August 30, 1991.

John O. Roach II,

Department of the Army, Liaison Officer With the Federal Register.

[FR Doc. 91–18653 Filed 8–6–91; 8:45 am]

BILLING CODE 3710–08–M

Intent To Prepare a Draft Environmental Impact Statement (DEIS) on Maintenance Dredging of the Miami River, Dade County, FL

AGENCY: U.S. Army Corps of Engineers.

ACTION: Notice of intent.

SUMMARY: The proposed work consists of dredging approximately 600,000 cubic yards of polluted shoaling from the Miami River over a 5.5-mile reach terminating at the river mouth in Biscayne Bay, and disposal of the material in the EPA-designated Ocean Disposal Site.

CONTACT FOR FURTHER INFORMATION: Questions about the proposed work can be addressed to: U.S. Army Corps of Engineers, P.O. Box 4970, Jacksonville, Florida 32232–0019, ATTN: Jonathan D. Moulding, 904/791–2286.

SUPPLEMENTARY INFORMATION:

1. The following alternatives will be considered:

a. Ocean disposal of dredged material.

b. Upland disposal of dredged material.

c. Incineration or other exotic means of disposal.

2. a. Comments on alternatives and environmental concerns are invited from any affected Federal, State, and local agencies, affected Indian tribes, and other private organizations and parties.

b. Significant issues to be analyzed in depth in the EIS that have been identified to date are selection of a suitable disposal site for the dredged material and water quality effects in Biscayne Bay resulting from dredging.

c. Coordination with appropriate Federal and State agencies is required under provisions of the Endangered Species Act and the National Historic Preservation Act.

3. Scoping has been conducted in conjunction with the Corps Feasibility Study on the Miami River in 1989. Further Scoping will be conducted with identified interested parties. No Scoping Meeting is anticipated.

4. The DEIS is expected to be available for review in the 4th quarter CY 1991.

John O. Roach II,

Department of the Army, Liaison Officer With the Federal Register.

[FR Doc. 91–18654 Filed 8–6–91; 8:45 am]

BILLING CODE 3710–AJ–M

Department of the Navy

Government-Owned Invention; Availability for Licensing

AGENCY: Department of the Navy, DOD.

ACTION: Notice of availability of invention for licensing.

SUMMARY: The invention listed below is assigned to the United States Government as represented by the Secretary of the Navy and is made available for licensing by the Department of the Navy.

Requests for copies of the patent application cited should be directed to the Office of the Chief of Naval Research (Code OOCCIP), 800 North Quincy Street, Arlington, Virginia 22217-5000 and must include the application serial number.

DATE: August 7, 1991.

FOR FURTHER INFORMATION CONTACT: Mr. R. J. Erickson, Staff Patent Attorney, Office of the Chief of Naval Research (Code OOCCIP), 800 N. Quincy Street, Arlington, Virginia 22217- 5000, telephone (703) 696-4001.

Patent Application Ser. No 489,161: Electromagnetic Warming of Submerged Extremities; filed March 6, 1990.

Dated: July 30, 1991.

Wayne T. Baucino,

Lieutenant, JAGC, U.S. Naval Reserve, Alternate Federal Register Liaison Officer.

[FR Doc. 91-18658; Filed 8-6-91; 8:45 a.m.]

BILLING CODE 3810-AE-M

CNO Executive Panel; Closed Meeting

On Wednesday, July 17, 1991, a Notice of a closed meeting of the Chief of Naval Operations (CNO) Executive Panel

Defense Subpanel Task Force was published at 56 FR 32561. That meeting was originally scheduled to be held on August 22, 1991. That meeting date has been changed.

The Chief of Naval Operations (CNO) Executive Panel Defense Subpanel Task Force will now meet August 28, 1991 from 10:30 a.m. to 2 p.m., in the CNO's Conference Room, Pentagon 4E630, Washington, DC. This session will be closed to the public.

For further information concerning this meeting, contact: Judith A. Holden, Executive Secretary to the Executive Panel, 4401 Ford Avenue,room 601, Alexandria, Virginia 22302-0268, Telephone No. (703) 756-1205.

Dated: July 30, 1991.

Wayne T. Baucino,

Lieutenant, JAGC, U.S. Naval Reserve, Alternate Federal Register Liaison Officer.

[FR Doc. 91-18655; Filed 8-6-91; 8:45 a.m.]

BILLING CODE 3810-AE-M

CNO Executive Panel; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app. 2), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Space and Electronic Combat Standing Task Force will meet 13 September 1991 from 9 a.m. to 5 p.m., at 4401 Ford Avenue, Alexandria, Virginia. This session will be closed to the public.

The purpose of this meeting is to continue discussions on Navy space and electronic warfare (SEW) implementation strategy, receive reports concerning SEW master plan development and appraisal process, and review related intelligence. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and are, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact: Judith A. Holden, Executive Secretary to the CNO Executive Panel, 4401 Ford Avenue, room 601, Alexandria, Virginia 22332-0268, Phone (703) 756-1205.

Dated: July 29, 1991.

Wayne T. Baucino,

Lieutenant, JAGC, U.S. Naval Reserve, Alternate Federal Register Liaison Officer.

[FR Doc. 91-18656; Filed 8-6-91; 8:45 a.m.]

BILLING CODE 3810-AE-M

CNO Executive Panel; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app. 2), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Technology Surprise Task Force will meet September 12, 1991 from 9 a.m. to 5 p.m., at 4401 Ford Avenue, Alexandria, Virginia. This session will be closed to the public.

The purpose of this meeting is to discuss the possibility of unexpected technological breakthroughs that vastly change warfighting capabilities. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and are, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact: Judith A. Holden, Executive Secretary to the Executive Panel, 4401 Ford Avenue, room 601, Alexandria, Virginia 22302-0268, Phone (703) 756-1205.

Dated: July 29, 1991.

Wayne T. Baucino,

Lieutenant, JAGC, U.S. Naval Reserve, Alternate Federal Register Liaison Officer.

[FR Doc. 91-18657; Filed 8-6-91; 8:45 a.m.]

BILLING CODE 3810-AE-M

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Office of Information Resources Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before September 6, 1991.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok: Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Mary P. Liggett, Department of Education, 400 Maryland Avenue, SW., room 5624, Regional Office Building 3, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Mary P. Liggett, (202) 708-5174.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Acting Director, Office of Information Resources Management, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following:

(1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Frequency of collection; (4) The affected public; (5) Reporting burden; and/or (6) Recordkeeping burden; and (7) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Mary P. Liggett at the address specified above.

Dated: August 1, 1991.

Mary P. Liggett,

Acting Director, Office of Information Resources Management.

Office of Elementary and Secondary Education

Type of Review: Revision.

Title: Application for the Follow Through Program.

Frequency: Annually.

Affected Public: State or local governments; non-profit institutions.

Reporting Burden:
Responses: 300.
Burden Hours: 6,000.
Recordkeeping Burden:
Recordkeepers: 0.
Burden Hours: 0.

Abstract: This form will be used by State Educational Agencies to apply for grants under the Follow Through Program. The Department uses the information to make grant awards.

Office of Elementary and Secondary Education

Type of Review: New.
Title: Biennial Performance Report for Drug-Free Schools and Communities Act, part B, Governors Form.
Frequency: Biennially.
Affected Public: State or local governments.
Reporting Burden:
Responses: 57.
Burden Hours: 3,420.
Recordkeeping Burden:
Recordkeepers: 0.
Burden Hours: 0.

Abstract: State or local governments will be required to furnish information to the Secretary about programs funded under the Drug-Free Schools and Communities Act. The Department will use the information to enhance program management and to assist in the development of its reauthorization proposal for the Drug-Free Schools and Communities Act.

[FR Doc. 91-18677 Filed 8-6-91; 8:45 am]
BILLING CODE 4000-1-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. QF91-87-001, et al.]

Seneca Power Partners, L.P., et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

July 30, 1991.

Take notice that the following filings have been made with the Commission:

1. Seneca Power Partners, L.P.

[Docket No. QF91-187-001]

On July 23, 1991, Seneca Power Partners, L.P., c/o Seneca Power Corporation, of 135 East 57 Street, New York, NY 10022, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's Regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located in Batavia, New York, and will include a combustion turbine generator, a heat recovery boiler and an extraction/condensing steam turbine generator. Thermal energy recovered from the facility will be used for milk processing. The net electric power production capacity of the facility will be 54.8 MW. The boiler fuel will be natural gas. Construction of the facility began in April of 1991.

Comment date: On or before September 6, 1991, in accordance with Standard Paragraph E at the end of this notice.

2. Chevron U.S.A. Inc.

[Docket No. QF85-703-001]

On July 22, 1991, Chevron U.S.A. Inc. of P.O. Box 3725, Houston, Texas 77253-3725, submitted for filing an application for recertification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's Regulations. No determination has been made that the submittal constitutes a complete filing.

The original certification was issued on November 26, 1985 (33 FERC 62,267). The instant recertification is requested to reflect an increase in the electric power output, a change in the design and configuration of the facility, and a change in the installation date.

The topping-cycle cogeneration facility will be located in El Segundo, California, and consists of 2 combustion turbine generators, 2 supplementary fired heat recovery boilers, and two extraction/condensing steam turbine generators. Thermal energy recovered from the facility will be used in oil refinery processes. The elecric power production capacity of the facility is approximately 77MW. The primary source of energy will be natural gas. Construction of the facility was scheduled to begin in February 1991, with start-up scheduled for August 1991.

Comment date: On or before September 6, 1991, in accordance with Standard Paragraph E at the end of this notice.

3. Exxon Company, U.S.A. (a division of Exxon Corporation)

[Docket No. QF91-183-000]

On July 15, 1991, Exxon Company, U.S.A. (a division of Exxon Corporation), (applicant) of 1555 Poydras Street, New Orleans, Louisiana 70112, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's Regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located in Mobile County, Alabama, and will consist of three combustion turbine generating units, three heat recovery boilers and a steam turbine generating unit. Steam recovered from the facility will be used in process heating applications in Exxon's Mobile Bay Onshore Treating Facility. The net electric power production capacity will be approximately 11 MW. The primary energy source will be natural gas. Installation of the facility began in February 1990.

Comment date: On or before September 6, 1991, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Secretary.

[FR Doc. 91-18678 Filed 8-6-91; 8:45 am]
BILLING CODE 6717-01-M

[Docket Nos. CP91-2580-000, et al.]

Northern Natural Gas Company, et al.; Natural Gas Certificate Filings

July 31, 1991.

Take notice that the following filings have been made with the Commission:

1. Northern Natural Gas Company

[Docket No. CP91-2580-000]

Take notice that on July 25, 1991, Northern Natural Gas Company (Northern), 1111 South 103rd Street, Omaha, Nebraska 68124-1000, filed in Docket No. CP91-2580-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to abandon by removal approximately 2.47 miles of a 2-inch

Wilber, Nebraska, branchline under the authorization issued in Docket No. CP82-401-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Northern states that the 2-inch line is in a state of deterioration and is completely looped with a parallel 3-inch line, which line has adequate capacity to serve the existing customers.

Northern states that the 2-inch line is located in Gage and Saline Counties, Nebraska; was installed in 1930 as a bare, coupled pipeline; and was certificated under the "grandfather clause" of the Natural Gas Act by order issued on April 4, 1943, at Docket No. G-280. Northern further states that continued operation of the 2-inch line, with the attendant high maintenance and replacement costs, is not justified, particularly since no customer will be adversely affected by the abandonment.

Northern estimates that the total cost of the abandonment is approximately $10,000 with no related salvage value.

Comment date: September 16, 1991, in accordance with Standard Paragraph G at the end of this notice.

2. United Gas Pipe Line Company, Natural Gas Pipeline Company of America, Natural Gas Pipeline Company of America

[Docket Nos. CP91-2587-000, CP91-2593-000, CP91-2594-000]

Take notice that United Gas Pipe Line Company, P.O. Box 1478, Houston, Texas 77251-1478, and Natural Gas Pipeline Company of America, 701 East 22nd Street, Lombard, Illinois 60148, (Applicants) filed in the above-referenced dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of shippers under the blanket certificates issued in Docket No. CP88-6-000 and Docket No. CP86-582-000, respectively, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.[1]

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Applicants and is summarized in the attached appendix.

Comment date: September 16, 1991, in accordance with Standard Paragraph G at the end of this notice.

[1] These prior notice requests are not consolidated.

APPENDIX

Docket number (date filed)	Shipper name (type)	Peak day, average day, annual MMBtu	Receipt [1] points	Delivery points	Contract date, rate schedule, service type	Related docket, start up date
CP1-2587-000 (7-25-91)	Midcon Marketing Corp. (Marketer)	721,000 721,000 263,165,000	Various	Various	4-30-86 ITS Interruptible	ST91-9559 7-12-91
CP1-2593-000 (7-25-91)	Neste Oy (Marketer)	3,100,000 15,000 5,475,000	Various	Various	9-6-90 ITS Interruptible	ST91-9310 5-30-91
CP1-2594-000 (7-25-91)	CNG Producing Company (Producer)	8,000 5,000 1,825,000	OLA	OLA	11-19-90 ITS Interruptible	ST91-9309 5-30-91

[1] Offshore Louisiana and offshore Texas are shown as OLA and OTX.

3. Florida Gas Transmission Company

[Docket No. CP91-2573-000]

Take notice that on July 24, 1991, Florida Gas Transmission Company (FGT), 1400 Smith Street, Houston, Texas 77002, filed a request with the Commission in Docket No. CP91-2573-000 pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to add two existing delivery points as jurisdictional sales facilities to provide natural gas service to the City of Gainesville, Florida, under FGT's blanket certificate issued in Docket No. CP82-553-000, all as more fully described in the request which is open to public inspection.

FGT proposes to add its Deerhaven and Kelly delivery points to its General Service ("G") and Preferred Service ("I") agreements with the City of Gainesville, pursuant to the terms stated in the Commission order issued June 24, 1991, in Docket No. CP91-705-000. FGT states that the Commission order issued in Docket No. CP91-705-000 granted FGT a waiver of the Commission's first-come, first-served policy and FGT's tariff, to the extent necessary, to permit the City of Gainesville to retain its existing place in FGT's first-come, first-served queue while adding the Deerhaven and Kelly delivery points to the G and I service agreements. FGT also states that it would charge rates and abide by the terms and conditions of its FERC Rate Schedule G and I. FGT states that the total natural gas volumes it proposes to deliver at these two delivery points would not exceed the City of Gainesville's currently authorized entitlements.

Comment date: September 16, 1991, in accordance with Standard Paragraph G at the end of this notice.

4. Panhandle Eastern Pipe Line Company

[Docket No. CP91-2557-000]

Take notice that on July 23, 1991, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77251, filed in Docket No. CP91-2557-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to partially abandon a sales service provided by Panhandle for Southeastern Michigan Gas Company (SEMCO), an existing jurisdictional sales customer of Panhandle, all as more fully detailed in the application which is on file with the Commission and open to public inspection.

Panhandle proposes to abandon the sale to SEMCO of 1,095,000 Mcf of natural gas annually, representing a reduction from the currently authorized volume of 6,643,000 to the proposed volume of 5,548,000. It is stated that the original sale was authorized by the Commission in Docket No. G–437, pursuant to Panhandle's Rate Schedule G–1, and that the current level of service was authorized in Docket No. CP91–1828–000, as reflected in a service agreement dated October 30, 1990. It is asserted that SEMCO has executed a new service agreement dated April 25, 1991, to reflect the proposed level of contract demand. Panhandle states that the proposed reduction would result in an annual savings for SEMCO of approximately $436,170. Panhandle requests that the abandonment authorization be made effective retoractive to April 1, 1991.

Comment date: August 21, 1991, in accordance with Standard Pargraph F at the end of the notice.

5. Colorado Interstate Gas Company

[Docket No. CP91–2482–000]

Take notice that on July 16, 1991, Colorado Interstate Gas Company (CIG), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP91–2482–000 an application, as supplemented July 25, 1991, with the Commission pursuant to section 7(c) of the Natural Gas Act (NGA) for authorization to construct and operate approximately 3.5 miles of 4-inch pipeline in Moore County, Texas, all as more fully set forth in the application which is open to public inspection.

CIG states that it would interconnect with its own 20-inch pipeline approximately 3.5 miles of 4-inch pipe to provide processed natural gas compression fuel to its Panhandle Field Compressor Station 24 in Moore County, Texas. CIG estimates that it would cost $218,150 to install this pipe. CIG proposes to finance this project with general corporate funds.

Comment date: August 21, 1991, in accordance with Standard Paragraph F at the end of this notice.

6. Panhandle Eastern Pipe Line Company

[Docket No. CP91–2520–000]

Take notice that on July 18, 1991, Panhandle Eastern Pipe Line Company (Panhandle), Post Office Box 1642, Houston, Texas, 77251–1642, filed an application with the Commission in Docket No. CP91–2520–000 pursuant to section 7(b) of the Natural Gas Act (NGA) for permission and approval to abandon the sales service to Michigan Storage company (MGS), an existing jurisdictional sales customer that has elected to terminate firm sales service upon the expiration of its sales contract, and to convert its capacity to firm transportation service, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Panhandle states that the existing Gas Sales Contract (Contract) dated October 29, 1990 between Panhandle and MGS has expired and that MGS has converted its entire sales entitlements for firm transportation effective April 1, 1991, such firm transportation being performed pursuant to § 284.222 of the Commission Regulations and in accordance with the terms and conditions of Panhandle's Rate Schedule PT-Firm. Specifically, Panhandle states that it requests authorization for abandonment of firm sales service to MGS, effective April 1, 1991.

Panhandle also states that it has filed revised tariff sheets at Docket Nos. RP91–53 and RP91–52, *et al.*, to recover portions of prudently incurred take-or-pay costs from each of its customers, including MGS. In addition, Panhandle states that it seeks to recover the portion of such costs attributable to MGS as described herein, which may be amended, supplemented, revised or modified pursuant to Commission authorizations or as required by law and that, by this filing, Panhandle is not waiving any of its rights to recover from MGS prudently incurred take-or-pay costs or any other costs properly attributable to MGS. Finally, Panhandle states that the abandonment authority sought herein should be conditioned on the ultimate recovery by Panhandle of the residual costs associated with the service to MGS in addition to any amounts jpayable pursuant to the Gas Sales Contract.

Comment date: August 21, 1991, in accordance with Standard Paragraph F at the end of this notice.

7. Transcontinental Gas Pipe Line

[Docket No. CP91–2574–000]

Take notice that on July 24, 1991, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77251, filed a request with the Commission in Docket No. CP91–2574–000 pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to construct and operate a new delivery point and appurtenant metering and regulating facilities to serve Fort Hill Natural Gas Authority (Fort Hill), an existing customer, under Transco's blanket certificate issued in Docket No. CP82–426–000 pursuant to section 7 of the NGA, all as more fully set forth in the application which is open to public inspection.

Transco proposes to add a new delivery point on its mainline in Anderson County, South Carolina, to provide existing levels of firm transportation and storage service, as well as interruptible service to Fort Hill. Transco states that the maximum daily delivery capacity of its Fort Hill-Starr delivery point would be 15,000 Mcf of natural gas, however, Transco does not propose to increase Fort Hill's daily total firm entitlement above the current 11,900 Mcf. Transco also proposes to construct a 4-inch interconnect, a dual 4-inch meter station, and appurtenant facilities at the Fort Hill-Starr delivery point. Fort Hill would reimburse Transco for its estimated $263,000 construction expense.

Transco states that the proposed Fort Hill-Starr delivery point, which is permitted under Transco's tariff, would have no effect on Transco's peak day or annual volumetric natural gas deliveries to Fort Hill or any other existing customer. Transco also states that it has sufficient system capacity to deliver natural gas at the Fort Hill-Starr delivery point without detriment or disadvantage to Transco's other customers.

Comment date: September 16, 1991, in accordance with Standard Paragraph G at the end of this notice.

8. Trunkline Gas Company

[Docket Nos. CP91–2588–000, CP91–2589–000, CP91–2590–000, CP91–2591–000]

Take notice that Trunkline Gas Company, P.O. Box 1642, Houston, Texas 77251–1642, (Applicant) filed in the above-referenced dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under its blanket certificate issued in Docket No. CP86–586–000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.[2]

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions

[2] These prior notice requests are not consolidated.

under § 284.223 of the Commission's Regulations, has been provided by Applicant and is summarized in the attached appendix.

Comment date: September 16, 1991, in accordance with Standard Paragraph G at the end of this notice.

APPENDIX

Docket number (date filed)	Shipper name (type)	Peak day, average day, annual Mcf	Receipt points [1]	Delivery points	Contract date, rate schedule, service type	Related docket, start up date
CP91-2588-000 (7-25-91)	Howell Gas Management Company (Marketer)	30,000 30,000 10,950,000	Various	LA	——— PT Interruptible	ST91-9174 6-1-91
CP91-2589-000 (7-25-91)	Kansas Pipeline Company (intrastate)	60,000 60,000 21,900,000	Various	IL	——— PT Interruptible	ST91-9173 6-2-91
CP91-2590-000 (7-25-91)	Citizens Gas Supply Corporation (Marketer)	75,000 75,000 27,375,000	Various	IL	——— PT Interruptible	ST91-9493 5-31-91
CP91-2591-000 (7-25-91)	Enron Gas Marketing, Inc. (Marketer)	100,000 100,000 36,500,000	Various	LA	——— PT Interruptible	ST91-9007 5-22-91

[1] Offshore Louisiana and offshore Texas are shown as OLA and OTX.

9. Questar Pipeline Company

[Docket No. CP91-2394-000]

Take notice that on July 3, 1991, Questar Pipeline Company (Questar), 79 South State Street, Salt Lake City, Utah 84111, filed in Docket No. CP91-2394-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain pipeline, compression, and appurtenant facilities in Sweetwaer County, Wyoming and Uintah and Daggett Counties, Utah, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Questar proposes to construct and operate the following facilities:

(1) 42.14 miles of 20-inch pipeline (to be designated as Main Line No. 58 Loop) extending from the existing Nightingale/Kanda/Coleman Compressor Complex in Sweetwater County, Wyoming southward to a point of interconnection with Questar's existing Main Line Nos. 58 and 80 in Daggett County, Utah. It is stated that the loop would parallel Questar's existing Main Line No. 58 and would be constructed entirely within the right-of-way of that pipeline. Questar estimates the cost of this segment of the project at $12,859,000.

(2) 3.52 miles of 20-inch pipeline (to be designated the Natural Buttes-Fidlar Line) connecting the Natural Buttes Field with Questar's Fidlar Compressor Station in Uintah County, Utah. This portion of the project would cost an estimated $1,100,000 and would also follow an existing Questar pipeline right-of-way.

(3) 14,508 horsepower of additional compression (together with minor modifications of existing equipment) at Questar't existing Fidlar Compressor Station, consisting of three 4,836 hp turbine-driven centrifugal compressor units. The compressor station addition is estimated to cost $13,897,300.

Questar states that the project, as a whole, includes 45.66 miles of pipeline and 14,508 hp of compression and would cost an estimated $27,856,300. Questar notes that it seeks to place the proposed facilities in service by the 1992–1993 heating season and therefore requests that the Commission process the application on a phased basis and grant the requested authorization by December 31, 1991.

Questar explains that its application is designed as a competitive alternative to an application filed by Colorado Interstate Gas Company (CIG) in Docket No. CP91-1110-000.[3] Questar accordingly requests that its application be consolidated with the CIG application under the Ashbacker doctrine.[4] Questar asserts that the two proposals are mutually exclusive and duplicative with respect to expanded transportation service in the Uinta Basin of eastern Utah and the Piceance Basin of western Colorado. Questar argues that its proposal is superior to CIG's application because Questar can provide the same service at a lower facility and service cost and also less environmental impact. Questar indicates that the Commission considered the CIG application at its June 26, 1991, meeting but that no order was issued prior to the date of its application herein.[5]

Comment date: August 20, 1991, in accordance with Standard Paragraph F at the end of this notice.

10. Texas Gas Transmission Corporation

[Docket No. CP91-2550-000]

Take notice that on July 23, 1991, Texas Gas Transmission Corporation (Texas Gas), P.O. Box 1160, Owensboro, Kentucky 42302, filed in Docket No. CP91-2550-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act for authorization to add a new delivery point for various shippers in St. Mary Parish, Louisiana under its blanket certificate issued in Docket No. CP82-407-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Texas Gas state that it currently transports gas to Bridgeline Gas Distribution Company (Bridgeline) at the Bridgeline-Berwick Meter Station in St. Mary Parish, Louisiana, which was installed and is being operated under section 311 of the Natural Gas Policy Act of 1978. Texas Gas indicates that the facilities were placed in service on April 1, 1991, for use in the transportation and delivery of natural gas from Texas Gas to Bridgeline for various shippers under section 311.

Texas Gas states that after these facilities were placed in service, it has

[3] Questar notes that in Docket No. CP91-1110-000, CIG requests authority to construct and operate a 223-mile pipeline and install approximately 25,000 hp of compression at an estimated cost of $85,000,000. Questar further notes that CIG would use its proposed facilities to transport 60,000 Mcf per day of system supply gas and 114,000 Mcf per day for third-party shippers.

[4] Ashbacker Radio Corporation v. FCC, 326 U.S. 327 (1945).

[5] The Commission actually issued a Preliminary Determination on Non-Environmental Issues in the CIG proceeding on July 2, 1991.

received numerous requests from other shippers to transport gas under Texas Gas' blanket authorization issued in Docket No. CP88–686–000 and to have such gas delivered to the Bridgeline-Berwick Meter Station. Texas Gas further states that it has been unable to comply with these requests since the use of the Bridgeline-Berwick Meter Station is restricted to 311 transportation service.

Texas Gas requests authorization to change the status of this delivery point in order to be able to transport and deliver natural gas on a jurisdictional basis. Texas Gas indicates that the quantity of natural gas to be delivered through this meter would vary, however, the design capacity is approximately 95 MMcf per day under normal operating conditions. The new service provided through this meter would be under Rate Schedules IT or FT of Texas Gas' FERC Gas Tariff, it is indicated. Texas Gas further states that this proposal would have no impact on Texas Gas' peak day and annual deliveries since the addition of this new delivery point would not increase or decrease Texas Gas' mainline capacity.

Comment date: September 16, 1991, in accordance with Standard Paragraph G at the end of this notice.

11. Panhandle Eastern Pipe Line Company

[Docket Nos. CP91–2551–000,[6] CP91–2552–000, CP91–2553–000, CP91–2554–000, CP91–2555–000, CP91–2556–000]

Take notice that on July 23, 1991, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77251–1642, filed in the above referenced dockets, prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 284.223) for authorization to transport natural gas on behalf of various shippers under its blanket certificates issued in Docket No. CP86–585–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the prior notice requests which are on file with the Commission and open to public inspection and in the attached appendix.

Information applicable to each transaction including the indentity of the shipper, the date of the interruptible transportation agreement between Panhandle and the respective shipper, the contract number of the transportation agreement, function of the shipper, i.e., marketer, local distribution company, or intrastate pipeline, the type of transportation service, of the appropriate transportation rate schedule, and peak day, average day, and annual volumes, and the docket number and initiation dates of the 120-day transactions under § 284.223 of the Commission's Regulations has been provided by Panhandle and is included in the attached appendix.

Panhandle alleges that it would provide the proposed service for each shipper under an executed transportation service agreement and would charge rates and abide by the terms and conditions of the referenced transportation rate schedules.

Comment date: September 16, 1991, in accordance with Standard Paragraph G at the end of this notice.

[6] These prior notice requests are not consolidated.

APPENDIX

Docket number, trans. agree. (Contract No.)	Shipper name	Shipper's function	Peak day [1] avg. annual	Points of—		Start up date, rate schedule, service type	Related [2] dockets
				Receipt	Delivery		
CP91–2551–000	Amgas, Inc.	Marketer	20	Existing receipt points.	IL	5–22–91	ST91–9091–000
5–9–91			10			PT	
(P–PLT–3692)			7,300			Interruptible	
CP91–2552–000	Northern Indiana Public Service Co.	Local Distribution Co.	5,000	Existing receipt points.	IN 4–1–91	ST91–9334–000	
4–1–91			5,000		PT		
(P–PLT–3631)			1,825,000		Firm [3]		
CP91–2553–000	BP Gas Inc.	Marketer	50,000	Existing receipt points.	OH	5–1–91	ST91–9088–000
4–12–88			50,000			PT	
(P–PLT–1825)			18,250,000			Interruptible	
CP91–2554–000	Northern Indiana Public Service Co.	Local Distribution Co.	10,000	Existing receipt points.	IN	4–1–91	ST91–9325–000
4–1–91			10,000			PT	
(P–PLT–3630)			3,650,000			Firm [4]	
CP91–2555–000	BP Gas Inc.	Marketer	50,000	Existing receipt points.	OH	5–1–91	ST91–9090–000
4–12–88			50,000			PT	
(P–PLT–1826)			18,250,000			Interruptible	
CP91–2556–000	BP Gas Inc.	Marketer	50,000	Existing receipt points.	OH	5–1–91	ST91–9089–000
4–12–88			50,000			PT	
(P–PLT–1636)			18,250,000			Interruptible	

[1] Quantities are shown in decatherms.
[2] The ST docket indicates that 120-day transportation service was initiated under section 284.223(a) of the Commission's Regulations.
[3] Panhandle contends that it will also receive gas on an interruptible basis from the existing interruptible receipt points on its system.
[4] Id.

12. CNG Transmission Corporation

[Docket No. CP91–2524–000]

Take notice that on July 18, 1991, CNG Transmission Corporation (CNG), 445 West Main Street, Clarksburg, West Virginia 26301, filed a request with the Commission in Docket No. CP91–2524–000 pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to construct and operate a sales tap and appurtenant facilities for the delivery of natural gas to Potomac Electric Power Company (PEPCO), an existing customer, under CNG's blanket certificate issued in Docket No. CP82–537–000 purusant to section 7 of the NGA, all as more fully set forth in the request which is open to public inspection.

CNG proposes to construct and operate a sales tap, appurtenant metering and regulating facilities, and 3,900 feet of 20-inch connecting pipe from CNG's PL–1 pipeline to provide natural gas service to PEPCO's Dickerson Electric Generating Station, Montgomery County, Maryland. CNG

states that its proposed facilities would enable CNG to provide direct and indirect service via Washington Gas Light Company (WGL) to PEPCO's existing and future facilities at the Dickerson Electric Generating Station. CNG also states that PEPCO would reimburse CNG for the $2,800,000 estimated construction expense.

CNG further states that PEPCO and CNG have agreed to add the proposed Dickerson metering and regulating facility as a delivery point for Washington Gas Light under CNG's FERC Rate Schedule CD, thereby enabling WGL to serve PEPCO's Dickerson Electric Generating Station with whatever future sales or transportation service may be agreed upon between it and PEPCO, plus any additional markets which WGL may secure using this metering and regulating facility.

Comment date: September 16, 1991, in accordance with Standard Paragraph G at the end of the notice.

13. Southern Natural Gas Company

[Docket Nos. CP91-2595-000, CP91-2596-000]

Take notice that Southern Natural Gas Company, P.O. Box 2563, Birmingham, Alabama 35202-2563, (Applicant) filed in the above-referenced dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under its blanket certificate issued in Docket NO. CP88-316-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.[7]

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Applicant and is summarized in the attached appendix.

Comment date: September 16, 1991, in accordance with Standard Paragraph G at the end of this notice.

[7] These prior notice requests are not consolidated.

APPENDIX

Docket number (date filed)	Shipper name (type)	Peak day, average day, annual MMBtu	Receipt points [1]	Delivery points	Contract date, rate schedule, service type	Related docket, start up date
CP91-2595-000 (7-25-91)	Gulf Ohio Corporation (Marketer)	20,000 465 170,000	TX, OTX, LA, OLA, MS, AL	GA	4-29-91 IT Interruptible	ST91-9099 5-23-91
CP91-2596-000 (7-25-91)	Emermax Corporation (Marketer)	150,000 1,000 365,000	TX, OTX, LA, OLA, MS, AL	LA	5-8-91 IT Interruptible	ST91-9097 6-8-91

[1] Offshore Louisiana and offshore Texas are shown as OLA and OTX.

14. Viking Gas Transmission Company, United Gas Pipe Line Company

[Docket Nos. CP91-2581-000, CP91-2582-000, CP91-2583-000, CP91-2584-000, CP91-2585-000, CP91-2586-000]

Take notice that on July 25, 1991, Viking Gas Transmission Company, P.O. Box 2511, Houston, Texas 77252, and United Gas Pipe Line Company, P.O. Box 1478, Houston, Texas 77251-1478, (Applicants) filed in the above-referenced dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of shippers under the blanket certificates issued in Docket No. CP90-273-000, and Docket No. CP88-6-000, respectively, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.[8]

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Applicants and is summarized in the attached appendix.

Comment date: September 16, 1991, in accordance with Standard Paragraph G at the end of this notice.

[8] These prior notice requests are not consolidated.

APPENDIX

Docket number (date filed)	Shipper name (type)	Peak day, average day, annual MMBtu	Receipt points	Delivery points	Contract date, rate schedule, service type	Related docket, start up date
CP91-2581-000 (7-25-91)	Santana Natural Gas Corp. (Marketer)	175,000 175,000 [1] 63,875,000	WI, MN, ND	WI, MN, ND	10-1-90 IT-2 Interruptible	ST91-9605-000 6-20-91
CP91-2582-000 (7-25-91)	Eastex Gas Transmission Co. (Intrastate Pipeline).	144,200 144,200 52,633,000	LA, Off LA, TX, MS	LA, TX, AL, FL, MS	1-9-87 [3] ITS Interruptible	ST91-9554-000 7-11-91
CP91-2583-000 (7-25-91)	SIGO Marketing, Inc. (Marketer)	4,893 4,893 1,785,945	LA, MS	LA	7-16-90 [3] ITS Interruptible	ST91-9558-000 5-28-91

APPENDIX—Continued

Docket number (date filed)	Shipper name (type)	Peak day, average day, annual MMBtu	Receipt points	Delivery points	Contract date, rate schedule, service type	Related docket, start up date
CP91-2584-000 (7-25-91)	SIGO Marketing, Inc. (Marketer)	4,893 4,893 1,785,945	LA, MS	LA	7-16-90 [4] ITS Interruptible	ST91-9557-000 7-12-91
CP91-2585-000 (7-25-91)	Bishop Pipeline Corp. (Intrastate Pipeline).	41,200 41,200 15,038,000	TX, LA, Off TX	LA, TX, AL, MS, FL, Off TX.	3-24-88 [5] ITS Interruptible	ST91-9556-000 7-11-91
CP91-2586-000 (7-25-91)	Bishop Pipeline Co. (Intrastate Pipeline)	41,200 41,200 15,038,000	LA, TX, Off TX	TX, LA, AL, MS, FL, Off TX.	3-24-88 [6] ITS Interruptible	ST91-9555-000 7-10-91

[1] Viking's quantities are in dekatherms.
[3] As amended 5-31-91.
[3] As amended 3-18-91.
[4] As amended 6-17-91.
[5] As amended 6-24-91.
[6] As amended 6-26-91.

15. Williston Basin Interstate Pipeline Company

[Docket Nos. CP91-2602-000, CP91-2603-000]

Take notice that on July 29, 1991, Williston Basin Interstate Pipeline Company (Williston Basin), suite 200, 304 East Rosser Avenue, Bismarck, North Dakota 58501, filed in the above-referenced dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of shippers under its blanket certificate issued in Docket No. CP89-1118-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.[9]

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Williston Basin and is summarized in the attached appendix.

Comment date: September 16, 1991, in accordance with Standard Paragraph G at the end of this notice.

[9] These prior notice requests are not consolidated.

APPENDIX

Docket number (date filed)	Shipper name (type)	Peak day, average day, annual Dth	Receipt points	Delivery points	Contract date, rate schedule, service type	Related docket, start up date
CP91-2602-000 (7-29-91)	Hiland Partners (Producer)	69,800 69,800 25,477,000	WY, MT, ND, SD	WY, MT, SD, ND	5-2-91 [1] IT-1 Interruptible	ST91-9560-000 7-1-91
CP91-2603-000 (7-29-91)	Hiland Partners (Producer)	1,390 1,390 507,350	WY, MT, ND, SD	WY, MT, SD, ND	11-8-90 [2] IT-1 Interruptible	ST91-9551-000 6-17-91

[1] As amended on June 1, 1991, and July 1, 1991.
[2] As amended on June 17, 1991.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to rule 214 of

the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 91-18684 Filed 8-6-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. JD91-06335T New Mexico-28]

State of New Mexico, Energy, Minerals and Natural Resources Department and the United States Department of the Interior, Bureau of Land Management; Determination Designating Tight Formation

July 31, 1991.

Take notice that on July 29, 1991, the Oil Conservation Division of the Energy, Minerals and Natural Resources Department for the State of New Mexico (New Mexico), and the United States Department of the Interior, Bureau of Land Management (BLM), submitted the above-referenced notice of determination to the Commission, pursuant to § 271.703(c)(3) of the Commission's regulations, that the Gallup Formation in portions of Rio Arriba, Sandoval, and San Juan Counties, New Mexico, qualifies as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978 (NGPA). The notice of determination covers all of Sections 1-36 in T23N, R6W (NMPM), all of Sections 1-36 in T23N, R7W (NMPM), all of Section 1 in T23N, R8W (NMPM), all of Sections 18, 19, and 29-32 in T24N, R6W (NMPM), all of Sections 6-8 and 12-36 in T24N, R7W (NMPM), and all of Sections 5-8, 12, 13, 16-30, 35, and 36 in T24N, R8W (NMPM). The notice of determination also contains New Mexico's findings, and BLM's concurrence, that the referenced portions of the Gallup Formation meet the requirements of the Commission's regulations set forth in 18 CFR part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR, §§ 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 91-18682 Filed 8-6-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. JD91-06284T Utah-5 Amendment]

State of Utah Department of Natural Resources; Determination Designating Tight Formation

July 31, 1991.

Take notice that on July 26, 1991, the State of Utah Department of Natural Resources, Board of Oil, Gas and Mining (Utah), submitted the above-referenced notice of determination to the Commission, pursuant to § 271.703(c)(3) of the Commission's regulations, that the Dakota Formation in a portion of Grand County, Utah, qualifies as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978 (NGPA). The notice of determination covers all of section 31 in T16S, R25E, SLM, in Grand County, Utah. All of T16S, R25E, SLM, was excluded from Utah's notice of determination in Docket No. RM79-76-136 (Utah-5). The notice of determination also contains Utah's findings that the Dakota Formation in section 31, T16S, R25E, SLM, meets the requirements of the Commission's regulations set forth in 18 CFR part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commissioin, 825 North Capitol Street, NE., Washington, DC 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR, 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 91-18683 Filed 8-6-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-201-000]

Columbia Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

July 31, 1991.

Take notice that on July 26, 1991, Columbia Gas Transmission Corporation, (Columbia) tendered for filing the following tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1, with a proposed effective date of August 26, 1991:

First Revised Original Sheet No. 126
Third Revised Sheet No. 174

Columbia states that by this filing, Columbia proposes to implement a new tariff provision, section 25.5 of the General Terms and Conditions. Columbia further states that the proposed provision relates to Order No. 528 refunds paid to Columbia by an upstream pipeline supplier which must later be repaid to that upstream pipeline supplier due to a Commission ordered change in the upstream methodology.

Columbia notes that copies of the filing were served upon Columbia's jurisdictional customers, interested state commissions, and upon each person designated on the official service list compiled by the Commission's Secretary in docket Nos. RP88-187, RP89-181, RP89-214, RP89-229, TM89-3-21, TM89-4-21, TM89-5-21, TM89-7-21, RP90-26, TM90-2-21, TM90-5-21, TM90-6-21, TM90-7-21, TM90-8-21, TM90-10-21, TM90-12-21, TM90-13-21, TM91-2-21, RP91-41, RP91-90, TM91-9-21 and TM91-10-21.

Any persons desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before August 7, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 91-18679 Filed 8-6-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP88-171-011, CP81-108-009]

Tennessee Gas Pipeline Co., Application

July 30, 1991.

Take notice that on July 16, 1991, Tennessee Gas Pipeline Company (Tennessee), 1010 Milam Street, Houston, Texas 77002, filed in Docket No. CP88-171-001 and CP81-108-009 an application pursuant to sections 7(b) and 7(c) of the Natural Gas Act for a certificate of public convenience and

necessity to authorize Tennessee to abandon a firm transportation service for National Fuel Gas Supply Corporation ("National Fuel") of up to 2,500 Mcf of natural gas per day and to amend two certificates of public convenience and necessity (1) to vacate authorizations for Tennessee to provide firm transportation services for Cogen Energy Technologies, Inc. ("CETI") and ANR Venture Springfield Company ("Springfield"), (2) to authorize Tennessee, in lieu of the services for CETI and Springfield, to provide equivalent firm transportation services for CNG Transmission Corporation ("CNG"), Capitol District Energy Center Cogeneration Associates ("CDECCA"), and Granite State Gas Transmission, Inc. ("Granite State"), (3) to authorize Tennessee to provide a higher delivery pressure for Ocean State Power II ("OSP II"), to collect an Incremental Pressure Charge from OSP II in connection therewith, and for pregranted abandonment of Tennessee's obligation to provide that service for OSP II, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Tennessee proposes to provide the following new or revised firm transportation services in lieu of the services to be vacated:

Shipper	Volumes (dth/day)	Receipt point	Delivery point
CNG	13,900	Niagara, NY.	Marilla, NY.
CDECCA	3,715	Vermillion Block 248.	Bloomfield, CT.
	3,715	East Cameron Block 313.	Bloomfield, CT.
	7,020	Ellisburg, PA Interconnect with CNG.	Bloomfield, CT.
Granite State.	7,120	Ellisburg, Pa Interconnect with CNG.	Agawam, MA.

Tennessee states that there would be no net increase or decrease in authorized delivery volumes and that none of the proposed services or the other requested authorizations would entail the construction of any facilities, the incurrence of any costs, or any environmental impact.

Tennessee states that it is seeking authority to abandon the transportation of up to 2,500 Mcf of gas per day for National Fuel in accordance with a prior Commission order. Tennessee Gas Pipeline Co., 52 FERC 61,257 at 61,908 n. 12.

It is also stated that because of OSP II's potential need for a higher delivery pressure, OSP II has asked Tennessee to stand ready to deliver at a pressure of not less than 400 pounds per square inch (psig) rather than the 100 psig specified in Tennessee's transportation agreements with shipper in this and other Northeast projects.

Tennessee states that the pressure charge proposed to be collected from OSP II would permit Tennessee to recover the costs of providing the higher delivery pressure requested by OSP II and would ensure that other existing customers would not be affected.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 20, 1991, 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 (18CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely field, 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 Tennessee to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 91-18681 Filed 8-6-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-200-000]

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

July 31, 1991.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on July 26, 1991 tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, six copies of the following tariff sheets:

First Revised Sheet No. 483.1
Original Sheet No. 483.2
First Revised Sheet No. 483B.1
Original Sheet No. 483B.2
Second Revised Sheet No. 483D.1
Original Sheet No. 483D.2
First Revised Sheet No. 483F.1
Original Sheet No. 483F.2

Texas Eastern states that the tariff sheets submitted in this filing permit the direct payment of take-or-pay costs to Texas Eastern by Columbia Gas Transmission Corporation's ("Columbia") customers as described herein.

Texas Eastern states that on June 19, 1991, The Columbia Gas System announced that Columbia might be forced to seek bankruptcy protection in the event of failure to reestablish adequate credit lines with banks and to renegotiate problem gas purchase contracts with producers. The announcement raised concerns at Texas Eastern that Columbia might not be able to perform its obligations with respect to timely payment of bills to Texas Eastern and its obligations as an accounting conduit between Texas Eastern's upstream suppliers and Columbia's customers.

Texas Eastern states that following The Columbia Gas System's June 19 announcement, Texas Eastern expressed concerns to Columbia that future changes in allocation methodology may require Columbia to pay take-or-pay costs additional to those currently assessed under Texas Eastern's tariff provisions. To address one part of Texas Eastern's concerns, namely that Commission or court action may cause repayment, in whole or in part, of take-or-pay charge refunds that Texas Eastern has previously made to Columbia, the present filing by Texas Eastern and a contemporaneous filing by Columbia are being made. These tariff provisions will permit, in certain

specified circumstances, the direct payment to Texas Eastern by Columbia's customers of take-or-pay charges that may be ordered by the Commission or result from future court actions. The charges paid to Texas Eastern will be calculated on the same basis as if Columbia had assessed the flowthrough charges itself. Columbia will provide its customers with applicable billing invoices.

Texas Eastern states that the current financial difficulties facing Columbia have precipitated the present filings by Texas Eastern and Columbia. In the circumstances addressed by the proposed tariff language, if Texas Eastern is authorized to collect additional costs from Columbia, which in turn Columbia's customers would be obligated to pay, Columbia's customers' payments to Columbia potentially could be impeded in reaching Texas Eastern by operation of bankruptcy procedures. It is these potential adverse effects that Texas Eastern seeks to prevent through the present filing, coupled with Columbia's filing to permit direct payment to an upstream supplier, like Texas Eastern, in the specified circumstances.

The proposed effective date of the tariff sheets listed above is August 26, 1991.

Texas Eastern states that copies of the filing were served on Texas Eastern's jurisdictional customers and interested state commissions. Texas Eastern further states that copies of the filing are also being mailed to all parties in Docket Nos. RP91–72, et al.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before August 7, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 91–18680 Filed 8–6–91; 8:45 am]

BILLING CODE 6717–01–M

Office of Conservation and Renewable Energy

Metal Casting Industrial Advisory Board Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: DOE Metal Casting Industrial Advisory Board.

Date and Time: Tuesday, August 27, 1991, 8:30 a.m.–5 p.m.; Wednesday, August 28, 1991, 8:30 a.m.–3 p.m.

Location: American Foundrymen's Society Headquarters, 505 State Street; Des Plaines, IL 60016–8399.

Contact: David M. Pellish, Executive Secretary, DOE Metal Casting Industrial Advisory Board, U.S. Department of Energy, CE–231, Forrestal Building, Washington, DC 20585, Telephone: (202) 586–6436.

Purpose of Meeting: To discuss critical problems and issues facing the metal casting industry regarding competitiveness and energy efficiency. Environmental issues will also be emphasized.

Tentative Agenda: Second meeting of the Board—Tuesday August 27, 1991 and Wednesday, August 28, 1991.

- Opening Remarks and Welcome by Board Chairman.
- Board Secretary's Report on status of current activities associated with the Metal Casting Competitiveness Research Program.
- Discussions of problems affecting competitiveness, energy efficiency, and environmental issues of the metal casting industry by executives from various sectors of the industry.
- Other matters requiring consideration by the Board and a Public Comment period.

Note: Due to statutory requirements and Federal regulations, there will be no discussion of the solicitation or of proposals currently being considered by DOE.

Public Participation: The meeting is open to the public. The Chairmen of the Board are empowered to conduct the meeting to facilitate the orderly conduct of business. Any member of the public who wishes to make an oral statement pertaining to agenda items should contact the Executive Secretary at the address or telephone number listed above. Requests must be received at least 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda.

Minutes: Available for public review and copying at the Public Reading Room IE–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 9 a.m. and 4 p.m. Monday through Friday except Federal holidays.

Issued at Washington, DC on August 2, 1991.

Stephen J. Garvey,

Deputy Advisory Committee Management Officer.

[FR Doc. 91–18741 Filed 8–6–91; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–3982–2]

Expansion of Bioremediation Data in the Alternative Treatment Technology Information Center

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: EPA's Office of Environmental Engineering and Technology Demonstration (OEETD) of the Office of Research and Development (ORD) is expanding the bioremediation data in the Alternative Treatment Technology Information Center (ATTIC). Bioremediation, for this purpose, is defined as the process in which soil, sludge, water, or an air stream is managed to encourage optimal activity of microorganisms in order to biodegrade or biotransform target contaminants. ATTIC is a computerized, on-line, information network that provides up-to-date technical information on innovative treatment methods for hazardous wastes to all members of the Federal, State, and private sector involved in site remediation. The information contained in ATTIC consists of a wide variety of data obtained from Federal, State, and private sector sources.

ADDRESSES: All interested parties may submit information on bioremediation to the following address: Katherine Devine, DEVO Enterprises, Inc., 704 9th Street SE., Washington, DC 20003–2804, (202) 543–2752, FAX (202) 547–2909.

FOR FURTHER INFORMATION CONTACT: Dr. Curtis C. Harlin, OEETD RD–681, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 479–9642.

SUPPLEMENTARY INFORMATION: As environmental pollution continues to escalate in our nation, the U.S. Environmental Protection Agency's mission to identify cost effective solutions becomes increasingly important. To fulfill this mission, the Agency actively encourages the use of promising innovative technologies through the dissemination of benefits and cost information on such technologies.

Two years ago, the EPA Office of Research and Development created an information system on alternative innovative technologies designed to increase communication among all parties involved in site remediation. This system is the Alternative

Treatment Technology Information Center.

Because bioremediation is increasingly being used for addressing pollution problems, ORD is making a special effort to augment the bioremediation information that currently exists in ATTIC with case study information voluntarily submitted by the public and private sector involved in bioremediation efforts. Interested parties, including bioremediation companies, may submit information, such as case studies, on technologies used for site clean-up for transfer to ATTIC by: (1) Mailing or faxing written material; (2) providing the information by telephone; (3) sending a copy of a report or a paper or presentation, on a clean-up activity, that may have been given at a conference or seminar, or published in a trade journal, and relevant information will be extracted by ATTIC staff; (4) entering information on-line (contact Katherine Devine or Curtis Harlin for method); or (5) a combination of the above.

At the present time, the ATTIC database contains over 1,600 technical documents and reports collected into a keyboard searchable format. Documentation includes Records of Decisions (RODs) from the Superfund program, SITE project summaries, reports from other Federal agencies, State agency reports, and industry studies. ATTIC is available through both the ATTIC System Operator and an easy-to-use online computer system and will provide technical assistance, conduct searches, and assist in document retrieval at no charge to the user. Currently, there is an average of over 600 monthly users of the system.

Dated: August 1, 1991.

Alfred W. Lindsey,

Director, Office of Environmental Engineering and Technology Demonstration.

[FR Doc. 91-18735 Filed 8-6-91; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3981-4]

Chesapeake Bay Program; 1987 Chesapeake Bay Agreement; Proposals for Review

Draft Baywide Fishery Management Plans for American Eel, Summer Flounder, and Atlantic Spot and Croaker, prepared pursuant to the 1987 Chesapeake Bay Agreement by the Living Resources Subcommittee of the Chesapeake Bay Program, are now available for public review. Public comments will be accepted through September 9, 1991. Comments on the American Eel and Atlantic Spot and Croaker plans should be sent to Mr. Pete Jensen, Maryland Department of Natural Resources, Tidewater Fisheries, Tawes State Office Building C-2, Annapolis, MD 21401; comments on the Summer Flounder should be sent to Jack Travelstead, Virginia Marine Resources Commission, Division of Fisheries Management, P.O. Box 756, Newport News, Virginia 23607-0756.

To obtain copies of the draft plans, call Carin Bisland, EPA Chesapeake Bay Program Office, 301/267-0061. For additional information, call Mr. Jensen at 301/974-3558.

Charles S. Spooner,

Deputy Director.

[FR Doc. 91-18734 Filed 8-6-91; 8:45 am]

BILLING CODE 6560-50-M

[OPP-100092; FRL-3935-8]

Food and Drug Administration and Mitre Corporation; Transfer of Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This is a notice to certain persons who have submitted information to EPA in connection with pesticide information requirements imposed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA). The Food and Drug Administration (FDA) and its contractor, Mitre Corporation, under an Interagency Agreement (IAG) will perform work for EPA's Office of Health and Environmental Assessment, and will be provided access to certain information submitted to EPA under FIFRA and the FFDCA. Some of this information may have been claimed to be confidential business information (CBI) by submitters. This information will be transferred to FDA and the Mitre Corporation consistent with the requirements of 40 CFR 2.209(c), and 2.308(h)(2). This transfer will enable FDA and the Mitre Corporation to fulfill the obligations of an IAG, and this notice serves to notify affected persons.

DATES: FDA and the Mitre Corporation will be given access to this information no sooner than August 19, 1991.

FOR FURTHER INFORMATION CONTACT: By mail: Clare Grubbs, Program Management and Support Division (H7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 212, Crystal Mall 2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 557-4460.

SUPPLEMENTARY INFORMATION: Under this IAG which supports the OPP regulatory efforts, FDA and the Mitre Corporation will perform tasks that will be related to improving test methods and reducing uncertainties in risk assessments in a variety of health areas including developmental and reproductive toxicity, carcinogenicity, mutagenicity, and pharmacokinetics. Data from pharmacokinetics, developmental toxicity, and reproductive toxicity studies will be compiled and analyzed.

The Office of Health and Environmental Assessment and Office of Pesticide Programs have jointly determined that the IAG herein described involves work that is being conducted in connection with FIFRA, in that pesticide chemicals will be the subject of certain evaluations to be made under this IAG. These evaluations may be used in subsequent regulatory decisions under FIFRA.

Some of this information may be entitled to confidential treatment. The information has been submitted to EPA under sections 3, 4, and 6 of FIFRA and under sections 408 and 409 of FFDCA.

In accordance with the requirement of 40 CFR 2.209(c), 2.307(h), and 2.308(h)(2), this IAG with FDA and Mitre Corporation, prohibits use of the information for any purpose other than the purposes specified in this IAG; prohibits disclosure of the information in any form to a third party without prior written approval; and requires that each official and employee of the contractor sign an agreement to protect the information from unauthorized release and to handle it in accordance with the FIFRA Information Security Manual. No information will be provided until the above requirements have been fully satisfied. Records of information provided under this IAG will be maintained by the Project Officer for this contract in the EPA Office of Health and Environmental Assessment.

All information supplied to FDA and Mitre Corporation by EPA for use in connection with this IAG will be returned to EPA when FDA and Mitre Corporation have completed their work.

Dated: July 25, 1991.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 91-18620 Filed 8-6-91; 8:45 am]

BILLING CODE 6560-50-F

[OPP-180647; FRL 3933-6]

Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted specific exemptions for the control of various pests to the 24 States as listed below, and one to the Puerto Rico Department of Agriculture and to the United States Department of Agriculture. Crisis exemptions were initiated by 12 various States, and one by the United States Department of Agriculture. These exemptions, issued during the months of March and April, are subject to application and timing restrictions and reporting requirements designed to protect the environment to the maximum extent possible. EPA denied specific exemption requests from the Michigan Department of Agriculture and the New York State Department of Environmental Conservation. Information on these restrictions is available from the contact persons in EPA listed below.

DATES: See each specific and crisis exemption for its effective date.

FURTHER INFORMATION CONTACT: See each emergency exemption for the name of the contact person. The following information applies to all contact persons: By mail: Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 716, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-1806).

SUPPLEMENTARY INFORMATION: EPA has granted specific exemptions to the:

1. Alabama Department of Agriculture and Industries for the use of fluvalinate on packaged bees to control varroa mites; April 16, 1991, to October 1, 1991. (Libby Pemberton)

2. California Department of Food and Agriculture for the use of benomyl on artichokes to control ramularia leaf spot; April 18, 1991, to December 31, 1991. (Susan Stanton)

3. California Department of Food and Agriculture for the use of zinc phosphide on sugarbeets to control meadow mice; April 1, 1991, to March 31, 1992. (Libby Pemberton)

4. California Department of Food and Agriculture for the use of triadimefon on artichokes to control powdery mildew; March 7, 1991, to December 31, 1991. (Susan Stanton)

5. California Department of Food and Agriculture for the use of fosetyl-aluminum (Aliette) on spinach to control downy mildew; March 1, 1991, to February 28, 1992. (Susan Stanton)

6. Colorado Department of Agriculture for the use of cypermethrin on dry bulb onions to control thrips; April 12, 1991, to September 15, 1991. (Andrea Beard)

7. Georgia Department of Agriculture for the use of sethoxydim on canola to control Italian ryegrass; March 5, 1991, to April 15, 1991. (Susan Stanton)

8. Georgia Department of Agriculture for the use of fluvalinate on packaged bees to control varroa mites; April 16, 1991, to October 1, 1991. Georgia had initiated a crisis exemption for this use. (Libby Pemberton)

9. Idaho Department of Agriculture for the use of sethoxydim on canola to control volunteer grains and grasses; April 23, 1991, to July 15, 1991. (Susan Stanton)

10. Idaho Department of Agriculture for the use of clopyralid on mint to control weeds; March 20, 1991, to November 30, 1991. (Susan Stanton)

11. Louisiana Department of Forestry for the use of clomazone on sweet potatoes to control annual broadleaf weeds and grasses; March 22, 1991, to July 15, 1991. (Libby Pemberton)

12. Maryland Department of Agriculture for the use of clomazone on watermelons to control broadleaf weeds and grasses; April 23, 1991, to August 20, 1991. (Susan Stanton)

13. Massachusetts Department of Food and Agriculture for the use of metalaxyl on cranberries to control phytophthora cinnamoni; April 1, 1991, December 31, 1991. (Robert Forrest)

14. Michigan Department of Agriculture for the use of pendimethalin on dry bulb onions grown on organic soils to control lambsquarter and prostrate spurge; April 1, 1991, to June 30, 1991. (Jim Tompkins)

15. Minnesota Department of Agriculture for the use of propiconazole on cultivated wild rice to control bipolaris oryzae; April 12, 1991, to August 31, 1991. (Jim Tompkins)

16. Minnesota Department of Agriculture for the use of pendimethalin on dry bulb onions grown on organic soils to control prostrate spurge; April 1, 1991, to June 30, 1991. (Jim Tompkins)

17. Minnesota Department of Agriculture for the use of fenoxaprop-ethyl (tiller) on wheat to control foxtail, mixed foxtail, and wild oat infestations; March 29, 1991, to July 15, 1991. (Susan Stanton)

18. Minnesota Department of Agriculture for the use of sethoxydim on canola to control volunteer grains and grasses; April 19, 1991, to July 31, 1991. (Susan Stanton)

19. Mississippi Department of Agriculture and Commerce for the use of clomazone on sweet potatoes to control annual broadleaf weeds and grasses; March 22, 1991, to July 15, 1991. (Libby Pemberton)

20. Mississippi Department of Agriculture and Commerce for the use of fluvalinate on packaged bees to control varroa mites; April 17, 1991, to October 1, 1991. (Libby Pemberton)

21. Missouri Department of Agriculture for the use of clomazone on cotton to control velvetleaf; April 19, 1991, to June 30, 1991. (Susan Stanton)

22. Montana Department of Agriculture for the use of sethoxydim on canola and mustard to control volunteer grains and grasses; April 23, 1991, to July 15, 1991. (Susan Stanton)

23. Montana Department of Agriculture for the use of clopyralid on peppermint and spearmint to control various weeds; April 17, 1991, to October 15, 1991. (Susan Stanton)

24. Montana Department of Agriculture for the use of fenoxaprop-ethyl + 2,4-D + MCPA on spring wheat to control green foxtail; March 29, 1991, to July 31, 1991. (Susan Stanton)

25. New Jersey Department of Agriculture for the use of metalaxyl on cranberries to control root rot; April 15, 1991, to December 31, 1991. (Andrea Beard)

26. North Carolina Department of Agriculture for the use of fluvalinate packaged bees to control varroa mites; April 19, 1991, to October 1, 1991. (Libby Pemberton)

27. North Dakota Department of Agriculture for the use of fenoxaprop-ethyl + 2,4-D + MCPA on spring wheat to control foxtail, mixed foxtail, and wild oats infestations; March 29, 1991, to July 15, 1991. (Susan Stanton)

28. North Dakota Department of Agriculture for the use of sethoxydim on canola to control volunteer grains and grasses; March 20, 1991, to July 31, 1991. (Susan Stanton)

29. North Dakota Department of Agriculture for the use of benomyl on canola to control sclerotinia stem rot; April 18, 1991, to July 15, 1991. (Susan Stanton)

30. Oregon Department of Agriculture for the use of oxyfluorfen on blackberries to suppress primocanes; March 7, 1991, to July 31, 1991. (Susan Stanton)

31. Oregon Department of Agriculture for the use of clopyralid on mint to control weeds; March 20, 1991, to November 15, 1991. (Susan Stanton)

32. Oregon Department of Agriculture for the use of oxyfluorfen on raspberries to suppress primocanes; March 7, 1991, to May 15, 1991. (Susan Stanton)

33. Oregon Department of Agriculture for the use of pendimethalin on dry bulb onions grown on organic soils to control lambsquarter, prostrate spurge, and purslane; April 1, 1991, to June 30, 1991. (Jim Tompkins)

34. Oregon Department of Agriculture for the use of cyfluthrin on pears to control pear psylla; March 6, 1991, to April 30, 1991. (Libby Pemberton)

35. Puerto Rico Department of Agriculture for the use triadimefon on coffee to control coffee rust; April 30, 1991, to April 29, 1992. (Libby Pemberton)

36. South Carolina Division of Fertilizer, Pesticide Control, Clemson University for the use of fluvalinate on packaged bees to control varroa mites; April 16, 1991, to October 1, 1991. (Libby Pemberton)

37. South Dakota Department of Agriculture for the use of tiller herbicide on hard red spring wheat to control green foxtail, yellow foxtail, millet, and wild proso millet; April 17, 1991, to July 15, 1991. (Susan Stanton)

38. Texas Department of Agriculture for the use of fluvalinate on packaged bees to control varroa mites; April 16, 1991, to October 1, 1991. (Libby Pemberton)

39. Utah Department of Agriculture for the use of carbaryl on barley to control cereal leaf beetles; April 17, 1991, to June 30, 1991. (Susan Stanton)

40. Utah Department of Agriculture for the use of cypermethrin on dry bulb onions to control thrips; April 30, 1991, to September 30, 1991. (Andrea Beard)

41. Virginia Department of Agriculture and Consumer Services for the use of clomazone on watermelons to control annual broadleaf weeds; April 1, 1991, to May 31, 1991. (Susan Stanton)

42. Washington Department of Agriculture for the use of methyl bromide on watermelons to control weeds; March 11, 1991, to April 30, 1991. (Libby Pemberton)

43. Washington Department of Agriculture for the use of cyfluthrin on interplanted apples to control pear psylla; March 6, 1991, to April 30, 1991. (Libby Pemberton)

44. Washington Department of Agriculture for the use of clopyralid on mint to control weeds; March 20, 1991, to November 30, 1991. (Susan Stanton)

45. Washington Department of Agriculture for the use of oxyfluorfen on raspberries to suppress primocanes; March 7, 1991, to June 1, 1991. (Susan Stanton)

46. Wisconsin Department of Agriculture, Trade, and Consumer Protection for the use of pendimethalin on dry bulb onions to control lambsquarter, prostrate spurge, purslane, and kochia; April 1, 1991, to June 30, 1991. (Jim Tompkins)

47. Wisconsin Department of Agriculture, Trade, and Consumer Services for the use of mancozeb on cultivated American ginseng to control phytophthora cactorum and alternaria panax; April 17, 1991, to August 31, 1991. EBDC is subject to a Special Review. (Jim Tompkins)

48. Wisconsin Department of Agriculture, Trade, and Consumer Services for the use of metalaxyl on cultivated American ginseng to control phytophthora root rot; April 17, 1991, to August 31, 1991. (Jim Tompkins)

49. United States Department of Agriculture for the use of quaternary ammonium compounds on field equipment to devitalize witchweed seed; March 11, 1991, to March 10, 1994. (Jim Tompkins)

Crisis exemptions were initiated by the:

1. Alabama Department of Agriculture and Industries on April 4, 1991, for the use of fluvalinate on packaged bees to control varroa mites. This program is expected to last until October 1, 1991. (Libby Pemberton)

2. California Department of Food and Agriculture on March 14, 1991, for the use of gibberellins on lemons to control sour rot complex. This program is expected to last until August 31, 1991. (Susan Stanton)

3. California Department of Food and Agriculture on April 12, 1991, for the use of methyl bromide on sweet potatoes to control root knot nematodes. This program has ended. (Libby Pemberton)

4. Colorado Department of Agriculture on April 10, 1991, for the use of chlorpyrifos on wheat to control Russian wheat aphid. This program is expected to last until December 31, 1991. (Andrea Beard)

5. Georgia Department of Agriculture on April 2, 1991, for the use of fluvalinate on packaged bees to control varroa mites. This program is expected to last until October 1, 1991. (Libby Pemberton)

6. Mississippi Department of Agriculture and Commerce on April 4, 1991, for the use of fluvalinate on packaged bees to control varroa mites. This program is expected to last until October 1, 1991. (Libby Pemberton)

7. North Carolina Department of Agriculture on April 12, 1991, for the use of fluvalinate on packaged bees to control varroa mites. This program is expected to last until October 1, 1991. (Libby Pemberton)

8. North Carolina Department of Agriculture on April 12, 1991, for the use of naproamide on sweet potatoes to control broadleaf weeds. This program has ended. (Libby Pemberton)

9. North Carolina Department of Agriculture on April 12, 1991, for the use of clomazone on sweet potatoes to control annual broadleaf weeds. This program is expected to last until July 15, 1991. (Libby Pemberton)

10. South Carolina Division of Regulatory and Public Service Programs on April 3, 1991, for the use of fluvalinate on packaged bees to control varroa mites. This program is expected to last until October 1, 1991. (Libby Pemberton)

11. South Dakota Department of Agriculture on March 29, 1991, for the use of pendimethalin on mint to control kochia and redroot pigweed. This program has ended. (Jim Tompkins)

12. Texas Department of Agriculture on April 10, 1991, for the use of fluvalinate on packaged bees to control varroa mites. This program is expected to last until October 1, 1991. (Libby Pemberton)

13. United States Department of Agriculture on April 8, 1991, for the use of zinc phosphide on alfalfa, barley, beans, potatoes, sugar beets, wheat, and grass grown for seed to control voles. This program is expected to last until April 7, 1992. (Libby Pemberton)

EPA has denied specific exemption requests from the Michigan Department of Agriculture and the New York State Department of Environmental Conservation for the use of cyromazine on onions to control onion maggots. (Susan Stanton)

Authority: 7 U.S.C. 136.

Dated: July 12, 1991.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 91-18733 Filed 8-6-91; 8:45 am]

BILLING CODE 6560-50-F

[PP 1G3930/T612; FRL 3931-2]

Abamectin; Establishment of Temporary Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has established a temporary tolerance for the combined residues of the pesticide abamectin and its delta 8,9-isomer in or on the raw agricultural commodity apples at 0.035 part per million (ppm).

DATES: This temporary tolerance expires June 15, 1992.

FOR FURTHER INFORMATION CONTACT: By mail: George LaRocca, Product Manager

(PM) 15, Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 204, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703)–557–2400.

SUPPLEMENTARY INFORMATION: Merck Sharp Dohme Research Laboratories, Division of Merck and Co., Inc., Hillsborough Rd., Three Bridges, NJ 08887, has requested in pesticide petition (PP) 1G3930, the establishment of a temporary tolerance for the combined residues of the pesticide abamectin and its delta 8,9-isomer in or on the raw agricultural commodity apples at 0.035 ppm. This temporary tolerance will permit the marketing of the above raw agricultural commodity when treated in accordance with the provisions of the experimental use permit 618–EUP–13, 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 scientific data reported and other relevant material were evaluated, and it was determined that establishment of the temporary tolerance will protect the public health. Therefore, the temporary tolerance has been established on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. Merck and Co., Inc., 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.

This tolerance expires June 15, 1992. Residues not in excess of this amount remaining in or on the raw agricultural commodity after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerance. This tolerance may be revoked if the experimental use permit is revoked or if any experience with or scientific data on this pesticide indicate that such revocation is necessary to protect the public health.

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

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

Authority: 21 U.S.C. 346a(j).

Dated: July 10, 1991.

Anne E. Lindsay,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 91–18278 Filed 8–6–91; 8:45 am]

BILLING CODE 6560–50–F

[PP 1G2454/T614; FRL 3933–2]

Acetochlor; Renewal of Temporary Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has renewed temporary tolerances for the combined residues of the herbicide acetochlor, and from the sum of its EMA-(2-ethyl-6-methyl aniline) yielding metabolites and its HEMA-[2-(1-hydroxyethyl)-6-methyl aniline] yielding metabolites (when calculated as acetochlor) in or on certain raw agricultural commodities.

DATES: These temporary tolerances expire May 1, 1993.

FOR FURTHER INFORMATION CONTACT: By mail: Robert Taylor, Product Manager (PM) 25, Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 245, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703)–557–1800.

SUPPLEMENTARY INFORMATON: EPA issued a notice, which was published in the **Federal Register** of April 6, 1983 (48 FR 15001), stating that temporary tolerances had been extended for the combined residues of the herbicide acetochlor [N-(ethoxymethyl)-2-methyl-6-ethyl-2-chloro-acetanilide], and from the sum of its EMA-(2-ethyl-6-methyl aniline) yielding metabolites and its HEMA-[2-(1-hydroxyethyl)-6-methyl aniline] yielding metabolites (when calculated as acetochlor) in or on the raw agricultural commodities field corn, grain at 0.04 part per million (ppm) and field corn, fodder, and forage at 0.50 ppm. These tolerances are being renewed in response to pesticide petition (PP) 1G2454, submitted by Monsanto Co., 700 14th St., NW., Suite 1100, Washington, DC 20005.

The company has requested a 1-year renewal of the temporary tolerances to permit the continued marketing of the above raw agricultural commodities when treated in accordance with the provisions of the experimental use permit 524– EUP–56, which is being renewed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (Pub. L. 95–396, 92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that a renewal of the temporary tolerances will protect the public health, Therefore, the temporary tolerances have been renewed on the condition that the herbicide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active herbicide to be used must not exceed the quantity authorized by the experimental use permit.

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

These tolerances expire May 1, 1993. Residues not in excess of this amount remaining in or on the above raw agricultural commodities after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerances. These tolerances may be revoked if the experimental use permit is revoked or if any experience with or scientific data on this pesticide indicate that such revocation is necessary to protect the public health.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant

economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

Authority: 21 U.S.C. 346a(j).

Dated: July 18, 1991.

Anne E. Lindsay,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 91-18279 Filed 8-6-91; 8:45 am]

BILLING CODE 6560-50-F

[PP 9G3742/T611; FRL 3931-4]

Amitraz; Extension of Temporary Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has extended temporary tolerances for the combined residues of the insecticide/miticide amitraz and its metabolites in or on certain raw agricultural commodities.

DATES: These temporary tolerances expire May 30, 1992.

FOR FURTHER INFORMATION CONTACT By mail: Dennis Edwards, Product Manager (PM) 12, Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 202, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703)-557-2386.

SUPPLEMENTARY INFORMATION: EPA issued a notice, which was published in the **Federal Register** of July 18, 1990 (55 FR 29263), announcing the establishment of temporary tolerances for the combined residues of the insecticide/miticide amitraz N'-(2,4-dimethylphenyl)-N-[[(2,4-dimethylphenyl)imino]methyl]-N-methylmethanimidamide and its metabolites containing the 2,4-dimethylaniline moiety (calculated as the parent compound) in or on the raw agricultural commodities cottonseed at 1.0 part per million (ppm), in eggs and the meat and fat of poultry, horses, goats, and sheep at 0.01 ppm, and in the meat by-products of poultry, horses, goats, and sheep at 0.05 ppm. These tolerances were issued in response to pesticide petition (PP) 9G3742, submitted by Nor-Am Chemical Co., 3509 Silverside Rd., P.O. Box 7495, Wilmington, DE 19803.

These temporary tolerances have been extended to permit the continued marketing of the raw agricultural commodities named above when treated in accordance with the provisions of experimental use permit 45639-EUP-46, 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 scientific data reported and other relevant material were evaluated, and it was determined that the extension of these temporary tolerances will protect the public health. Therefore, the temporary tolerances have been extended on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. Nor-Am Chemical Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These tolerances expire May 30, 1992. Residues not in excess of this amount remaining in or on the raw agricultural commodities after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerances. These tolerances may be revoked if the experimental use permit is revoked or if any experience with or scientific data on this pesticide indicate that such revocation is necessary to protect the public health.

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

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

Authority: 21 U.S.C. 346a(j).

Dated: July 12, 1991.

Anne E. Lindsay,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 91-18280 Filed 8-6-91; 8:45 am]

BILLING CODE 6560-50-F

[PP 4G3156/T613; FRL 3931-6]

Monoammonium; Extension of Temporary Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has extended temporary tolerances for the combined residues of the herbicide monoammonium and its metabolite in or on certain raw agricultural commodities.

DATES: These temporary tolerances expire June 6, 1992.

FOR FURTHER INFORMATION CONTACT By mail: Joanne Miller, Product Manager (PM) 23, Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 237, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703)-557-1830.

SUPPLEMENTARY INFORMATION: EPA issued a notice, which was published in the **Federal Register** of June 14, 1990 (55 FR 24152), announcing the establishment of temporary tolerances for the combined residues of the herbicide monoammonium 2-amino-4-(hydroxymethylphosphinyl) butanoate and its metabolite 3-methylphosphinicopropionic acid in or on the raw agricultural commodities citrus, pome fruit, grapes, and stone fruit at 0.05 part per million (ppm). These tolerances were issued in response to pesticide petition (PP) 4G3156, submitted by Hoechst Celanese Corp., Route 202-206, P.O. Box 2500, Somerville, NJ 08876-1258.

These temporary tolerances have been extended to permit the continued marketing of the raw agricultural commodities named above when treated in accordance with the provisions of experimental use permit 8340-EUP-10, which is being extended under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (Pub. L. 95-396, 92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that the extension of these temporary tolerances will protect the public health. Therefore, the

temporary tolerances have been extended on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

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

These tolerances expire June 6, 1992. Residues not in excess of this amount remaining in or on the raw agricultural commodities after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerances. These tolerances may be revoked if the experimental use permit is revoked or if any experience with or scientific data on this pesticide indicate that such revocation is necessary to protect the public health.

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

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

Authority: 21 U.S.C. 346a(j).

Dated: July 12, 1991.

Anne E. Lindsay,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 91–18281 Filed 8–6–91; 8:45 am]

BILLING CODE 6560–50–F

[OPP–60021; FRL–3938–7]

Intent to Suspend Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of issuance of notices of intent to suspend.

SUMMARY: This Notice, pursuant to section 6(f)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 et seq., announces that EPA has issued Notices of Intent to Suspend pursuant to sections 3(c)(2)(B) and 4 of FIFRA. The Notices were issued following issuance of Section 4 Reregistration Requirements Notices by the Agency and the failure of registrants subject to the Section 4 Reregistration Requirements Notices to take appropriate steps to secure the data required to be submitted to the Agency. This Notice includes the text of a Notice of Intent to Suspend, absent specific chemical, product, or factual information. Table A of this Notice further identifies the registrant to whom the Notices of Intent to Suspend were issued, the date each Notice of Intent to Suspend was issued, the active ingredient(s) involved, and the EPA registration numbers and names of the registered product(s) which are affected by the Notices of Intent to Suspend. Moreover, Table B of this Notice identifies the basis upon which the Notices of Intent to Suspend were issued. Finally, matters pertaining to the timing of requests for hearing are specified in the Notices of Intent to Suspend and are governed by the deadlines specified in section 3(c)(2)(B). As required by section 6(f)(2), the Notices of Intent to Suspend were sent by certified mail, return receipt requested, to each affected registrant at its address of record.

FOR FURTHER INFORMATION CONTACT: Stephen L. Brozena, Office of Compliance Monitoring (EN–342), Laboratory Data Integrity Assurance Division, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, (703) 308–8267.

SUPPLEMENTARY INFORMATION:

I. Text of a Notice of Intent to Suspend

The text of a Notice of Intent to Suspend, absent specific chemical, product, or factual information, follows:

United States Environmental Protection Agency

Office of Pesticides and Toxic Substances

Washington, DC 20460

Certified Mail

Return Receipt Requested

SUBJECT: Suspension of Registration of Pesticide Product(s) Containing _____ for Failure to Comply with the Section 4 Reregistration Requirements

Notice for _____ Dated _____.

Dear Sir/Madam:

This letter gives you notice that the pesticide product registrations listed in Attachment I will be suspended 30 days from your receipt of this letter unless you take steps within that time to prevent this Notice from automatically becoming a final and effective order of suspension. The Agency's authority for suspending the registrations of your products is sections 3(c)(2)(B) and 4(d)(6) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Upon becoming a final and effective order of suspension, any violation of the order will be an unlawful act under section 12(a)(2)(J) of FIFRA.

You are receiving this Notice of Intent to Suspend because you have failed to comply with the terms of the Phase 2 Data Requirements for Reregistration Notice imposed pursuant to Section 4 of FIFRA. Section 4(d)(6) provides that the Administrator "shall issue a Notice of Intent to Suspend the registration of a pesticide in accordance with the procedures prescribed by section 3(c)(2)(B)(iv) if the Administrator determines that (A) progress is insufficient to ensure submission of the data required for such pesticide under a commitment made under paragraph (3)(B) within the time period prescribed by paragraph (4)(B) or (B) the registrant has not submitted such data to the Administrator within such time period."

The specific basis for issuance of this Notice is stated in the Explanatory Appendix (Attachment III) to this Notice. Affected products and the requirements which you failed to satisfy are listed and described in the following three attachments:

Attachment I Suspension Report - Product List

Attachment II Suspension Report - Requirement List

Attachment III Suspension Report - Explanatory Appendix

The suspension of the registration of each product listed in Attachment I will become final unless at least one of the following actions is completed.

1. You may avoid suspension under this Notice if you or another person adversely affected by this Notice properly request a hearing within 30 days of your receipt of this Notice. If you request a hearing, it will be conducted in accordance with the requirements of section 6(d) of FIFRA and the Agency's procedural regulations in 40 CFR part 164.

Section 3(c)(2)(B), however, provides that the only allowable issues which may be addressed at the hearing are

whether you have failed to take the actions which are the bases of this Notice and whether the Agency's decision regarding the disposition of existing stocks is consistent with FIFRA. Therefore, no substantive allegation or legal argument concerning other issues, including but not limited to the Agency's original decision to require the submission of data or other information, the need for or utility of any of the required data or other information or deadlines imposed, and the risks and benefits associated with continued registration of the affected product, may be considered in the proceeding. The Administrative Law Judge shall by order dismiss any objections which have no bearing on the allowable issues which may be considered in the proceeding.

Section 3(c)(2)(B)(iv) of FIFRA provides that any hearing must be held and a determination issued within 75 days after receipt of a hearing request. This 75–day period may not be extended unless all parties in the proceeding stipulate to such an extension. If a hearing is properly requested, the Agency will issue a final order at the conclusion of the hearing governing the suspension of your products.

A request for a hearing pursuant to this Notice must (1) include specific objections which pertain to the allowable issues which may be heard at the hearing, (2) identify the registrations for which a hearing is requested, and (3) set forth all necessary supporting facts pertaining to any of the objections which you have identified in your request for a hearing. If a hearing is requested by any person other than the registrant, that person must also state specifically why he asserts that he would be adversely affected by the suspension action described in this Notice. Three copies of the request must be submitted to: Hearing Clerk, A–110, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, and an additional copy should be sent to the signatory listed below. The request must be *received* by the Hearing Clerk by the 30th day from your receipt of this Notice in order to be legally effective. The 30–day time limit is established by FIFRA and cannot be extended for any reason. Failure to meet the 30–day time limit will result in automatic suspension of your registration(s) by operation of law and, under such circumstances, the suspension of the registration for your affected product(s) will be final and effective at the close of business 30 days after your receipt of this Notice and will not be subject to further administrative review.

The Agency's Rules of Practice at 40 CFR 164.7 forbid anyone who may take part in deciding this case, at any stage of the proceeding, from discussing the merits of the proceeding *ex parte* with any party or with any person who has been connected with the preparation or presentation of the proceeding as an advocate or in any investigative or expert capacity, or with any of their representatives. Accordingly, the following EPA offices, and the staffs thereof, are designated as judicial staff to perform the judicial function of EPA in any administrative hearings on this Notice of Intent to Suspend: The Office of the Administrative Law Judges, the Office of the Judicial Officer, the Administrator, the Deputy Administrator, and the members of the staff in the immediate offices of the Administrator and Deputy Administrator. None of the persons designated as the judicial staff shall have any *ex parte* communication with trial staff or any other interested person not employed by EPA on the merits of any of the issues involved in this proceeding, without fully complying with the applicable regulations.

2. You may also avoid suspension if, within 30 days of your receipt of this Notice, the Agency determines that you have taken appropriate steps to comply with the section 4 Data Requirements for Reregistration. In order to avoid suspension under this option, you must satisfactorily comply with Attachment II, Requirement List, for each product by submitting all required supporting data/information described in Attachment II and in the Explanatory Appendix (Attachment III) to the following address (preferably by certified mail):

Office of Compliance Monitoring (EN–342), Laboratory Data Integrity Assurance Division, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

For you to avoid automatic suspension under this Notice, the Agency must also determine within the applicable 30–day period that you have satisfied the requirements that are the bases of this Notice and so notify you in writing. You should submit the necessary data/information as quickly as possible for there to be any chance the Agency will be able to make the necessary determination in time to avoid suspension of your product(s).

The suspension of the registration(s) of your company's product(s) pursuant to this Notice will be rescinded when the Agency determines you have complied fully with the requirements which were the bases of this Notice. Such compliance may only be achieved by submission of the data/information described in the attachments to the signatory below.

Your product will remain suspended, however, until the Agency determines you are in compliance with the requirements which are the bases of this Notice and so informs you in writing.

After the suspension becomes final and effective, the registrant subject to this Notice, including all supplemental registrants of product(s) listed in Attachment I, may not legally distribute, sell, use, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver, to any person, the product(s) listed in Attachment I.

Persons other than the registrant subject to this Notice, as defined in the preceding sentence, may continue to distribute, sell, use, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver, to any person, the product(s) listed in Attachment I.

Nothing in this Notice authorizes any person to distribute, sell, use, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver, to any person, the product(s) listed in Attachment I in any manner which would have been unlawful prior to the suspension.

If the registrations of your products listed in Attachment I are currently suspended as a result of failure to comply with another section 4 Data Requirements Notice or section 3(c)(2)(B) Data Call-In Notice, this Notice, when it becomes a final and effective order of suspension, will be in addition to any existing suspension, i.e., all requirements which are the bases of the suspension must be satisfied before the registration will be reinstated.

You are reminded that it is your responsibility as the basic registrant to notify all supplementary registered distributors of your basic registered product that this suspension action also applies to their supplementary registered products and that you may be held liable for violations committed by your distributors. If you have any questions about the requirements and procedures set forth in this suspension notice or in the subject section 4 Data Requirements Notice, please contact Stephen L. Brozena at (703) 308–8267.

Sincerely yours,

Director, Office of Compliance Monitoring

Attachments:

Attachment I - Product List

Attachment II - Requirement List

Attachment III - Explanatory Appendix

II. Registrant Receiving and Affected by Notices of Intent to Suspend; Date of Issuance; Active Ingredient and Products Affected

The following is a list of products for which a letter of notification has been sent:

TABLE A—LIST OF PRODUCTS

Registrant Affected	EPA Registration Number	Active Ingredient	Name of Product	Date Issued
McLaughlin Gormley King Company	1021-872	Methyl Nonyl Ketone	MGK Dog and Cat Repellent, Emulsifiable, 1770	7/15/91
	1021-873		MGK Dog and Cat Repellent	7/15/91
	1021-874		MGK Dog and Cat Repellent Concentrate, F-1769	7/15/91

III. Basis for Issuance of Notice of Intent; Requirement List

The following company failed to submit the following required data or information:

TABLE B—LIST OF REQUIREMENTS

Active Ingredient	Registrant Affected	Requirement Name	Guideline Reference Number	Original Due-Date
Methyl Nonyl Ketone	McLaughlin Gormley King Company	Product chemistry	61-1 through 63-13	10/24/90
		Acute avian oral quail/duck	71-1(a)	10/24/90
		Acute avian dietary quail	71-2(a)	10/24/90
		Acute avian dietary duck	71-2(b)	10/24/90
		Chemical identity	160-5	10/24/90
		Chemical identity	171-2	10/24/90
		Directions for use	171-3	10/24/90

IV. Attachment III Suspension Report—Explanatory Appendix

A discussion of the basis for the Notice of Intent to Suspend follows:

Methyl Nonyl Ketone

On July 24, 1989, EPA issued the Phase 2 Data Requirements for Reregistration Notice imposed pursuant to section 4 of FIFRA which required registrants of products containing methyl nonyl ketone to develop and submit certain data. These data were determined to be necessary to satisfy reregistration data requirements of section 4(d). Failure to comply with the requirements of a Phase 2 Data Requirements Notice is a basis for suspension under sections 3(c)(2)(B) and 4(d)(6) of FIFRA.

The Methyl Nonyl Ketone Reregistration Data Requirements Notice dated July 24, 1989 required each affected registrant to submit materials relating to the election of the options to address each of the data requirements. That submission was required to be received by the Agency within 90 days of the registrant's receipt of the Notice. The Agency received a response from you dated October 20, 1989 in which you as a methyl nonyl ketone registrant committed to undertake the required testing to meet the data requirements listed in Attachment II. The Notice further required that these data be submitted by deadlines noted for the subject data requirements on Attachment II. These deadlines have passed and to date the Agency has not received data to satisfy these data requirements. Because you have failed to provide appropriate or adequate data submissions within the time provided for the data requirements listed on Attachment II, the Agency is initiating through this Notice of Intent to Suspend the actions which FIFRA requires it to take under these circumstances.

V. Conclusions

EPA has issued Notices of Intent to Suspend on the dates indicated. Any further information regarding these Notices may be obtained from the contact person noted above.

Dated: August 1, 1991.

Michael M. Stahl,

Director, Office of Compliance Monitoring.

[FR Doc. 91-18732 Filed 8-6-91; 8:45 am]

BILLING CODE 6560-50-F

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

July 26, 1991.

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of this submission may be purchased from the Commission's copy contractor, Downtown Copy Center, 1114 21st Street, NW., Washington, DC 20036, (202) 452-1422. For further information on this submission contact Judy Boley, Federal Communications

Commission, (202) 632–7513. Persons wishing to comment on this information collection should contact Jonas Neihardt, Office of Management and Budget, room 3235 NEOB, Washington, DC 20503, (202) 395–4814.

OMB Number: 3060–0416.

Title: Section 76.33, Standards for rate regulation.

Action: Revision.

Respondents: Businesses or other for-profit (including small businesses).

Frequency of Response: On occasion.

Estimated Annual Burden: 32,100 responses; 18.05 hours average burden per response; 579,500 hours total annual burden.

Needs and Uses: Section 76.33(a) requires certain documentation to be filed with the Commission by cable operators and franchisors in order for the Commission to resolve disputes concerning the applicability of the signal availability standard. Section 76.33(b) requires the franchise authority to give formal notice to the public when establishing any rate for the provision of basic cable service by cable systems. The data collected by § 76.33(a) is used by FCC staff to resolve disputes concerning the applicability of the signal availability standard. The formal notice required by § 76.33(b) is used by the public so that they may be provided an opportunity to make their views known at the local level on any rate provisions concerning cable service. The requirement for a written decision will ensure that local authorities are cognizant of and apply the standards for rate regulation required by the Commission.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 91–18634 Filed 8–6–91; 8:45 am]

BILLING CODE 6712–01–M

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

July 30, 1991.

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of this submission may be purchased from the Commission's copy contractor, Downtown Copy Center, 1114 21st Street, NW., Washington, DC 20036, (202) 452–1422. For further information on this submission contact Judy Boley, Federal Communications Commission, (202) 632–7513. Persons wishing to comment on this information collection should contact Jonas Neihardt, Office of Management and Budget, room 3235 NEOB, Washington, DC 20503, (202) 395–4814.

OMB Number: 3060–0068.

Title: Application for Consent to Assignment of Radio Station Construction Authorization or License—For stations in services other than Broadcast.

Form Number: FCC Form 702.

Action: Revision.

Respondents: Businesses or other for-profit (including small businesses).

Frequency of Response: On occasion.

Estimated Annual Burden: 1,000 responses; 5 hours average burden per response; 5,000 hours total annual burden.

Needs and Uses: FCC Form 702 is used by radio station permittees, conditional licensees or licensees to request authority to assign ownership of station assets. The affected public are individuals, partnerships or companies that are permittees, conditional licensees, and/or licensees of radio stations providing telecommunications. The data is used by the Commission to determine the qualifications of the applicant. This information collection has been revised to correct minor errors and several data elements were added to facilitate application processing. MMDS applicants must now respond to two new data elements pursuant to General Docket Nos. 90–54 and 80–113.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 91–18635 Filed 8–6–91; 8:45 am]

BILLING CODE 6712–01–M

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

July 30, 1991.

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of this submission may be purchased from the Commission's copy contractor, Downtown Copy Center, 1114 21st Street, NW., Washington, DC 20036, (202) 452–1422. For further information on this submission contact Judy Boley, Federal Communications Commission, (202) 632–7513. Persons wishing to comment on this information collection should contact Jonas Neihardt, Office of Management and Budget, room 3235 NEOB, Washington, DC 20503, (202) 395–4814.

OMB Number: 3060–0347.

Title: Section 97.311, SS emission types.

Action: Extension.

Respondents: Individuals or households.

Frequency of Response: Recordkeeping requirement.

Estimated Annual Burden: 25 recordkeepers; 1 hour average burden per recordkeeper; 25 hours total annual burden.

Needs and Uses: The recordkeeping requirement in § 97.311 is necessary to document all spread spectrum transmissions by amateur radio operators. It consists of a technical description of the transmission signal, pertinent parameters describing the transmitted signal, general description of information, method and frequencies used for station identification and date of beginning and date of ending use of each type of transmitted signal. This requirement is necessary so that quick resolution of any harmful interference problems can be achieved and to ensure that the station is operating in accordance with the Communications Act of 1934, as amended. The information is used by FCC staff during inspection and investigations to ensure compliance with applicable rules, statutes and treaties. In the absence of this recordkeeping requirement, field inspections and investigations related to the solution of cases of harmful interference would be severely hampered and needlessly prolonged due to the inability to quickly obtain vital information used to demodulate spread spectrum transmissions.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 91–18636 Filed 8–6–91; 8:45 am]

BILLING CODE 6712–01–M

Comments Invited on Illinois Regional Public Safety Plan

July 31, 1991.

The Commission has received the public safety radio communications plan for Illinois (Region 13).

In accordance with the Commission's Report and Order in General Docket No 87–112 implementing the Public Safety National Plan, parties may file comments on or before September 6, 1991, and reply comments on or before September 23, 1991. (See Report and Order, General Docket No. 87–112, 3 FCC Rcd 905 (1987), at paragraph 54.)

In accordance with the Commission's Memorandum Opinion and Order in General Docket No. 87-112, Region 13 consists of the State of Illinois, except for the following counties: Winnebago, McHenry, Cook, Kane, Kendall, Grundy, Boone, Lake, DuPage, DeKalb, Will and Kankakee Counties. (See Memorandum Opinion and Order, General Docket No. 87-112, 3 FCC Rcd 2113 (1988).)

Comments should be clearly identified as submissions to PR Docket 91-228 Illinois—Region 13, and commenters should send an original and five copies to the Secretary, Federal Communications Commission, Washington, DC 20554.

Questions regarding this public notice may be directed to Betty Woolford, Private Radio Bureau, (202) 632-6497 or Ray LaForge, Office of Engineering and Technology, (202) 653-8112.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 91-18637 Filed 8-6-91; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Spain-Italy/Puerto Rico Island Pool; Agreement(s) Filed

The federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 212-011213-022.

Title: Spain-Italy/Puerto Rico Island Pool Agreement.

Parties:

Compania Trasatlantica Espanola, S.A.
d'Amico Societa de Navigazione, S.p.A.,
Nordana Line A/S,
Sea-Land Service, Inc.

Synopsis: The proposed amendment would add new provisions to the Agreement setting forth the method of disbursing excess funds remaining in the Pool Common Fund in the Spanish Range of the Pool after the payment of undercarrier compensation for the Pool period ending December 31, 1990. It would also set forth limits on liability for overcarriage payments by members in the Italian Range.

Dated: August 1, 1991.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 91-18676 Filed 8-6-91; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Advance Bancorp, Inc., et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than August 26, 1991.

A. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Advance Bancorp, Inc., Chicago, Illinois; to acquire Homewood Federal Savings and Loan Association, Homewood, Illinois, and thereby indirectly acquire South Chicago Interim Bank, f.s.b., Chicago, Illinois, pursuant to § 225.25(b)(9) of the Board's Regulation Y. Interim Bank will acquire certain assets and assume certain liabilities of Homewood and will be merged with South Chicago Bank, Chicago, Illinois, in an Oakar transaction. Homewood's remaining assets and liabilities will be acquired by Advance's existing thrift subsidiary, Advance Bank, F.S.B., Lansing, Illinois.

2. NBD Bancorp, Inc., Detroit, Michigan; to acquire First Fidelity Trust, N.A., Boca Raton, Florida, and thereby engage in performing functions or activities that may be performed by a trust company (including activities of a fiduciary, agency, or custodial nature), pursuant to § 225.25(b)(3) of the Board's Regulation Y. **Comments on this application must be received by August 21, 1991.**

Board of Governors of the Federal Reserve System, August 1, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-18701 Filed 8-6-91; 8:45 am]

BILLING CODE 6210-01-F

Banc One Corporation; Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted,

these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 29, 1991.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. Banc One Corporation, Columbus, Ohio; to acquire 100 percent of the voting shares of Premier Bancorp, Inc., Baton Rouge, Louisiana, and thereby indirectly acquire Premier Bank, N.A., Baton Rouge, Louisiana.

In connection with this application, Applicant also proposes to acquire Premier Securities Corporation, Baton Rouge, Louisiana, and thereby indirectly acquire Premier Investment Advisors, Inc., Baton Rouge, Louisiana, and thereby engage in offering discount securities brokerage service activities, pursuant to § 225.25(b)(15) of the Board's Regulation Y; and providing investment advisory service activities to the trust department of Premier Bank, to certain nonaffiliated pension funds, and to a nonaffiliated mutual fund, pursuant to § 225.25(b)(4) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, August 1, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-18702 Filed 8-6-91; 8:45 am]

BILLING CODE 6210-01-F

J. B. Morgan Bancshares, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than August 26, 1991.

A. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. J. B. Morgan Bancshares, Inc., Morgantown, Indiana; to become a bank holding company by acquiring 100 percent of the voting shares of First State Bank, Morgantown, Indiana.

B. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. GB Financial Services, Inc., Greenbush, Minnesota; to become a bank holding company by acquiring an additional 32.56 percent (totalling 52.55 percent) of the voting shares of Greenbush Bancshares, Inc., Greenbush, Minnesota, and thereby indirectly acquire Greenbush State Bank, Greenbush, Minnesota.

C. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. Big Bend Bancshares Corp., Presidio, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Rio Bancshares Corporation, Wilmington, Delaware, and thereby indirectly acquire First Presidio Bank, Presidio, Texas.

2. Rio Bancshares Corporation, Wilmington, Delaware; to become a bank holding company by acquiring 80 percent of the voting shares of First Presidio Bank, Presidio, Texas.

Board of Governors of the Federal Reserve System, August 1, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-18703 Filed 8-6-91; 8:45 am]

BILLING CODE 6210-01-F

Liberty National Bancorp, Inc.; Notice of Application to Engage de novo in Permissible Nonbanking Activities

Correction

This notice corrects a previous **Federal Register** notice (FR Doc. 91-15411) published at page 29,655 of the issue for Friday, June 28, 1991.

Under the Federal Reserve Bank of St. Louis, the entry for Liberty National Bancorp, Inc. is amended to read as follows:

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Liberty National Bancorp, Inc., Louisville, Kentucky; to engage *de novo* through its subsidiary, Liberty Investment Services, Inc., Louisville, Kentucky, in providing investment advisory services to both institutional and retail customers pursuant to § 225.25(b)(4)(i)-(v) of the Board's Regulation Y separately and in combination with brokerage services for which it has previously received approval pursuant to § 225.25(b)(15) of the Board's Regulation Y. These activities will be conducted in Kentucky and Indiana.

Comments on this application must be received by August 26, 1991.

Board of Governors of the Federal Reserve System, August 1, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-18704 Filed 8-6-91; 8:45 am]

BILLING CODE 6210-01-F

GENERAL ACCOUNTING OFFICE

Federal Accounting Standards Advisory Board; Meeting

AGENCY: General Accounting Office.

ACTION: Notice.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. No. 92-463), as amended, notice is hereby given that a meeting of the Federal Accounting Standards Advisory

Board will be held on Thursday, August 22, 1991, from 9 a.m. until 4 p.m. in room 7313 of the General Accounting Office, 441 G St. NW., Washington, DC.

The agenda for the meeting will consist of a review of the minutes of the July 18 meeting, the continuation of discussion on Accounting Standards Exposure Draft, a discussion of credit subsidy accounting, and a discussion of the distinction between commercial and governmental type accounting. We advise that other items may be added to the agenda; interested parties should contact the Staff Director for more specific information.

Any interested person may attend the meeting as an observer. Board discussions and reviews are open to the public.

FOR FURTHER INFORMATION CONTACT: Ronald S. Young, Staff Director, 401 F St. NW., room 302, Washington, DC 20001, or call (202) 504–3336.

DATES: August 22, 1991.

ADDRESSES: 441 G St., NW., room 7313, Washington, DC 20548.

Authority: Federal Advisory Committee Act. Pub. L. No. 92–463, section 10(a)(2), 86 Stat. 770, 774 (1972) (current version at 5 U.S.C. app. section 10(a)(2) (1988); 41 CFR 101–6.1015 (1990).

Dated: July 31, 1991.

Ronald S. Young,

Staff Director.

[FR Doc. 91–18631 Filed 8–6–91; 8:45 am]

BILLING CODE 1610–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

[Program Announcement 146]

National Institute for Occupational Safety and Health; Development of a Model Disease and Injury Prevention and Health Promotion Program for Workers in the Construction Industry; Notice of Availability of Funds for Fiscal Year 1991

Introduction

The Centers for Disease Control (CDC), National Institute for Occupational Safety and Health (NIOSH), announces the availability of Fiscal Year 1991 funds for a cooperative agreement to develop a model disease and injury prevention and health promotion program for the construction industry in the United States. The cooperative agreement will significantly strengthen the occupational public health infrastructure by integrating resources for occupational safety and health research and public health prevention programs at the state and local levels.

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objective of Healthy People 2000, a PHS-lead national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority area of Occupational Safety and Health. (For ordering a copy of Healthy People 2000, see the section where to obtain additional information.)

Authority

This program is authorized under section 21(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 670[a]). Program regulations applicable to the cooperative agreement are set forth in title 42, part 87, of the U.S. Code of Federal Regulations entitled "NIOSH, Research and Demonstration Grants."

Eligible Applicants

Eligible applicants include nonprofit and for-profit organizations. Thus, universities, colleges, research institutions, groups representing construction workers, hospitals, and other public and private organizations, state and local health and labor departments, and small, minority, and/or women-owned businesses are eligible for this cooperative agreement.

Applicants must be able to demonstrate their ability to interact directly and provide leadership to a large, representative group of the nationwide construction workers. Additionally, the applicant must be able to demonstrate access to construction workers' medical histories, work histories, and medical and disability claims records. Finally, applicants must be able to demonstrate their position as leaders in the construction industry through recognition by federal, state, labor, and business groups.

Availability of Funds

Approximately $102,000 is available in Fiscal Year 1991 to fund this cooperative agreement. The award is expected to begin on or about September 30, 1991, for a 12-month budget period in a 3-year project period.

Purpose

The purpose of this cooperative agreement is for NIOSH to assist in the development and evaluation of a disease and injury prevention and health promotion program for workers in the construction industry so that by the Year 2000 differences in mortality rates between construction workers and the general population will be eradicated.

Program Requirements

In conducting activities to achieve the purpose of this program, the recipient shall be responsible for conducting activities under A. below, the CDC/NIOSH will be responsible for conducting activities under B. below:

A. Recipient Activities

1. Using employees' health and personnel records, the applicant will develop protocols and conduct research to evaluate morbidity and mortality risks to construction workers. Diseases and injuries to be considered will include, but are not limited to, certain respiratory diseases, skin diseases, traumatic injuries, musculoskeletal conditions, noise-induced hearing loss, and lead toxicity.

2. Develop a protocol to assess the risks associated with occupational and lifestyle behaviors of construction workers and involved family members.

3. Develop a preventive health program to include a periodic health assessment.

4. Develop a plan for the ongoing health education for construction workers and their families; that education campaign will include the appropriate health promotion and risk reduction techniques.

5. Develop a methodology for the periodic evaluation of the effectiveness and efficiency of the program.

B. CDC/NIOSH Activities

1. Provide the applicant with the most current scientific and epidemiologic information relative to risk identification and health promotion.

2. Provide scientific information and consultation related to study design.

3. Provide scientific information and consultation related to data analysis.

4. Assist in the development of intervention and health promotion strategies.

5. Assist in the development and implementation of an evaluation protocol for the program.

6. Review and participate in all publications resultant from this program.

Evaluation Criteria

The application will be reviewed based on the evidence submitted which specifically describes the applicant's ability to meet the following criteria:

1. Responsiveness to the objectives of the cooperative agreement including: (a) The applicant's understanding of the objectives of the proposed cooperative

agreement, and (b) the relevance of the proposal to the objectives. (25%)

2. Feasibility of meeting the proposed goals of the cooperative agreement including: (a) The proposed schedule for initiating and accomplishing each of the activities of the cooperative agreement, and (b) the proposed method for evaluating the accomplishment. (20%)

3. Strength of the program design which addresses the distinct characteristics and needs in the development of a disease prevention program for construction laborers. (25%)

4. Strength of the proposed program for health and safety research in the areas of health promotion and prevention research. (15%)

5. Training and experience of the proposed Program Director and staff including: (a) A Program Director who is a recognized scientist and technical expert, and (b) staff with training or experience sufficient to accomplish the proposed program. (15%)

6. The budget will be evaluated for the extent to which it is reasonable, clearly justified, and consistent with the intended use of funds. (Not Scored)

Paperwork Reduction Act

The projects that will be funded through the cooperative agreement mechanism of this program that involve the collection of informatin from 10 or more individuals will be subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

Executive Order 12372

Applications are not subject to review by Executive Order 12372, Intergovernmental Review of Federal Programs.

Catalog of Federal Domestic Assistance Number (CFDA)

The Catalog of Federal Domestic Assistance Number for this program is 93.262.

Application Submission and Deadline

The original and two copies of the application must be submitted on PHS Form 5161–1 (Revised 03/89) to Henry S. Cassell, III, Grants Mangement Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, Mailstop E–14, 255 East Paces Ferry Road N.E., Room 300, Atlanta, Georgia 30305, on or before September 5, 1991.

1. Deadline

Applications will be considered to have met the deadline if they are either:

A. Received on or before the deadline date, or

B. Sent on or before the deadline date and received in time for submission for the review process. 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. Private metered postmarks will not be acceptable as proof of timely mailing.

2. Applications that do not meet the criteria in 1.A or 1.B. above are considered late applications and will be returned to the applicant.

Where to Obtain Additional Information

A complete program description, information on application procedures, an application package and Business Management Technical Assistance may be obtained from Lisa G. Tamaroff, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, Mailstop E–14, 255 East Paces Ferry Road, N.E., Room 300, Atlanta, Georgia 30305, (404) 842–6630 or FTS 236–6630.

Programmatic Technical Assistance may be obtained from Dr. Paul A. Schulte, NIOSH, Centers for Disease Control Robert A. Taft Laboratories, 4647 Columbia Parkway, Cincinnati, Ohio 45213, (513) 841–4475 or FTS 684–4475.

Please refer to Announcement Number 146 when requesting information and submitting an application.

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, (202) 783–3238.

Dated: August 1, 1991.

Larry W. Sparks,

Acting Director, National Institute for Occupational Safety and Health.

[FR Doc. 91–18694 Filed 8–6–91; 8:45 am]

BILLING CODE 4160–19–M

Food and Drug Administration

[Docket No. 91N–0216]

Bolar Pharmaceutical Co., Inc., and Sanofi Animal Health, Inc.; Withdrawal of Approval of NADA's

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The food and drug administration (FDA) is withdrawing approval of three new animal drug applications (NADA's) held by Bolar Pharmaceutical Co., Inc., and two NADA's held by Sanofi Animal Health, Inc. Bolar requested withdrawal of approval because the products are no longer being marketed and in accordance with a plea agreement with the United States Department of Justice. Sanofi requested withdrawal of approval of the NADA's because the products are no longer being marketed.

EFFECTIVE DATE: August 19, 1991.

FOR FURTHER INFORMATION CONTACT: Mohammad I. Sharar, Center for Veterinary Medicine (HFV–216), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857 (301)–443–4093.

SUPPLEMENTARY INFORMATION: The sponsors of the NADA's listed below have informed FDA that the drug products approved under these NADA's are no longer beig marketed, and have requested that FDA withdraw approval of the applications. Bolar's request was made pursuant to a plea agreement with the United States Department of Justice.

The NADA's held by Bolar Pharmaceutical Co., Inc., 130 Lincoln St., Copiague, NY 11726, are identified as follows:

NADA 107–397, for Primidone tablets;

NADA 125–329, for Furosemide tablets;

NADA 135–299, for acepromazine maleate tablets.

The NADA's held by Sanofi Animal Health, Inc., 7101 College Blvd., suite 610, Overland Park, KS 66210, are identified as follows:

NADA 118–506, for Nitrofurazone ointment; and

NADA 119–974, for Nitrofurazone solution.

Therefore, under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Veterinary Medicine (21 CFR 5.84), and in accordance with § 514.115 *Withdrawal of approval of applications* (21 CFR 514.115) notice is given that approval of the NADA's listed above and all supplements and amendments thereto is hereby withdrawn, effective August 19, 1991.

In a final rule published elsewhere in this issue of the **Federal Register**, FDA is amending 21 CFR 510.600(c) (1) and (c) (2), 520.23(a) (2), 520.1010a(b), 520.1900(b), 524.1580b(b), and 524.1580d(b) to reflect its withdrawal of approval of these NADA's.

Dated: August 1, 1991.

Richard H. Teske,

Deputy Director,

Center for Veterinary Medicine.

[FR. Doc. 91–18760 Filed 8–6–91; 8:45 am]

BILLING CODE 4160–01–M

Health Resources and Services Administration

Program Announcement for Scholarships for Disadvantaged Students

The Health Resources and Services Administration (HRSA) announces that applications for fiscal year (FY) 1991 for the new Scholarships for Disadvantaged Students (SDS) program are now being accepted under the authority of new section 760 of the Public Health Service Act (the Act), as amended by The Disadvantaged Minority Health Improvement Act of 1990, Public Law 101–527.

Approximately $8,300,000 is available in FY 1991 for the competing applications for the SDS Program from eligible health professions and nursing schools. Of the funds available, 30 percent shall be made available to schools agreeing to expend the grants only for nursing scholarships. An estimated $2.9 million will support approximately 965 scholarships averaging $3,000 for students at schools of nursing. The balance of $5.4 million will support approximately 2,400 scholarships averaging $2,250 for eligible health professions students. (These estimates are based on actual experience with similar scholarship programs.) The period of fund availability will be for one academic year. Comments are invited on the proposed acceptability of undergraduate students, definitions, funding preference, methodology for implementing the statutory special consideration, nonstatutory special consideration, and procedures for calculating grant awards.

Purpose

The SDS program is a new program of grants to health professions and nursing schools for the purpose of assisting such schools in providing scholarships to individuals from disadvantaged backgrounds who are enrolled (or accepted for enrollment) as full-time students in the schools, as well as to undergraduate students who have demonstrated a commitment to pursuing a career in health professions. For purposes of the SDS program in FY 1991, an "individual from a disadvantaged background" will be defined as in 42 CFR, part 57, subpart S, as one who:

(1) Comes from an environment that has inhibited the individual from obtaining the knowledge, skill, and abilities required to enroll in and graduate from a health professions school, or from a program providing education or training in an allied health professions; or

(2) Comes from a family with an annual income below a level based on low income thresholds according to a family size published by the U.S. Bureau of the Census, adjusted annually for changes in the Consumer Price Index, and adjusted by the Secretary for use in all health professions programs. The Secretary will periodically publish these income levels in the **Federal Register.**

The following income figures determine what constitutes a low income family for purposes of the Scholarships for Disadvantaged Students program for FY 1991.

Size of parents' family [1]	Income level [2]
1	$8,800
2	11,400
3	13,500
4	17,300
5	20,400
6 or more	23,000

[1] Includes only dependents listed on Federal income tax forms.

[2] Adjusted gross income for calendar year 1990, rounded to $100.

Use of Funds

Funds awarded to a school under this program may be used as follows:

(1) To award scholarships to eligible students enrolled in the school, to be expended only for tuition expenses, other reasonable educational expenses, and reasonable living expenses (as defined by the school for all students attending the school) incurred while enrolled in a school as a full-time student. The amount of the scholarship may not, for any year of attendance, exceed the total amount required for the year for the expenses specified above.

(2) To provide financial assistance to undergraduate students who have demonstrated a commitment to pursuing a career in the health professions, in order to facilitate the completion of the educational requirements for such careers, provided that the total amount used for this purpose may not exceed 25 percent of the funds awarded to the school under this program.

Any school receiving SDS funds will be required to maintain separate accountability for these funds.

School Eligibility

Grants under this program will be made available to accredited public or nonprofit private health professions schools. For purposes of the SDS program, the term "health professions schools" means schools of medicine, dentistry, osteopathic medicine, pharmacy, optometry, podiatric medicine, veterinary medicine, and public health, as defined in section 701(4) of the Act, and which are accredited as provided in section 701(5) of the Act, schools of allied health as defined in section 701(10) of the Act, and which are located in States as defined in section 701(11) of the Act, and schools of nursing as defined in section 853 of the Act. The term also includes a "graduate program in clinical psychology" as defined in section 701(4) of the Act.

In accordance with congressional report language, funding of allied health schools or programs will be limited to the following: Dental hygiene, medical laboratory technology, occupational therapy, physical therapy and radiologic technology.

As required by statute, to qualify for participation in the SDS program, a school must be:

(1) Carrying out a program for recruiting and retaining students from disadvantaged backgrounds, including racial and ethnic minorities; and

(2) Carrying out a program for recruiting and retaining minority faculty.

If a school has no students from disadvantaged backgrounds, or no full-time minority faculty, or provides no data as required in the application materials, it is not eligible for participation in the SDS program. A school that is able to provide required data will be eligible for participation in the current award cycle. However, failure to provide certain additional data may make a school ineligible for special consideration (see below) and may jeopardize future program participation.

In addition, the school must agree in its fiscal year 1991 application to carry out all of the statutory requirements listed below:

(1) Ensure that adequate instruction regarding minority health issues is provided for in the curricula of the school. This does not include normal course work, that by definition includes minority health issues (e.g., sickle cell anemia in a pathology class), but refers to course work reflecting an institutional awareness of the special health needs of minority populations;

(2) Enter into arrangements with one or more health clinics providing services to a significant number of individuals who are from disadvantaged backgrounds, including members of minority groups, for the purpose of providing students of the school with

experience in providing clinical services to such individuals;

(3) Enter into arrangements with one or more public or nonprofit private secondary educational institutions and undergraduate institutions of higher education (feeder schools), for the purpose of carrying out programs regarding:

(a) The educational preparation of disadvantaged students, including minority students, to enter the health professions; and

(b) The recruitment of disadvantaged students, including minority students, into the health professions; and

(4) Establish a mentor program for assisting disadvantaged students, including minority students, regarding the completion of the educational requirements for degrees from the school. This program may include the involvement of students, community health professionals, faculty, alumni, past recipients of Health Career Opportunity Program (HCOP) funds, faculty/staff of feeder schools, etc., in institutionally organized activity (e.g., tutoring, counseling, and summer/bridge programs).

A school will be required to carry out each of the activities specified above by not later than one year after the date on which a grant is first made to the school under section 760. Funds awarded to a school under the SDS program may not be used to carry out any of the above activities which the school must be doing, or must agree to do. In addition, a school will be required to continue to carry out all described activities, and also the student/ faculty recruitment and retention activities, for as long as the SDS program is in operation in the school.

Evaluation Criteria for Fiscal Year 1992

Beginning with FY 1992 applications will be evaluated on the degree to which the schools meet the statutory requirements listed above. Guidance for presenting the information will be provided in the FY 1992 application materials.

Student Eligibility

As required by statute, to qualify for the SDS program, a student must:

(1) Be a citizen, a U.S. national, an alien lawfully admitted for permanent residency in the U.S., or a citizen of the Commonwealth of the Northern Mariana Islands, a citizen of the Commonwealth of Puerto Rico, a citizen of the Trust Territory of the Pacific Islands (consisting of the Republic of Palau) or a citizen of the Republic of Marshall Islands, the Federated States of Micronesia (both formally part of the Trust Territory of the Pacific Islands);

(2) Meet the definition of an "individual from a disadvantaged background" as defined above; and

(3)(a) Be enrolled in or accepted by an eligible school for enrollment as a full-time student; or

(b) Be an undergraduate student who has demonstrated a commitment to pursuing a career in health professions, including nursing.

Statutory Preference

The law requires that in providing SDS scholarships, the school give preference to students for whom the cost of attending an SDS school would constitute a severe financial hardship. Severe financial hardship will be determined by the school in accordance with standard need analysis procedures prescribed by the Department of Education for its Federal student aid programs.

Proposed Acceptability of Undergraduate Students

In the instance of (3) (b) above, it is proposed that the undergraduate students eligible for scholarships be at feeder schools and have signed statements that they are interested in health professions or nursing careers.

Proposed Definitions

Black means a person having origins in any of the black racial groups of Africa.

Hispanic means a person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race.

American Indian or Alaskan Native means a person having origins in any of the original peoples of North America, and who maintains cultural identification through tribal affiliation or community recognition.

Definitions listed above are contained in Directive No. 15 of Office of Management and Budget Circular No. A–46, dated May 3, 1974.

Native American as defined in Public Law 101–527, means American Indian, Alaskan Native, Aleut, or Native Hawaiian.

Minority with respect to faculty, refers to Blacks, Hispanics, Native Americans, Filipinos, Koreans, Pacific Islander, and Southeast Asians whose percentage among the total supply of practitioners in the applicable health profession is below that group's percentage in the total population. (House Report 101–804 reflects the intent of Congress that these groups be considered for participation in this program.)

Proposed Funding Preference

A funding preference means funding of a specific group of approved applications ahead of other categories of applications. Because of limited funding, it is proposed in FY 1991 that preferential funding be accorded to schools of medicine, osteopathic medicine and dentistry. This responds to the concern expressed in Congressional committee report language regarding the need to target monies toward programs that are focused on primary care. This funding preference will not affect the statutory requirement that 30% of the SDS funds shall be made available to schools agreeing to expend the grants only for nursing scholarships.

Proposed Methodology for Implementing the Statutory Special Consideration

In accordance with the statute, a special consideration will be given to eligible schools with an underrepresented minority enrollment that exceeds the national average for its particular discipline.

For purposes of determining eligibility of a school of medicine, osteopathic medicine and dentistry for the special consideration, Asians will not be included in the definition of underrepresented minorities for the school. Although certain Asian subgroups (i.e., Filipinos, Koreans, Pacific Islanders, and Southeast Asians) are considered to be underrepresented in the health professions and are included as minorities for purposes of program requirements relating to faculty recruitment and retention (see above), national data on these subgroups are not available as a basis for establishing national average enrollment of underrepresented minorities for the disciplines of medicine, osteopathic medicine, and dentistry.

For purposes of determining the eligibility of nursing schools for the special consideration, Asians will be included in the definition of underrepresented minorities since Asians as a whole do continue to be underrepresented in nursing.

For purposes of the FY 1991 award cycle, the national average enrollments of Blacks, Hispanics, and Native Americans (in combination) are: For medicine, 12.3 percent; osteopathic medicine, 6.9 percent; dentistry, 14.1 percent; and nursing, 16.4 percent (nursing percentage includes Asians).

Proposed Nonstatutory Special Consideration for Baccalaureate Nursing Programs

Among schools of nursing, it is proposed that additional consideration be given to baccalaureate programs. One of the distinguishing features of baccalaureate education is the substantial focus on preparation for community health practice. Training nurses for community health practice is an integral component of the Department's access strategy.

Proposed Procedures for Calculating Scholarship Awards

Awards to eligible schools which have applied will be calculated by comparing the enrollment of disadvantaged students in each eligible school with the total enrollment of the disadvantaged students in all eligible schools. In the case of health professions schools, the calculation will be made first for schools of medicine, osteopathic medicine, and dentistry, with awards limited to the cost of attendance times the number of eligible disadvantaged students at the school. Any remaining funds will be made available to other eligible health professions schools.

A school with an enrollment of underrepresented minority students which is above the national average (for each discipline) will be given double credit (i.e., its enrollment of disadvantaged students would be doubled for awarding purposes). A baccalaureate nursing school will be given double credit. A baccalaureate nursing school with an underrepresented minority enrollment above the national average will be given quadruple credit (i.e., its enrollment of disadvantaged students will be multiplied by four for awarding purposes).

National Health Objectives for the Year 2000

The Public Health Service 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 Scholarships for Students from Disadvantaged Backgrounds program is related to the priority area of Educational and Community-Based Programs. Potential applicants may obtain a copy of Healthy People 2000 (Full Report; Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report; Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325 (Telephone (202) 783–3238).

Interested persons are invited to comment on the proposed acceptability of undergraduate students, definitions, funding preference, methodology for implementing the statutory special consideration, nonstatutory special consideration, and procedures for calculating scholarship awards. Normally, the comment period would be 60 days, but due to the need to implement the SDS Fiscal Year 1991 award cycle, this comment period has been reduced to 30 days.

All comments received on or before September 6, 1991, will be considered before the final acceptability of undergraduate students, definitions, funding preference, methodology for implementing the statutory special consideration, nonstatutory special consideration, and procedures for calculating scholarship awards are established. No funds will be allocated until a final notice is published stating whether the final acceptability of undergraduate students, definitions, funding preference, methodology for implementing the statutory special consideration, nonstatutory special consideration, and procedures for calculating scholarship awards will be applied.

Written comments should be addressed to: Mr. Michael Heningburg, Director, Division of Student Assistance; Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, room 8–48, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–1173.

Application Requests

Application materials will be available when OMB approval is received.

Applications will be mailed to all eligible schools of medicine, osteopathic medicine, dentistry and nursing.

Requests for application materials and questions regarding programmatic information, policy, and technical and business management issues should be directed to: Bruce Baggett, Chief, Student Institutional Support Branch, Division of Student Assistance, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, room 8–34, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–4776.

Completed applications should be forwarded to the Student Institutional Support Branch at the above address.

The application deadline date is September 6, 1991. Applications shall be considered as meeting the deadline if they are either:

(1) *Received on* or before the deadline date, or

(2) *Postmarked on* or before the deadline and received in time for consideration. A legibly dated receipt from a commercial carrier or U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmarks shall not be acceptable as proof of timely mailing.

Late applications not accepted for processing will be returned to the applicant. The application form and instructions have been submitted to Office of Management and Budget (OMB) for approval under the Paperwork Reduction Act.

The Catalog of Federal Domestic Assistance Number for the Scholarships for Health Professions Students from Disadvantaged Backgrounds program is 93.925. This program is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs (as implemented through 45 CFR part 100).

Dated: June 13, 1991.

Robert G. Harmon,

Administrator.

[FR Doc. 91–18698 Filed 8–6–91; 8:45 am]

BILLING CODE 4160–15–M

Program Announcement for the Disadvantaged Health Professions Faculty Loan Repayment Program

The Health Resources and Services Administration (HRSA) announces that applications for fiscal year (FY) 1991 for the Disadvantaged Health Professions Faculty Loan Repayment Program are now being accepted under the new section 761 of the Public Health Service Act (the Act), as added by the Disadvantaged Minority Health Improvement Act of 1990, Public Law 101–527. Comments are invited on the proposed definitions, program requirements, review criteria and funding preference.

Approximately $975,000 is available in FY 1991 for competing applications for the Disadvantaged Health Professions Faculty Loan Repayment Program. It is expected that 30 awards averaging $32,000 ($16,000 per year for two years) will be supported with these funds.

Purpose

The purpose of the Disadvantaged Health Professions Faculty Loan Repayment Program (FLRP) is to attract and retain disadvantaged health professions faculty members for accredited health professions schools. The FLRP is directed at those individuals available to serve immediately or within a short time as full-time faculty members.

Eligible Individuals

Individuals from disadvantaged backgrounds are eligible to compete for participation in the FLRP if they:

1. Have a degree in medicine, osteopathic medicine, dentistry, nursing, pharmacy, podiatric medicine, optometry, veterinary medicine, or public health or a school that offers a graduate program in clinical psychology; or

2. Are enrolled in an approved graduate training program in one of the health professions listed above; or

3. Are enrolled as a full-time student in the final year of health professions training, leading to a degree from an eligible school.

Prior to submitting an application, eligible individuals must sign a contract as prescribed by the Secretary, setting forth the terms and conditions of the FLRP. This contract requires the individual to also have entered into a contract with an eligible school to serve as a full-time member of the faculty, as determined by the school, for not less than two years, whereby the school agrees to pay a sum (in addition to faculty salary) equal to that paid by the Secretary towards the repayment of the applicant's health professions educational loans.

Eligible Schools

Eligible health professions schools are accredited public or nonprofit private schools of medicine, osteopathic medicine, dentistry, pharmacy, podiatric medicine, optometry, veterinary medicine, public health, or schools that offer a graduate program in clinical psychology as defined in section 701(4) of the Act, and which are located in States as defined in section 701(11) of the Act, and which are accredited as provided in section 701(5) of the Act, and schools of nursing as defined in section 853 of the Act.

Provisions of the Loan Repayment Program

Section 761 authorizes the Secretary to repay up to $20,000 of the principal and interest of a participant's educational loans, but not to exceed 50 percent of the amounts due on such loans for such year for each year of eligible faculty service.

The school is required, for each such year, to make payments of principal and interest due, in an amount equal to the amount of payment made by the Secretary for that year. These payments must in addition to the faculty salary the participant otherwise would receive.

HRSA will pay on behalf of the participant the principal due for that year and interest on educational loans for the following expenses:

1. Tuition expenses;

2. All other reasonable educational expenses such as fees, books, supplies, educational equipment and materials required by the school, and incurred by the applicant;

3. Reasonable living expenses, as determined by the Secretary; and

4. Partial payments of the increased Federal income tax liability caused by the FLRP's payments and considered to be "other income," if the recipient requests such assistance.

Prior to entering an agreement for repayment of loans, the statute requires the Secretary to obtain satisfactory evidence of the existence and reasonableness of the individual's educational loans, including a copy of the written loan agreement establishing the loan, and a notarized statement that the copy is a true copy of the loan agreement.

Waiver Provision

In the event of undue financial hardship to a school, the school may obtain from the Secretary a waiver of its share of payments while the participant is serving under the terms of the contract. For purposes of this program, "undue financial hardship" means a situation where the school experiences a net loss as evidenced by the following: (1) The most current certified public accounting audit; and (2) the Balance Sheet and Statement of Income and Expenses for the last three years.

If the Secretary waives the school's payment requirement, the amount of the Federal loan repayment will not be subject to the 50 percent limit per year described above, but cannot exceed the $20,000 repayment limit applicable to the Secretary. The participant must pay that portion of loan payment due which is not covered.

Proposed Definition

For purposes of the FLRP in FY 1991, "Individuals from Disadvantaged Backgrounds" are defined as in 42 CFR, part 57, subpart S, as one who:

1. Comes from an environment that has inhibited the individual from obtaining the knowledge, skill, and abilities required to enroll in and graduate from a health professions school, or from a program providing education or training in an allied health professions; or

2. Comes from a family with an annual income below a level based on low income thresholds according to a family size published by the U.S. Bureau of the Census, adjusted annually for changes in the Consumer Price Index, and adjusted by the Secretary for use in all health professions programs. The Secretary will periodically publish these income levels in the **Federal Register.**

The following income figures determine what constitutes a low income family for purposes of the Faculty Loan Repayment Program for FY 1991.

Size of parents' family [1]	Income level [2]
1	$8,800
2	11,400
3	13,500
4	17,300
5	20,400
6 or more	23,000

[1] Includes only dependents listed on Federal income tax forms.

[2] Adjusted gross income for calendar year 1990, rounded to $100.

A revised definition of the term "individual from disadvantaged backgrounds" is being published for comment in a separate notice for use in implementing various training grant, cooperative agreement, and student assistance programs under the authority of titles VII and VIII of the Act in the future.

Definitions

The term *Living expenses* means the costs of room and board, transportation and commuting costs, and other costs incurred during an individual's attendance at a health professions school, as estimated each year by the school as part of the school's standard student budget. (National Health Service Corps Loan Repayment Program, 42 CFR part 62, § 62.22.)

The term *Reasonable educational expenses and living expenses* means the costs of those educational and living expenses which are equal to or less than the sum of the school's estimated standard student budgets for educational and living expenses for the degree program and for the year(s) during which the Program participant is/was enrolled in the school. (National Health Service Corps Loan Repayment Program, 42 CFR part 62, 62.22.)

The term *Unserved Obligation Penalty* means the amount equal to the number of months of obligated service that were not completed by an individual, multipled by $1,000, except that in any case in which the individual fails to serve 1 year, the unserved obligation penalty shall be equal to the full period of obligated service multiplied by $1,000. (Section 338E of the Act.) See "Breach of Contract" section below.

Proposed Program Requirements

The following requirements are proposed for the applicant and the school.

The Applicant

It is proposed that the applicant be required to do the following:

1. Submit a completed application, including the applicant's contract with an eligible school to serve as a full-time faculty member for not less than two years;

2. Provide evidence that the applicant has completely satisfied any other obligation for health professional service which is owed under an agreement with the Federal Government, State Government, or other entity prior to beginning the period of service under this program;

3. Certify that the applicant is not delinquent on any amounts which are owed to the Federal Government; and

4. Provide documentation to evidence the educational loans and to verify their status.

The School

It is proposed that the participating school be required to do the following:

1. Enter into a contractual agreement with the applicant whereby the school is required, for each year for which the participant serves as a faculty member, to make payments of principal and interest due for that year, in an amount equal to the amount of such payments made by the Secretary. These payments must be in addition to the faculty salary the participant otherwise would receive.

2. Verify the participant's continous employment at intervals as prescribed by the Secretary.

If the school is unable to meet the requirement of the FLRP for payment of principal and interest due because the requirement would impose undue financial hardship on the school, the school may requrest a waiver of this obligation from the Secretary.

The Secretary will pay participants in equal quarterly payments during the period of service.

Effective Date of Contract

After an applicant has been approved for participation in the FLRP, the Director, Division of Disadvantaged Assistance (DDA), will send the applicant a contract with the Secretary. The effective date is either the date work begins at the school as a faculty member or the date the Director, DDA, signs the FLRP contract, whichever is later. Service should begin no later than September 30, 1991.

Breach of Contract

The following areas under Breach of Contract are addressed in the appended contract:

1. If the participant fails to serve his or her period of obligated faculty service (minimum of two years) as contracted with the school, he/she is then in breach of contract, and neither the Secretary nor the school is obligated to continue loan payments as stated in the contract. The participant must then reimburse the Secretary and the participating school for all sums of principal and interest paid on their behalf as stated in the contract.

2. Regardless of the length of the agreed period of obligated service (two, three, or more years), a participant who serves less than the time period specified in his/her contract is liable for monetary damages to the United States amounting to the sum of the total of the amounts the Program paid his/her lenders, plus an "unserved obligation penalty" of $1,000 for each month unserved.

3. Any amount which the United States is entitled to recover because of a breach of the FLRP contract must be paid within one year from the day the Secretary determines the the participant is in breach of contract. If payment is not received by the payment due date, additional interest, penalties and administration charges will be assessed in accordance with Federal law.

Other Consideration

In making awards, HRSA hopes to achieve equitable distribution among health disciplines and among geographic areas.

Health needs of National significance will also be a consideration.

Proposed Review Criteria

The HRSA proposes to review Fiscal Year 1991 applications taking into consideration the following criteria:

1. The extent to which the applicant meets the requirements of section 761 of the Act;

2. The completeness, accuracy, and validity of the applicant's responses to application requirements;

3. The submission of the signed contract with the school;

4. An applicant's earliest available date to begin service as a faculty member provided funding is available for that year; and

5. An applicant's availability to enter into a service contract for a longer period than the mandatory two-year minimum.

In addition, the following mechanism may be applied in determining the funding of approved applications:

Funding preferences—funding of a specific category or group of approved applications ahead of other categories or groups of applications.

Proposed Funding Preference

It is proposed that a funding preference be given to individuals from disadvantaged (including racial and ethnic minorities) backgrounds who are new to the field of teaching. The Department intends to target FLRP assistance to disadvantaged health professions graduates serving as new faculty. This funding preference is designed to attract minorities to pursue teaching careers in the health professions.

Established faculty members are eligible to apply for funds under the FLRP, but new faculty repayments will be funded first.

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 Disadvantaged Health Professions Faculty Loan Repayment Program is related to the priority area of Educational and Community-Based Programs. Potential applicants may obtain a copy of Healthy People 2000 (Full Report; Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report; Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325 (Telephone (202) 783–3238).

Interested persons are invited to comment on the proposed definitions, program requirements, review criteria and funding preference. Normally, the comment period would be 60 days. However, due to the need to implement this new program in Fiscal Year 1991, this comment period has been reduced to 30 days. All comments received on or before September 6, 1991, will be considered before the final definitions, program requirements, review criteria and funding preference are established. No funds will be allocated or final selections made until a final notice is published stating whether the proposed definitions, program requirements, review criteria and funding preference will be applied.

Written comments should be addressed to: Clay Simpson, Ph.D., Director, Division of Disadvantaged Assistance, Health Resources and Services Administration, Parklawn

Building, room 8A–09, 5600 Fishers Lane, Rockville, Maryland 20857.

All comments received will be available for public inspection and copying at the Division of Disadvantaged Assistance, Bureau of Health Professions, at the address above weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5 p.m.

Application Requests

Requests for application materials and questions regarding program information should be directed to: Norman Roskos, Chief, Analysis and Evaluation Branch, Division of Disadvantaged Assistance, Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, room 8A–09, Rockville, Maryland 20857, Telephone: (301) 443–3680.

Completed applications should be returned to the address listed above. The application deadline date is September 6, 1991. Applications shall be considered as meeting the deadline if they are either:

(1) *Received on* or before the deadline date, or

(2) *Postmarked on* or before the deadline and received in time for consideration. A legibly dated receipt from a commercial carrier or U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmarks shall not be acceptable as proof of timely mailing.

Late applications not accepted for processing will be returned to the applicant.

The application form and instructions have been submitted to the Office of Management and Budget (OMB) for approval under the Paperwork Reduction Act.

Application materials will be available when OMB approval is received. The Disadvantaged Health Professions Faculty Loan Repayment program is listed at 93.923 in the Catalog of Federal Domestic Assistance. It is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs (as implemented through 45 CFR part 100).

Dated: June 18, 1991.

Robert G. Harmon,

Administrator.

[FR Doc. 91–18697 Filed 8–6–91; 8:45 am]

BILLING CODE 4160–15–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Advisory Council on Historic Preservation; SES Performance Review Board

AGENCY: Department of the Interior.

ACTION: Notice of Senior Executive Service (SES) Performance Review Board Appointments.

SUMMARY: This notice provides the names of those individuals who have been appointed by the Chairman of the Advisory Council on Historic Preservation to serve as members of the Advisory Council's SES Performance Review Board. Pursuant to the Memorandum of Understanding between the Advisory Council and the Department of the Interior, the SES performance appraisal plan for the Department has been adopted for use by the Advisory Council. The Performance Review Board will review the appraisal, award, and bonus recommendations for the SES members of the Advisory Council staff, and recommend final action to the Chairman. This notice is processed on behalf of the Advisory Council, as required by 5 U.S.C. 4314(c)(4).

DATES: These appointments are effective August 15, 1991.

FOR FURTHER INFORMATION CONTACT: J. Lynn Smith, Personnel Officer, Office of the Secretary (PPSP), Department of the Interior, Washington, DC 20240, telephone number (202) 208–6702.

The names of the SES Performance Review Board members are:

Mr. Peter J. Basso (Career), Director, Office of Fiscal Services, Federal Highway Administration, Department of Transportation.

Mr. Charles B. Respass (Career), Deputy Assistant Secretary for Administration, Department of the Treasury.

Mr. Jerry L. Rogers (Career), Associate Director for Cultural Resources, National Park Services, Department of the Interior.

Dated: July 25, 1991.

John Schrote,

Assistant Secretary, Policy, Management and Budget.

[FR Doc. 91–18659 Filed 8–6–91; 8:45 am]

BILLING CODE 4310–70–M

Bureau of Land Management

[CO–920–91–4120–11; COC 52835]

Colorado; Invitation for Coal Exploration License Application, Cyprus Yampa Valley Coal Corp.

Pursuant to the Minerals Leasing Act of February 25, 1920, as amended, and to title 43, Code of Federal Regulations, part 3410, members of the public are hereby invited to participate with Cyprus Yampa Valley Coal Corporation, in a program for the exploration of unleased coal deposits owned by the United States of America in the following described lands located in Routt County, Colorado:

T. 5 N., R. 86 W., 6th P.M.
sec. 21, N½NE¼, SW¼NE¼, and NW¼;
sec. 31, lots 1 and 2, W½NE¼ and E½NW¼.
T. 5 N., R. 87 W., 6th P.M.
sec. 36, lots 1 and 2, W½NE¼ and NW¼.

The area described contains approximately 824.08 acres.

The application for coal exploration license is available for public inspection during normal business hours under serial number COC 52835 at the Bureau of Land Management (BLM), Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215, and at the BLM Craig District Office, 455 Emerson Street, Craig, Colorado 81625.

Written Notice to Intent to participate should be addressed to the following persons and must be received by them within 30 days after the publication of this Notice of Invitation in the **Federal Register:**

Richard D. Tate, Colorado State Office, Bureau of Land Management, 2850 Youngfield Street, Lakewood, Colorado 80215.

Charles N. Thompson or Richard Mills, Cyprus Yampa Valley Coal Corporation, 29587 Routt County Road 27 Oak Creek, Colorado 80467.

Any party electing to participate in this program must share all costs on a pro rata basis with the applicant and with any other party or parties who elect to participate.

Dated: July 29, 1991.

Alexa L. Watson,

Acting Chief, Mining Law and Solid Minerals Adjudication Section.

[FR Doc. 91–18715 Filed 8–6–91; 8:45 am]

BILLING CODE 4310–JB–M

[OR-110-6332-12; H-910-G1301]

Medford District Office; Off-Highway Motorized Vehicle Use on Public Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Medford District Office, notice given relating to off-highway motorized vehicle use on public lands.

SUMMARY: Notice is hereby given relating to the use of off-highway vehicles on certain public lands in accordance with the authority and requirements of Executive Orders 11644 and 11989 and regulations contained in 43 CFR part 8340.

The following lands under the administration of the Bureau of Land Management are changed from the existing open designation and are hereby redesignated as closed to off-highway motor vehicle use.

The areas affected by the designations are managed by the Medford District and are located in Jackson County, Oregon.

These designations are published as final until such time that changes in resource management warrant modifications.

FOR FURTHER INFORMATION CONTACT: Fred Tomlins, Outdoor Recreation Planner, Bureau of Land Management, 3040 Biddle Road, Medford, Oregon 97504, telephone (503) 770–2311, FTS 424–2311.

Closed Designations

The lands closed to off-highway vehicle use are located in the Grizzly Peak area approximately seven (7) air miles northeast of Ashland, Oregon. The legal description of the closed lands is:

Willamette Meridian

T. 38 S., R. 2 E.,
Section 17, W½NE¼, NW¼.
Section 18, S½NE¼, SW¼, SE¼.

These lands are closed to OHV use to prevent damage to vegetation, soils, and wildlife in the area and to prevent conflicting recreational uses.

These designations become effective upon publication in the Federal Register and will remain in effect until rescinded or modified by the Medford District Manager. Information and maps of the above areas are available at the Bureau of Land Management, Medford District Office, 3040 Biddle Road, Medford, Oregon 97504. Telephone (503) 770–2200.

Dated: July 29, 1991.

David A. Jones,

District Manager.

[FR Doc. 91–18660 Filed 8–6–91; 8:45 am]

BILLING CODE 4310-33-M

[CA-940-01-4212-24; CACA 28336]

Conveyance of Mineral Interests in California

AGENCY: Bureau of Land Management, Interior.

ACTION: Segregative effect—conveyance of the reserved mineral interests.

SUMMARY: This notice will correct a typographical error in the land description in an application for the conveyance of mineral interest.

FOR FURTHER INFORMATION CONTACT: Judy Bowers, BLM California State Office, 2800 Cottage Way, room E–2841, Federal Office Building, Sacramento, California 95825, (916) 978–4820. The land description for serial No. CACA 28336, 56 FR 31418, July 10, 1991, is hereby corrected as follows: The land description shown as "T. 11 N., R. 3 W., San Bernardino Meridian" is hereby corrected to read "T. 11 N., R. 13 W., San Bernardino Meridian".

Dated: July 29, 1991.

Nancy J. Alex,

Chief, Lands Section.

[FR Doc. 91–18716 Filed 8–6–91; 8:45 am]

BILLING CODE 4310-40-M

[WY-060-01-4212-14; WYW116929]

Realty Action; Direct Sale of Public Lands; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action, Direct Sale of Public Lands in Natrona County, Wyoming.

SUMMARY: The Bureau of Land Management has determined the land described below is suitable for sale under section 203 of the Federal Land Policy and Management Act (FLPMA) of 1976, 43 U.S.C. 1713, 1719:

Sixth Principal Meridian

T. 40 N., R. 79 W.
sec. 7, lots 1, 2.

The above land aggregates 70.12 acres in Natrona County, Wyoming.

FOR FURTHER INFORMATION CONTACT: Bill Mortimer, Area Manager, Platte River Resource Area, (307) 261–7500.

SUPPLEMENTARY INFORMATION: The Bureau of Land Management proposes to sell the surface estate to the Town of Edgerton, pursuant to section 203 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1713 and 1719. The Town of Edgerton wishes to acquire the land for use as a sanitary landfill site for disposal of municipal solid waste.

The proposed direct sale is scheduled for September 30, 1991. The land parcel is to be offered at fair market value. Prior to consummation of the sale, the Town of Edgerton must provide evidence that a solid waste disposal permit has been issued by the Wyoming Department of Environmental Quality.

The proposed sale will serve important public objectives. This land has been evaluated and determined physically suited to operation of a sanitary landfill. The land contains no other known public values. Sale of the land is in conformance with the Platte River Resource Area Resource Management Plan, and Natrona County officials have been notified of the sale. Detailed information concerning the proposed sale including planning documents, mineral report, and environmental assessment is available at the Bureau of Land management, Platte River Resource Area Office, 815 Connie Street, P.O. Box 2420, Mills, WY 82644.

Conveyance of the above land will be subject to:

1. Reservation of a right-of-way for ditches or canals pursuant to the Act of August 30, 1890, 43 U.S.C. 945.

2. Reservation of all minerals to the United States with the right to prospect for, mine and remove the same.

3. Right-of-way WYW86233 for the Light Plant Road (County Road #116) held by Natrona County.

4. Oil and gas lease WYW105300 held by GLG Energy Company.

A portion of the public land involved was leased for grazing by Frank Shepperson (Lease No. 496014). The lease expired on March 31, 1991. A two year advance notice was afforded the lessee beginning May 16, 1989. Frank Shepperson is the owner of range improvement fence #1268 on the property being sold. The Town of Edgerton will be required to reimburse Frank Shepperson for the adjusted value of the improvements.

The public land described above shall be segregated from all forms of appropriation under the public land laws, including the mining and mineral leasing laws upon publication of this notice in the Federal Register. The segregative effect will end upon issuance of the patent or 270 days from the date of this publication, whichever comes first.

For a period of 45 days from the date of issuance of this notice in the Federal Register, interested parties may submit comments to the District Manager, Casper District, 1701 East E Street, Casper, Wyoming, 82601. Any adverse comments will be evaluated by the State

Director, who may sustain, vacate or modify the realty action. In the absence of adverse comments or in the absence of any action by the State Director, this realty action will become final.

Dated: July 29, 1991.

James W. Monroe,

District Manager.

[FR Doc. 91-18661 Filed 8-6-91; 8:45 am]

BILLING CODE 4310-22-M

[CO-942-91-4730-12]

Colorado: Filing of Plats of Survey

July 22, 1991.

The plats of survey of the following described land, will be officially filed in the Colorado State Office, Bureau of Land Management, Lakewood, Colorado, effective 10 a.m., June 22, 1991.

The plat representing the dependent resurvey of positions of the east boundary and subdivisional lines, an extension survey, and the subdivision of section 22, T. 4 S., R. 75 W., Sixth Principal Meridian, Colorado, Group No. 689, was accepted May 29, 1991.

The plat representing the dependent resurvey of a portion of the subdivisional lines and the subdivision of certain sections, T. 13 S., R. 86 W., Sixth Principal Meridan, Colorado, Group No. 882, was accepted June 14, 1991.

The plat representing the metes-and-bounds survey of lot 6 in section 2, T. 15 S., R. 103 W., Sixth Principal Meridan, Colorado, Group No. 911, was accepted June 13, 1991.

The plat representing the dependent resurvey of a portion of the Eleventh Standard Parallel North (south boundary, T. 45 N., R. 12 W.), survey of Tract 37, and the independent resurvey of the line between sections 3 and 4, T. 44 N., R. 12 W., New Mexico Principal Meridan, Colorado, Group No. 917, was accepted April 18, 1991.

The supplemental plat creating new lot 5 from previously designated lot 4, is based upon the plats approved April 15, 1924 and April 5, 1990, 10 S., R. 88 W., Sixth Principal Meridan, Colorado, was accepted May 30, 1991.

This supplemental plat was prepared to replace lot 4 in section 4 with new lot 5 which excludes a portion of the patented Carbonate lode, Mineral Survey No. 5443A.

The supplemental plat creating new lots 16, 17, 18, and 19, from previously designed lots 1 and 2, is based upon the plat approved August 17, 1988, T. 9 S., R. 81 W., Sixth Principal Meridian, was accepted June 13, 1991.

This supplemental plat was prepared to provide descriptions of public lands already withdrawn for the Bureau of Reclamation Frying Pan-Arkansas Project and lands that are proposed for withdrawal for project purposes.

The amended plat clarifying the measurements from the south ¼ section corner of section 36 to the witness corner of sections 35 and 36 on the First Standard Parallel South (south boundary), T. 5 S., R. 88 W., Sixth Principal Meridan, Colorado, was accepted May 7, 1991.

These surveys were executed to meet certain administrative needs of this Bureau.

The plat representing the dependent resurvey of the south boundary and portions of subdivisional lines, and the subdivision of certain sections, T. 42 N., R. 3 W., New Mexico Principal Meridan, Colorado, Group No. 890, was accepted June 14, 1991.

The plat representing the dependent resurvey of the north boundary, T. 41 N., R. 3 W., New Mexico Principal Meridian, Colorado, Group No. 890, was accepted June 14, 1991.

The following plat will be immediately placed in the open files and will be available to the pulbic as a matter of information. Copies of this plat may be furnished to the public upon payment of the appropriate fee. This plat will be regarded as officially filed as of 10 a.m. on September 16, 1991, as provided for in 43 CFR 1813.1-2 (BLM Manual) section 2097—Opening Orders is required.

The plat representing the original survey of the west boundary, T. 41½ N., R. 3 W., New Mexico Principal Meridan, Colorado, Group No. 890, was accepted June 14, 1991.

These surveys were executed to meet certain administrative needs of the Forest Service.

All inquiries about this land should be sent to the Colorado State Office, Bureau of Land Management, 2850 Youngfield Street, Lakewood, Colorado, 80215.

Jack A. Eaves,

Chief, Cadastral Surveyor for Colorado.

[FR Doc. 91-18717 Filed 8-6-91; 8:45 am]

BILLING CODE 4310-JB-M

[MT-930-4214-10; NDM 79193]

Proposed Withdrawal and Opportunity for Public Meeting; North Dakota

Correction

In notice document 91-15719 appearing on Page 30399 in the issue of Tuesday, July 2, 1991, please make the following correction:

In the second line of the document heading, "Montana" should read "North Dakota."

Dated: July 18, 1991.

John A. Kwiatkowski,

Deputy State Director, Division of Lands and Renewable Resources.

[FR Doc. 91-17644 Filed 8-6-91; 8:45 am]

BILLING CODE 4310-DN-M

Bureau of Reclamation

Quarterly Status Tabulation of Water Service and Repayment Contract Negotiations

AGENCY: Bureau of Reclamation (Reclamation), Department of the Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given of proposed contractual actions pending through September 1991. This notice is one of a variety of means being used to inform the public about proposed contractual actions for water service and repayment. The Reclamation announcements of individual repayment and water service contract actions will be published in the **Federal Register** and in newspapers of general circulation in the areas determined by Reclamation to be affected by the proposed action. Announcements may be in the form of news releases, legal notices, official letters, memorandums, or other forms of written material. Meetings, workshops, and/or hearings may also be used, as appropriate, to provide local publicity. The public participation requirements do not apply to proposed contracts for the sale of surplus or interim irrigation water for a term of 1 year or less. The Secretary of the Interior or the district may invite the public to observe any contract proceedings. All public participation procedures will be coordinated with those involved in complying with the National Environmental Policy Act if Reclamation determines that the contract action may or will have "significant" environmental effects.

ADDRESSES: The identity of the approving officer and other information pertaining to a specific contract proposal may be obtained by calling or writing the appropriate regional office at the address and telephone number given for each region in the supplementary information.

FOR FURTHER INFORMATION CONTACT: Dick L. Porter, Chief, Contracts and Repayment Division, Bureau of Reclamation, 1849 C Street NW.,

Washington, DC 20240; telephone (202) 208–3014, (FTS) 268–3014.

SUPPLEMENTARY INFORMATION: Pursuant to section 226 of the Reclamation Reform Act of 1982 (96 Stat. 1273), and to section § 426.20 of the rules and regulations published in the **Federal Register** dated December 6, 1983, Vol. 48, page 54785, Reclamation will publish notice of proposed or amendatory repayment contract actions or any contract for the delivery of water for irrigation or other uses in newspapers of general circulation in the affected area at least 60 days prior to contract execution and, pursuant to the "Final Revised Public Participation Procedures" for water service and repayment contract negotiations, published in the **Federal Register** dated February 22, 1982, Vol. 47, page 7763, a tabulation is provided below of all proposed contractual actions in each of the five Reclamation regions. Each proposed action listed is, or is expected to be, in some stage of the contract negotiation process during July, August, or September of 1991.

When contract negotiations are completed, and prior to execution, each proposed contract form must be approved by the Secretary, or pursuant to delegated or redelegated authority, the Commissioner of Reclamation or one of the Regional Directors. In some instances, congressional review and approval of a report, water rate, or other terms and conditions of the contract may be involved.

This notice is one of a variety of means being used to inform the public about proposed contractual actions. Individual notices of intent to negotiate, and other appropriate announcements, are made in the **Federal Register** for those actions found to have widespread public interest. When this is the case, the date of publication is given.

Acronym Definitions Used Herein

(FR) Federal Register
(ID) Irrigation District
(IDD) Irrigation and Drainage District
(M&I) Municipal and Industrial
(D&MC) Drainage and Minor Construction
(R&B) Rehabilitation and Betterment
(O&M) Operation and Maintenance
(CAP) Central Arizona Project
(CUP) Central Utah Project
(CVP) Central Valley Project
(P–SMBP) Pick-Sloan Missouri Basin Program
(CRSP) Colorado River Storage Project
(SRPA) Small Reclamation Projects Act
(BCP) Boulder Canyon Project

Pacific Northwest Region

Bureau of Reclamation, 550 West Fort Street, Box 043, Boise, Idaho 83724–0043, telephone (208) 334–1894.

1. Cascade Reservoir Water Users, Boise Project, Idaho: Repayment contract for irrigation and M&I water; 19,201 acre-feet of stored water in Cascade Reservoir.

2. Individual Irrigators, M&I, and Miscellaneous Water Users, Pacific Northwest Region, Idaho, Montana, Oregon, and Washington: Temporary (interim) water service contracts for surplus project water for irrigation or M&I use to provide up to 10,000 acre-feet of water annually for terms up to 5 years; long-term contracts for similar service for up to 1,000 acre-feet of water annually.

3. Rogue River Basin Water Users, Rogue River Basin Project, Oregon: Water service contracts; $5 per acre-foot or $50 minimum per annum for terms up to 40 years.

4. Willamette Basin Water Users, Willamette Basin Project, Oregon: Water service contracts; $1.50 per acre-foot or $50 minimum per annum for terms up to 40 years.

5. Irrigation Districts and Similar Water User Entities: Amendatory repayment and water service contracts; purpose is to conform to the Reclamation Reform Act of 1982 (Pub. L. 97–293).

6. Forty-four Palisades Reservoir Shareholders, Minidoka Project, Idaho-Wyoming: Contract amendments to extend term for which contract water may be subleased to other parties.

7. City of Cle Elum, Yakima Project, Washington: Amendatory or replacement M&I water service contract; 2,200 acre-feet (1,350 gallons per minute) annually for the term of up to 40 years.

8. Baker Valley Irrigation District, Baker Project, Oregon: Irrigation water service contract on a surplus interruptible basis to serve up to 13,000 acres; sale of excess capacity in Mason Reservoir (Phillips Lake) for the term of up to 40 years.

9. Crooked River Project, Oregon: Irrigation repayment or water service contracts with several individuals, with the Ochoco Irrigation District, and with North Unit Irrigation District for a total of up to 25,000 acre-feet of storage space in Prineville Reservoir (Arthur R. Bowman Dam).

10. Minidoka-Palisades Project: Repayment contract with Palisades Water Users Inc., for additional 500 acre-feet of storage space in Palisades Reservoir.

11. Willow Creek Project, Oregon: Repayment or water service contracts for a total of up to 3,500 acre-feet of storage space in Willow Creek Reservoir.

12. Four Project Spaceholders, Minidoka-Palisades Project, Idaho-Wyoming: Contract amendments to provide for rental of water to other parties.

13. Bridgeport Irrigation District, Chief Joseph Dam Project, Washington: Warren Act contract for the use of an irrigation outlet in Chief Joseph Dam.

14. Hermiston Irrigation District, Umatilla Project, Oregon: Repayment contract for reimbursable cost for Safety-of-Dams repairs to Cold Springs Dam.

15. Ochoco Irrigation District and Various Individual Spaceholders, Crooked River Project, Oregon: Repayment contract for reimbursable cost for Safety-of-Dam repairs to Arthur R. Bowman Dam and Ochoco Dams.

16. The Dalles Irrigation District, The Dalles Project, Oregon: SRPA loan repayment contract; $2,000,000 proposed loan obligation.

17. Oroville-Tonasket Irrigation District, Chief Joseph Dam Project, Washington: SRPA loan repayment contract; $661,500 proposed loan obligation.

18. State of Idaho, Payette Division of the Boise Project, Idaho. Proposed repayment contracts with the State of Idaho for the sale of uncontracted space in Cascade and Deadwood Reservoirs.

19. Sidney Irrigation Cooperative, Willamette Basin Project, Oregon: Irrigation water service contract for approximately 2,300 acre-feet; $1.50 per acre-foot for a term of up to 40 years.

20. P.P.R.T. Water System, Inc., Idaho: Amendatory contract to defer the 1991 and 1992 construction installments of a contract for a loan to construct facilities authorized pursuant to the Emergency Drought Act of 1977. Replacement of facilities is needed and the contractor has experienced several years of drought conditions.

21. Douglas County, Oregon: SRPA loan repayment contract; proposed loan obligation of $20,715,760 and grant of $9,228,380.

22. Othello School District No. 147, Columbia Basin Project, Washington: 30 acre-feet for irrigation of lawns.

23. Ochoco Irrigation District, Crooked River Project, Oregon: 1-year temporary water service contract for 12,000 acre-feet of storage in Prineville Reservoir to reduce drought impacts.

Mid-Pacific Region

Bureau of Reclamation, 2800 Cottage Way, Sacramento, California 95825–1989, telephone (916) 978–5030.

1. Tuolumne Regional Water District, CVP, California: Water service contract, up to 9,000 acre-feet from New Melones Reservoir.

2. Calaveras County Water District, CVP, California: Water service contract, up to 2,000 acre-feet from New Melones Reservoir; **Federal Register** notice published February 5, 1982, Vol. 47, page 5473.

3. Individual irrigators, M&I and miscellaneous water users, Mid-Pacific Region, California, Oregon, and Nevada. Temporary (interim) water service contracts for available project water for irrigation, M&I or fish and wildlife purposes providing up to 10,000 acre-feet of water annually for terms up to 5 years; temporary Warren Act contracts for use of project facilities for terms up to 1 year; long-term contracts for similar service for up to 1,000 acre-feet annually.

Note: Copies of the standard form of temporary water service contract for the various types of service are available, upon written request, from the Regional Director at the address shown above.

4. Friant Unit Contractors, CVP, California: Renewal of existing long-term water service contracts with numerous contractors on the Friant-Kern and Madera Canals, or who divert from Millerton Reservoir, whose contracts expire 1991–1997 with two contracts expiring later. Water quantities in existing contracts range from 1,200 to 175,440 acre-feet.

5. ID's and similar water user entities: Amendatory repayment and water service contracts; purpose is to conform to the Reclamation Reform Act of 1982 (Pub.L. 97–293)

6. State of California, CVP, California: Contract(s) for, (1) sale of interim water to the Department of Water Resources for use by the State Water Project Contractors, and (2) acquisition of conveyance capacity in the California Aqueduct for use by the CVP as contemplated in the Coordinated Operation Agreement.

7. Madera ID, Madera Canal, CVP, California: Warren Act contract to convey and/or store nonproject water through project facilities.

8. County of Tulare, CVP, California: Amendatory water service contract, to provide an additional 1,908 acre-feet and reallocate 400 acre-feet of water from the Ducor ID for a total increase of 2,308 acre-feet.

9. Shasta Dam area Public Utilities District, CVP, California: Renewal/Increase of M&I water supply contract. Less than 6,000 acre-feet.

10. U.S. Fish and Wildlife Service, CVP, California: Long-term contract for water supply for Federal refuge in Grasslands area of California.

11. North Kern Water Storage District, Buena Vista Water Storage District, Tulare Lake Basin Water Storage District, and Hacienda Water District, Kern River Project, California: Amendatory contract to provide storage space for M&I water.

12. Contra Costa Water district, CVP, California: Amendatory water service contract to add an additional point of delivery to accommodate the district's proposed Los Vaqueros Project. Amendment will also conform contract to current water ratesetting policies.

13. San Juan Suburban Water District, CVP, California: Amend Contract No. 14–06–0200–152A to provide for the current CVP water rates to conform the contract with the provisions of section 105 and 106 of Public Law 99–546.

14. Centerville Community Services District, CVP, California: Water service contract for up to 800 acre-feet of M&I water annually.

15. Shasta County Water Agency, CVP, California: Amendatory water service contract to provide for reduction in annual entitlement of 800 acre-feet.

16. Mid-Pacific Region, California, Oregon, Nevada: Amendatory contracts to include the provision of the Act of July 2, 1956 (70 Stat. 483) and/or the Act of June 21, 1963 (77 Stat. 68) in existing water service contracts.

17. California Department of Corrections, CVP, California: Water service for up to 1,000 acre-feet of water annually to serve the Sierra Conservation Center (a State prison) near Jamestown, California.

18. Redwood Valley Water District, SRPA, California: Amendatory loan repayment contract.

19. Placer County Water Agency, CVP, California: Amend Contract No. 14–06–200–5082A to provide for the current CVP water rates.

20. Broadview Water District, CVP, California: Amend Contract No. 14–06–200–8092 to provide for change in point of diversion, right to construct new turnout on the San Luis Canal, and contract renewal.

21. Sutter Butte Mutual Water Company, CVP, California: Water service contract for a long-term supplemental water supply. Contract will assure company's water users an alternate water supply during periods of deficiency in their appropriative water rights. Annual water quantity not determined at this time.

22. Paramount Citrus Association, CVP, California: Contract to convey nonproject water through Federal facilities with exemption of RRA under 43 CFR 426.18. Up to 4,000 acre-feet of water to be transferred through Friant-Kern Canal for delivery to Southern San Joaquin Municipal District.

23. Butte Slough Irrigation Company, CVP, California: Water service contract for a long-term supplemental water supply. Contract will assure company's water users an alternate water supply during periods of deficiency in their appropriative water rights. Annual water quantity not determined at this time.

24. Lindsay-Strathmore ID, Friant-Kern Canal, CVP, California: Warren Act contract to convey and/or store nonproject water through project facilities.

25. Madera ID, Hidden Unit, CVP, California: Renewal of existing water service contract for 24,000 acre-feet of water which expires February 29, 1992.

26. Chowchilla WD, Buchanan Unit, CVP, California: Renewal of existing water service contract for 24,000 acre-feet of water which expires February 29, 1992.

27. Truckee-Carson Irrigation District, Newlands Project, Nevada: Warren Act contract to convey and/or store nonproject water in Project facilities.

28. Truckee-Carson Irrigation District, Newlands Project, Nevada: Contract for repayment of construction costs of Newlands Project.

29. Santa Barbara County Water Agency, Cachuma Project, California: Repayment contract for reimbursement of funds expended under the Emergency Fund Act for continuation of water service.

30. San Luis Water District, CVP, California: Amendatory water service contract to provide that the district pay full O&M rate for all deliveries resulting from the Azhderian Pumping Plant enlargement and the cost of service rate for such deliveries beginning in 1996 and each year thereafter.

31. United Water Conservation District, SRPA, California: Amendatory loan repayment contract.

32. Carmichael Irrigation District, CVP, California: Water service contract for a long-term supplemental water supply. Contract will assure district's water users an alternate water supply during periods of deficiency in their appropriative water rights. Annual water quantity not determined at this time.

33. Delta-Mendota Canal Contractors, CVP, California: Renewal of existing long-term water service contracts with numerous contractors on the Delta-Mendota Canal whose contracts expire in 1994–2003. Water quantities in existing contracts range from 70 to 50,000 acre-feet.

34. Sacramento County Water Agency, CVP, California: Long-term

water service contract for 22,000 acre-feet for M&I use.

35. San Juan Suburban Water District, CVP, California: Long-term water service contract for 13,000 acre-feet for M&I use.

36. El Dorado County Water Agency, CVP, California: Long-term water service contract for 15,000 acre-feet for M&I use.

37. East Bay Municipal Utility District, CVP, California: Amendatory Contract No. 14–06–200–5183A to provide for current CVP water rates and temporary change in point of diversion.

38. City of Redding, CVP, California: Amendment to Contract No. 14–06–200–5272A to add point of diversion on turnout, Spring Creek Power Conduit, to facilitate proposed water treatment plant for Buckeye service area.

39. United States Department of Veteran Affairs, CVP, California: Contract for M&I water purposes in support of the new Veterans National Cemetery under construction in Sanata Nella, California.

40. Century Ranch Water Company, Inc., CVP, California: Long-term exchange contract for M&I, less than 100 acre-feet, Stony Creek Watershed above Black Butte Dam.

41. State of California, Department of Forestry, CVP, California: Water right exchange agreement, less than 100 acre-feet, above Black Butte Dam.

Lower Colorado Region

Bureau of Reclamation, PO Box 427 (Nevada Highway and Park Street), Boulder City, Nevada 89005, telephone (702) 293–8536.

1. Agricultural and M&I water users, CAP, Arizona: Water service subcontracts—a certain percent of available supply for irrigation entities and up to 640,000 acre-feet per year for M&I use.

2. Southern Arizona Water Rights Settlement Act: Sale of up to 28,200 acre-feet per year of municipal effluent to the City of Tucson, Arizona.

3. Contracts with five agricultural entities located near the Colorado River, Boulder Canyon Project (BCP), Arizona: Water service contracts for up to 1,920 acre-feet per year total.

4. Gila River Indian Community, CAP, Arizona: Water service contract for delivery of up to 173,100 acre-feet per year.

5. Irrigation districts and similar water user entities: Amendatory repayment and water service contracts; purpose is to conform to the Reclamation Reform Act of 1982 (Pub. L. 97–293).

6. Indian and non-Indian agricultural and M&I water users, CAP, Arizona: Contracts and amendments for repayment of Federal expenditures for construction of distribution systems.

7. State of Arizona, BCP, Arizona: Contract for an undetermined amount of Colorado River water for M&I use and for agricultural use and related purposes on State-owned land.

8. Imperial Irrigation District and/or the Coachella Valley Water District, California: Contract providing for exchange of up to 10,000 acre-feet of water per year from a well field to be constructed adjacent to the All-American Canal (AAC) for an equivalent quantity and quality of Colorado River water and for O&M of the well field, Lower Colorado Water Supply Project, California.

9. Lower Colorado Water Supply Project, California: Water service and repayment contracts with nonagricultural users in California adjacent to the Colorado River for an aggregate consumptive use of up to 10,000 acre-feet of Colorado River water per year in exchange for an equivalent amount of water to be pumped into the AAC from a well field to be constructed adjacent to the canal.

10. Transfer of present perfected water rights, Winterhaven and Yuma Associates, California: Hutchison present perfected rights contract assignment to reflect the transfer of part of the right to Winterhaven, California, and to Yuma Associates, California, Supreme Court Decree in *Arizona* v. *California* and BCP.

11. County of San Bernardino, SRPA, California: Repayment contract for a $29.6 million loan.

12. Tohono O'odham Nation, SRPA, Arizona: Repayment contract for a $7.3 million loan for the Schuk Toak District.

13. Sturges Trust, Supreme Court Decree in *Arizona* v. *California* and BCP, Arizona: Contract for delivery of 8,500 acre-feet of Colorado River water per year for agricultural use as recommended by the State of Arizona and to recognize a 780 acre-foot present perfected right to the use of Colorado River water.

14. BCP, Arizona: Contracts for additional allocations of Colorado River water to cities located along the Colorado River in Arizona for up to 15,076 acre-feet per year as recommended by the Arizona Department of Water Resources.

15. National Park Service for Lake Mead National Recreation Area, Supreme Court Decree in *Arizona* v. *California,* and BCP in Arizona and Nevada: Memorandum of Understanding for delivery of Colorado River water for its Federal Establishments' present perfected right of 500 acre-feet of diversions annually, and the Federal Establishments' perfected right pursuant to Executive Order No. 5125 (April 25, 1930).

16. Eastern Municipal Water District, SRPA, California: Repayment contract for a $31 million loan.

17. City of Yuma, Gila Project, Arizona: Contract to add an additional point of diversion and to provide for water treatment by the Yuma Desalting Plant.

18. Colorado River Commission of Nevada and Southern Nevada Water Purveyors, BCP, Nevada: Final allocations and contracts for Nevada's remaining apportionment of Colorado River Water.

19. The Metropolitan Water District of Southern California or Imperial Irrigation District, California: Construction and funding contract to conserve water along a portion of the AAC in accordance with the AAC Lining Act dated January 25, 1988.

20. Elsinore Valley Municipal Water District, SRPA, California: Repayment contract for a $22.3 million loan.

21. Cibola Valley Irrigation and Drainage District and Mohave Valley Irrigation and Drainage District, BCP, Arizona: Amendments of current contracts for service areas, diversion points, and other minor changes.

22. Miscellaneous present perfected rights holders, BCP, Arizona and California: Contracts for Supreme Court decreed entitlements of Colorado River water as identified in *Arizona* v. *California,* as supplemented or amended and as required by section 5 of the BCP.

23. Federal Establishments' present perfected rights holders: Individual contracts for administration of Colorado River water entitlements of the Colorado River, Fort Mohave, Fort Yuma, Quechan, and Cocopah Indian tribes.

Upper Colorado Region

Bureau of Reclamation, PO Box 11568 (125 South State Street), Salt Lake City, Utah 84147, telephone (801) 524–5435.

1. Individual irrigators, M&I, and miscellaneous water users, Utah, Wyoming, Colorado, and New Mexico: Temporary (interim) water service contracts for surplus project water for irrigation or M&I use to provide up to 10,000 acre-feet of water annually for terms up to 5 years; long-term contracts for similar service for up to 1,000 acre-feet of water annually.

(a) The Benevolent and Protective Order of the Elks, Lodge No. 1747, Farmington, New Mexico: Navajo Reservoir water service contract; 20 acre-feet per year for municipal use;

contract term for 40 years from execution.

(b) Mt. Crested Butte Water and Sanitation District, Mt. Crested Butte, Colorado: Amendment of a previous 40-year water service contract from Blue Mesa Reservoir from current use of 53 acre-feet per year to 98 acre-feet per year for municipal purposes.

2. Southern Ute Indian Tribe, Animas-La Plata Project, Colorado: Repayment contract for 26,500 acre-feet per year for M&I use and 2,600 acre-feet per year for irrigation use in Phase One and 700 acre-feet in Phase Two. Contract terms to be consistent with binding cost sharing agreement and water rights settlement agreement in principle.

3. Ute Mountain Ute Tribe, Animas-La Plata Project, Colorado and New Mexico: Repayment contract; 6,000 acre-feet per year for M&I use in Colorado; 26,400 acre-feet per year for irrigation use in Colorado; 900 acre-feet per year for irrigation use in New Mexico. Contract terms to be consistent with binding cost sharing agreement and water rights settlement agreement.

4. Navajo Indian Tribe, Animas-La Plata Project, New Mexico: Repayment contract for 7,600 acre-feet per year for M&I use.

5. La Plata Conservancy District, Animas-La Plata Project, New Mexico: Repayment contract for 9,900 acre-feet per year for irrigation use.

6. Uintah Water Conservancy District, Jensen Unit, Central Utah Project, Utah: Amendatory repayment contract to reduce municipal and industrial water supply and corresponding repayment obligation.

7. Varmejo Conservancy District, Varmejo Project, New Mexico: Amendatory contract to relieve the district of further repayment obligation, presently exceeding $2 million, pursuant to Public Law 96–550.

8. Conejos Water Conservancy District, San Luis Valley Project, Colorado: Amendatory contract to place OM&R costs on a variable basis commensurate with the availability of project water.

9. Weber Basin Water Conservancy district, Weber Basin Project, Utah: Repayment contract for R&B work of selected project facilities.

10. San Juan Pueblo, San Juan-Chama Project, New Mexico: Repayment contract for up to 5,165 acre-feet of project water for irrigation purposes.

1. North Fork Water Conservancy District, Paonia Project, Colorado: Water lease agreement with the Ragged Mountain Water Users Association for 2,000 acre-feet of irrigation water.

Great Plains Region

Bureau of Reclamation, PO Box 36900, Federal Building, 316 North 26th Street, Billings, Montana 59107–6900, telephone (406) 657–6413.

1. Individual irrigators, M&I, and miscellaneous water users, Great Plains Region: Montana, Wyoming, North Dakota, South Dakota, Colorado, Kansas, Nebraska, Oklahoma, and Texas: Temporary (interim) water service contract for surplus project water for irrigation or M&I use to provide up to 10,000 acre-feet of water annually for terms up to 5 years; long-term contracts for similar service for up to 1,000 acre-feet of water annually.

2. Fort Shaw Irrigation District, Sun River Project, Montana: R&B loan repayment contract; up to $1.5 million.

3. Owl Creek Irrigation District, Owl Creek Unit, P–SMBP, Wyoming: Amendatory water service contract to reflect reduced water supply benefits being received from Anchor Reservoir.

4. Green Mountain Reservoir, Colorado-Big Thompson Project, Colorado: Water service contracts; contract negotiations for sale of water from the marketable yield to water users within the Colorado River Basin of Western Colorado.

5. Ruedi Reservoir, Fryingpan-Arkansas Project, Colorado: Water service contracts; proposed second round contract negotiations for sale of agricultural, municipal, domestic, and industrial water from the regulatory capacity of Ruedi Reservoir.

6. Cedar Bluff Irrigation District No. 6, Cedar Bluff Unit, P–SMBP, Kansas: Repayment contract; pending passage of congressional legislation, terminate the Cedar Bluff Irrigation District's contract. The use of the district's portion of the reservoir storage capacity will be sold to the State of Kansas for fish, wildlife, recreation, and other purposes.

7. Frenchman Valley Irrigation District, Frenchman Unit, P–SMBP, Nebraska: Pending passage of congressional legislation, renegotiate district's existing contract to reduce payments based on payment ability and reduced water supply.

8. Garrison Diversion Unit, P–SMBP, North Dakota: Repayment contract; renegotiation of the master repayment contract with Garrison Diversion Conservancy District to bring the terms in line with the Garrison Diversion Unit Reformulation Act of 1986. Negotiation of repayment contracts with irrigators and M&I users.

9. Corn Creek Irrigation District, Glendo Unit, P–SMBP, Wyoming: Repayment contract for 10,350 acre-feet of supplemental irrigation water from Glendo Reservoir.

10. Glen Elder Unit, P–SMBP, Kansas: Negotiations for long-term contracts for agricultural water service from Waconda Lake.

11. Foss Reservoir Master Conservancy District, Washita Basin Project, Oklahoma: Amendatory repayment contract for remedial work.

12. Arbuckle Master Conservancy District, Arbuckle Project, Oklahoma: Contract for the repayment of costs incurred by the United States for the construction of the Sulphur, Oklahoma pipeline and pumping plant (if constructed).

13. Board of Water Commissioners of the City and County of Denver, the Colorado River Water Conservation District, and the Northern Colorado Water Conservancy District, Colorado Big Thompson Project, Colorado: Operating agreement for substitution of water in the proposed Woolford Mountain (Muddy Creek) Reservoir for Green Mountain Reservoir water.

14. Sargent Irrigation District, Middle Loup Division, P–SMBP, Nebraska: R&B loan repayment contract not to exceed $2,435,000.

15. Chinook Water Users Association, Milk River Project, Montana: SRPA contract for loan of up to $6,000,000 for improvements to the association's water conveyance system.

16. Heart River Unit, Dickinson Subunit, P–SMBP, North Dakota: Renegotiate water service Contract No. I79r–1412 with the City of Dickinson. Existing contract expired September 24, 1989.

17. Malta Irrigation District, Malta Division, Milk River Project, Montana: R&B contract for repayment of $5,600,000 loan.

18. Midvale Irrigation District, Riverton Unit, P–SMBP, Wyoming: Long-term contract for water service from Boysen Reservoir.

19. Tom Green County Water Control and Improvement District No. 1, San Angelo Project, Texas: Pending passage of congressional legislation, negotiate amendatory contract to increase irrigable acreage within the project.

20. Palmetto Bend Project, Texas: Amendment of the tripartite contract among the United States, the Lavaca-Navidad River Authority and the Texas Water Development Board to transfer the board's remaining repayment obligation and interest in the Palmetto Bend Project to the authority.

21. City of Havre, Milk River Project, Montana: New long-term water service contract for up to 2,800 acre-feet annually.

22. Lakeview Irrigation District, Shoshone Project, Wyoming: New long-term water service contract for up to 3,200 acre-feet of firm water supply annually and up to 11,800 acre-feet of interim water from Buffalo Bill Reservoir.

23. Hidalgo County Irrigation District No. 6, Texas: SRPA contract for a 25-year loan for up to $5,762,400 to rehabilitate the district's irrigation facilities.

24. City of Rapid City and Rapid Valley Water Conservancy District, Rapid Valley Unit, P-SMBP, South Dakota: Contract renewal for up to 55,000 acre-feet of storage capacity in Pactola Reservoir.

25. Shoshone, Heart Mountain, Willwood, and Deaver Irrigation Districts, Shoshone Project, Wyoming: R&B contracts for loans totalling $7,500,000 to rehabilitate project irrigation facilities.

26. City of Aurora, Fryingpan-Arkansas Project, Colorado: Long-term carriage contract for up to 1,000 acre-feet of conveyance capacity in the Fryingpan-Arkansas Project facilities.

27. Board of Commissioners of the City and County of Denver, Northern Colorado Water Conservancy District, Colorado River Water Conservation District, Colorado-Big Thompson Project, Colorado: Operating agreement for substitution of Williams Fork Reservoir water for Green Mountain Reservoir water.

28. Thirty Mile Canal Company, Nebraska: SRPA contract for a loan of $2,264,000 to reline the main canal, replace open laterals with buried pipe, and replace bridges.

Opportunity for public participation and receipt of comments on contract proposals will be facilitated by adherence to the following procedures:

1. Only person authorized to act on behalf of the contracting entities may negotiate the terms and conditions of a specific contract proposal.

2. Advance notice of meetings or hearings will be furnished to those parties that have made a timely written request for such notice to the appropriate regional or project office of the Bureau of Reclamation.

3. All written correspondence regarding proposed contracts will be made available to the general public pursuant to the terms and procedures of the Freedom of Information Act (80 Stat. 383), as amended.

4. Written comments on proposed contract or contract action must be submitted to the appropriate Reclamation officials at locations and within the time limits set forth in the advance public notice.

5. All written comments received and testimony presented at any public hearings will be reviewed and summarized by the appropriate regional office for use by the contract approving authority.

6. Copies of specific proposed contracts may be obtained from the appropriate Regional Director or his designated public contact as they become available for review and comment.

7. In the event modifications are made in the form of a proposed contract, the appropriate Regional Director shall determine whether republication of the notice and/or extension of the comment period is necessary.

Factors which shall be considered in making such a determination shall include, but are not limited to: (i) The significance of the impact(s) of the modification, and (ii) the public interest which has been expressed over the course of the negotiations. As a minimum, the Regional Director shall furnish revised contracts to all parties who requested the contract in response to the initial public notice.

Dated: July 31, 1991.

J. William McDonald,

Acting Assistant Commissioner, Program, Budget, and Liaison.

[FR Doc. 91-18645 Filed 8-6-91; 8:45 am]

BILLING CODE 4310-09-M

Fish and Wildlife Service

Issuance of Permit for Marine Mammals

On May 31, 1991, a notice was published in the **Federal Register**, Vol. 56, No. 105, Page 24830, that an application had been filed with the Fish and Wildlife Service by Homer Society of Natural History, Inc., Homer, AK, (PRT-756274) for a permit to import one mount and two pelts of one adult female and two pups to transport through the U.S. in a traveling exhibit to various museums for public display.

Notice is hereby given that on July 22, 1991, as authorized by the provisions of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Fish and Wildlife Service issued the requested permit subject to certain conditions set forth therein.

The permit documents themselves are available for public inspection by appointment during normal business hours (7:45-4:15) at the Fish and Wildlife Service's Office of Management Authority, 4401 North Fairfax Drive, Room 432, Arlington, Virginia 22203 (703/358-2104).

Other information in permit file is available under the Freedom of Information Act to any person who submits a written request to the Service's Office of Management Authority at the above address, in accordance with procedures set forth in Department of the Interior regulations. 43 CFR ?.

Dated: August 1, 1991.

R.K. Robinson,

Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 91-18685 Filed 8-6-91; 8:45 am]

BILLING CODE 4310-55-M

Minerals Management Service

Alaska Outer Continental Shelf (OCS): Public Scoping Meetings Regarding the Environmental Impact Statement for Proposed Oil and Gas Lease Sale No. 144; Beaufort Sea

The June 13, 1991, **Federal Register** contained a notice of intent to prepare an environmental impact statement (EIS) for proposed oil and gas lease Sale No. 144, Beaufort Sea.

The notice of intent for the proposed sale announced the scoping process that will be followed for the preparation of each EIS. The scoping process will involve Federal, State, and local governments and other interested parties aiding the Minerals Management Service in determining the significant issues and alternatives to be analyzed in the EIS. This will be done through mail solicitation and scoping meetings.

The area included in this sale is described in the **Federal Register** notice mentioned above. It is hoped that the information received at the scoping meetings will aid in identifying specific issues, proposals and alternatives.

Scoping meetings will be held as follows:

August 19, 1991, Community Hall, 7 to 9 p.m., Nuiqsut, Alaska

August 20, 1991, Community Hall, 7 to 9 p.m., Kaktovik, Alaska

August 21, 1991, Borough Assembly Chambers, 7 to 9 p.m., Barrow, Alaska

Additional information concerning these meetings can be obtained from: Minerals Management Service, Alaska OCS Region, Leasing and Environment Office, Attention: Ray Emerson, 949 East 36th Avenue, Anchorage, Alaska 99508.

Irven F. Palmer, Jr.,

Acting Regional Director.

[FR Doc. 91-18662 Filed 8-6-91; 8:45 am]

BILLING CODE 4310-MR-DI

Assessments for Late Reports

July 25, 1991.

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of assessment rates; correction.

SUMMARY: The Minerals Management Service (MMS) published a Notice in the **Federal Register** on July 5, 1991, (56 FR 30764) to establish new assessment rates for late reporting based on experience with costs and improper reporting, in accordance with its regulations at 30 CFR 216.40 (g) and 218.40 (e). The purpose of this Notice is to correct the assessment rates established in that Notice that apply to magnetic media reports submitted late to MMS's Auditing and Financial System (AFS).

EFFECTIVE DATE: The effective date of this correction is August 1, 1991. This is the same effective date established in the July 5, 1991, **Federal Register** which informed the public of new assessment rates for late reporting. The corrected assessment rates will remain in effect until a subsequent Notice is published in the **Federal Register** which changes the rates.

FOR FURTHER INFORMATION CONTACT: Dennis C. Whitcomb, Chief, Rules and Procedures Branch, MS 3910, Minerals Management Service, P.O. Box 25165, Denver, Colorado 80225–0165, at (303) 231–3432 or (FTS) 326–3432.

SUPPLEMENTARY INFORMATION: The July 5, 1991, **Federal Register** Notice established the same new assessment rates for magnetic media reports submitted late to MMS's Production Accounting and Auditing System (PAAS) and to its AFS. The assessment rates established in the July 5, 1991, Notice apply only to magnetic media reports submitted late to the PAAS. The assessment rates for magnetic media reports submitted late to the AFS are not changed at this time. The public will be informed of any change in the assessment rates for magnetic media reports submitted late to the AFS in a future **Federal Register** Notice.

Dated: July 31, 1991.

Jimmy W. Mayberry,

Associate Director for Royalty Management.

[FR Doc. 91–18695 Filed 8–6–91; 8:45 am]

BILLING CODE 4310–MR–M

National Park Service

Preservation of Jazz Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Preservation of Jazz Advisory Commission will be held on August 23 and 28, 1991, public hearings on August 24, 26, 27, 1991 and a Jazz History Workshop on August 28, 1991, in New Orleans, Louisiana.

The Preservation of Jazz Advisory Commission was established by Public Law 101–499 to advise the Secretary of the Interior in the preparation of a study of the suitability and feasibility of preserving and interpreting the origins of jazz in New Orleans.

The following is the schedule and purpose/agenda for the meetings, public hearings and workshop:

Dates and Times	Location	Purpose/Agenda
Friday, August 23, 1991, 2:30–4:30 pm	Advisory Commission Meeting, The Pontchartrain Hotel, 2031 St. Charles Ave., New Orleans, LA.	Review Background material gathered on jazz history. Prepare for public hearings.
Saturday, August 24, 1991, 2:00–6:00 pm	Public Hearings, Treme Community Center, Corner of N. Villere and St. Phillip, New Orleans, LA.	—The hearings will be conducted in an open-house style with the public free to attend between times indicated.
Monday, August 26, 1991, 4:00–8:00 pm	Public Hearings, Xavier University, Gold Room, Student Center, New Orleans, LA.	—The Commission will host the open-houses to inform the public of the purpose of the study and to get public input on the project scope and ideas on potential programs.
Tuesday, August 27, 1991, 4:00–8:00 pm	Public Hearings, Algiers Regional Library, 3014 Holiday Drive, New Orleans, LA.	
Wednesday, August 28, 1991, 1:00–4:00 pm	Jazz History Workshop, Loyola University, Dana Center, Audubon Room, New Orleans, LA.	—To gather information and ideas on the origins and early history of jazz in New Orleans and associated locations. The meeting is open to the public. Persons with special knowledge of jazz history are encouraged to attend.
4:30–6:30 pm	Advisory Commission Meeting, Loyola University, Dana Center, Octavia Room, New Orleans, LA.	—To initially summarize the input received over the week and to discuss the next phases of the study.

The meetings, public hearings, and workshop will be open to the public. However, facilities and space for accommodating members of the public are limited, and persons will be accommodated on a first-come, first-served basis. Any member of the public may file a written statement concerning the matters to be discussed at the commission meetings with the Superintendent, Jean Lafitte National Historical Park and Preserve. The public will also have an opportunity to submit written and oral comments for the record during the hearings.

Persons wishing further information concerning the meetings, public hearings, and workshop, or who wish to submit written statements may contact Robert Belous, Superintendent, Jean Lafitte National Historical Park and Preserve, U.S. Customs House, 423 Canal Street, room 210, New Orleans, Louisiana 70130–2341, Telephone 504/589–3882.

Minutes of the commission will be available for public inspection four weeks after the meeting at the office of Jean Lafitte National Historical Park and Preserve.

Dated: July 25, 1991.

Larry Belli,

Acting Regional Director, Southwest Region.

[FR Doc. 91–18699 Filed 8–6–91; 8:45 am]

BILLING CODE 4310–70–M

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before July 20, 1991. Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, DC 20013–7127. Written comments should be submitted by August 22, 1991.

Carol D. Shull,

Chief of Registration, National Register.

HAWAII

Hawaii County

Hata, S., Building, 318 Kamehameha Ave., Hilo, 91001087

Honolulu County

Kelly, John and Kate, House, 4117 Blackpoint Rd., Honolulu, 91001085

Maui County

Hana District Police Station and Courthouse, Uakea Rd., Hana, 91001086

ILLINOIS

Cook County

Miller, Allan, House, 7121 S. Paxton Ave., Chicago, 91001082

IOWA

Jackson County

Bellevue Herald Building (Limestone Architecture of Jackson County MPS), 130 S. Riverview St., Bellevue, 91001079

Big Mill Homestead (Limestone Architecture of Jackson County MPS), Paradise Valley Rd. W of Bellevue, Bellevue vicinity, 91001075

Dyas, George, House (Limestone Architecture of Jackson County MPS), Co. Rd. Z-15, SW of jct. with US 52, Bellevue vicinity, 91001077

Dyas, William, Barn (Limestone Architecture of Jackson County MPS), Co. Rd. Z-15, SW of jct. with US 52, Bellevue vicinity, 91001078

Fritz Chapel (Limestone Architecture of Jackson County MPS), Spruce Creek Rd. W of jct. with US 52, Bellevue vicinity, 91001067

House at 101 North Riverview Street (Limestone Architecture of Jackson County MPS), 101 N. Riverview St., Belleview, 91001068

House at 126 South Riverview Street (Limestone Architecture of Jackson County MPS), 126 S. Riverview St., Bellevue, 91001070

House at 130—132 North Riverview Street (Limestone Architecture of Jackson County MPS), 130—132 N. Riverview St., Bellevue, 91001069

House at 306 South Second Street (Limestone Architecture of Jackson County MPS), 306 S. Second St., Bellevue, 91001071

House at 505 Court Street (Limestone Architecture of Jackson County MPS), 505 Court St., Bellevue, 91001073

Kucheman Building (Limestone Architecture of Jackson County MPS), 100 N. Second St., Bellevue, 91001072

Niemann, Theodore, House and Spring House (Limestone Architecture of Jackson County MPS), Spruce Creek Rd. W of jct. with US 52, Bellevue vicinity, 91001065

Robb House and Spring House (Limestone Architecture of Jackson County MPS), Paradise Valley Rd. W. of Bellevue, Bellevue vicinity, 91001076

Roling, Henry, House (Limestone Architecture of Jackson County MPS), Spruce Creek Rd. W of jct. with US 52, Bellevue vicinity, 91001066

Upper Paradise (Limestone Architecture of Jackson County MPS), Paradise Valley Rd. W of Bellevue, Bellevue vicinity, 91001074

Marion County

Pella Opera House, 611 Franklin St., Pella, 91001080

KANSAS

Shawnee County

Anton-Woodring House, 1011 Cambridge Ave., Topeka, 91001088

LOUISIANA

Claiborne Parish

Monk House, Claiborne Parish Rt. 39 and LA 9, Homer vicinity, 91001081

MINNESOTA

Dodge County

Mantorville and Red Wing Stage Road—Mantorville Section (Overland Staging Industry in Minnesota MPS), N side of 5th St., E of jct. with MN 57, Mantorville, 91001062

Todd County

Saint Cloud and Red River Valley Stage Road—Kandota Section (Overland Staging Industry in Minnesota MPS), Off Co. Hwy. 92 SE of West Union, Kandota Township, West Union vicinity, 91001061

Wabasha County

Lake City and Rochester Stage Road—Mount Pleasant Section (Overland Staging Industry in Minnesota MPS), Off US 63 SW of Lake City, Mount Pleasant Township, Lake City vicinity, 91001063

VIRGINIA

Rockbridge County

Vine Forest, US 11, 2 mi. W of Natural Bridge, Natural Bridge vicinity, 91001084

Roanoke Independent City

St. John's Episcopal Church, Jct. of Jefferson St. and Elm Ave., SW corner, Roanoke (Independent City), 91001083

The following property was listed under Iron County, Michigan, on a previous pending list:

MICHIGAN

Presque Isle County

Radka—Bradley House, 176 W. Michigan Ave., Rogers City, 91001019

[FR Doc. 91-18700 Filed 8-6-91; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701-TA-308 (Preliminary) and 731-TA-526 (Preliminary)]

Bulk Ibuprofen From India

AGENCY: United States International Trade Commission.

ACTION: Institution and scheduling of preliminary countervailing duty and antidumping investigations.

SUMMARY: The Commission hereby gives notice of the institution of preliminary countervailing duty investigation No. 701-TA-308 (Preliminary) under section 703(a)) of the Tariff Act of 1930 (19 U.S.C. 1671b(a) and of preliminary antidumping investigation No. 731-TA-526 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from India of ibuprofen in bulk form, provided for in subheading 2916.15 of the Harmonized Tariff Schedule of the United States, that are alleged to be subsidized by the Government of India and to be sold in the United States at less than fair value. The Commission must complete preliminary countervailing duty and antidumping investigations in 45 days, or in these cases by September 16, 1991.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

EFFECTIVE DATE: July 31, 1991.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Haines (202-205-3200), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000.

SUPPLEMENTARY INFORMATION:

Background.—These investigations are being instituted in response to a petition filed on July 31, 1991, by Ethyl Corporation, Richmond, VA.

Participation in the investigations and public service list.—Persons (other than petitioners) wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in §§ 201.11 and 207.10 of the Commission's rules, not later than seven (7) days after publication of this notice in the **Federal Register**. The Secretary

will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these preliminary investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made not later than seven (7) days after the publication of this notice in the **Federal Register.** A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference.—The Commission's Director of Operations has scheduled a conference in connection with these investigations for 9:30 a.m. on August 21, 1991, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Elizabeth A. Haines (202–205–3200) not later than August 16, 1991 to arrange for their appearance. Parties in support of the imposition of countervailing and antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written submissions.—As provided in §§ 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before August 26, 1991, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties may file written testimony in connection with their presentation at the conference no later than three (3) days before the conference. If briefs of written testimony contain BPI, they must conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules.

In accordance with §§ 201.16(c) and 207.3 of the rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.12 of the Commission's rules.

Issued: August 2, 1991.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 91–18742 Filed 8–6–91; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 731–TA–523 (Preliminary)]

Determination; Commercial Microwave Ovens, Assembled or Unassembled, From Japan

On the basis of the record [1] developed in the subject investigation, the Commission determines,[2] pursuant to section 733(a) of the Tariff Act of 1930,[3] that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury, or that the establishment of an industry in the United States is materially retarded, by reason of imports from Japan of commercial microwave ovens (CMOs),[4] that are alleged to be sold in the United States at less than fair value (LTFV).

Background

On June 10, 1991, a petition was filed with the Commission and the Department of Commerce by Menumaster, Inc., Sioux Falls, SD, alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV imports of CMOs from Japan. Accordingly, effective June 10, 1991, the Commission instituted antidumping investigation No. 731–TA–523 (Preliminary).

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of June 19, 1991.[5] The conference was held in Washington, DC, on July 1, 1991, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on July 25, 1991. The views of the Commission are contained in USITC Publication 2405 (July 1991), entitled "Commercial Microwave Ovens, Assembled or Unassembled, from Japan: Determination of the Commission in Investigation No. 731–TA–523 (Preliminary) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation."

Issued: July 26, 1991.

By Order of the Commission:

Kenneth R. Mason,

Secretary.

[FR Doc. 91–18744 Filed 8–6–91; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 731–TA–471 (Final)]

Determination, Silicon Metal From Brazil

On the basis of the record [1] developed in the subject investigation, the Commission unanimously determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the act), that an industry in the United States is materially injured by reason of imports from Brazil of silicon metal,[2] that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV). The Commission also unanimously determines, pursuant to section 735(b)(4)(A) of the act (19 U.S.C. 1673d(b)(4)(A)), that critical circumstances do not exist with respect to imports of such merchandise; thus, the retroactive imposition of antidumping duties is not necessary.

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[1] The record is defined in § 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] Acting Chairman Anne Brunsdale dissenting.

[3] 19 U.S.C. 1673b(a).

[4] The products covered by this investigation are all CMOs, whether assembled or unassembled. CMOs are electronic cooking devices which heat food by application of very high-frequency energy (microwaves), used for commercial or other than domestic purposes. CMOs are provided for in subheading 8419.81.10 but may be entering under subheading 8516.50.00 of the Harmonized Tariff Schedule of the United States (HTS). The latter subheading classifies microwave ovens intended for household use only.

[5] 56 FR 28171.

[1] The record is defined in section 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] The merchandise covered by this investigation is silicon metal containing at least 96.00 but less than 99.99 percent of silicon by weight. Silicon metal is currently provided for in subheadings 2804.69.10 and 2804.69.50 of the Harmonized Tariff Schedule of the United States (HTS) as a chemical product, but is commonly referred to as a metal. Semiconductor-grade silicon (silicon metal containing by weight not less than 99.99 percent of silicon and provided for in subheading 2804.61.00 of the HTS) is not subject to this investigation.

Background

The Commission instituted this investigation effective March 27, 1991, following a preliminary determination by the Department of Commerce that imports of silicon metal from Brazil were being sold at LTFV within the meaning of section 733(b) of the act (19 U.S.C. 1673b(b)). Notice of the institution of the Commission's final investigation and of a public hearing to be held in connection therewith was given by posting copies of the notices in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notices in the **Federal Register**. The hearing was held in Washington, DC, on April 25, 1991, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on July 24, 1991. The views of the Commission are contained in USITC Publication 2404 (July 1991), entitled "Silicon Metal from Brazil: Determination of the Commission in Investigation No. 731–TA–471 (Final) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation."

Issued: July 26, 1991.

By Order of the Commission:

Kenneth R. Mason,

Secretary.

[FR Doc. 91–18745 Filed 8–6–91; 8:45 am]

BILLING CODE 7020–02–M

Appointment of Individuals To Serve as Members of Performance Review Boards

AGENCY: United States International Trade Commission.

ACTION: Appointment of individuals to serve as members of Performance Review Boards.

EFFECTIVE DATE: August 7, 1991.

FOR FURTHER INFORMATION CONTACT: Terry P. McGowan, Director of Personnel, U.S. International Trade Commission, (202) 205–2651.

SUPPLEMENTARY INFORMATION: The Acting Chairman of the U.S. International Trade Commission has appointed the following individuals to serve on the Commission's Performance Review Board (PRB).

Chairman of PRB—Vice Chairman Anne E. Brunsdale
Member—Commissioner Seeley G. Lodwick
Member—Commissioner Donald E. Newquist
Member—Commissioner David B. Rohr
Member—Charles W. Ervin
Member—William L. Featherstone
Member—Lorin L. Goodrich
Member—Lynn I. Levine
Member—Robert A. Rogowsky
Member—Eugene A. Rosengarden
Member—Lyn M. Schlitt
Member—Marion L. Simpson
Member—John W. Suomela

Notice of these appointments is being published in the **Federal Register** pursuant to the requirement of 5 U.S.C. 4314(c)(4).

Hearing-impaired individuals are advised that information on this matter can be obtained by contacting our TDD terminal on (202) 205–1810.

Issued: July 30, 1991.

By order of the Acting Chairman:

Kenneth R. Mason,

Secretary.

[FR Doc. 91–18743 Filed 8–6–91; 8:45 am]

BILLING CODE 7020–02–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30186 (Sub-No. 2)]

Tongue River Railroad Co.—Rail Construction and Operation—Ashland to Decker, MT

AGENCY: Interstate Commerce Commission.

ACTION: Thirty-day extension to file comments and replies.

SUMMARY: In motions filed July 29, 1991, the Northern Cheyenne Tribe (Tribe) and Native Action (Action) request a 30-day extension to file comments on the application filed by the Tongue River Railroad Co. in this case. Comments are now due August 2, 1991. Both Tribe and Action say that the proposal will have a substantial effect on them and that they have not had adequate time to study the application. We will modify the July 16, 1991 notice by giving all parties until September 3, 1991 to file comments. Applicant may reply by September 10, 1991.

DATES: (1) Comments must be filed by September 3, 1991, and concurrently served on applicant's representatives. Each comment must contain the basis for the party's position either in support or opposition to the application.

(2) Applicant may reply by September 10, 1991.

ADDRESSES: Send an original plus 10 copies of all documents to: Office of the Secretary, Case Control Branch, Attn: Finance Docket No. 30186 (Sub-No. 2), Interstate Commerce Commission, Washington, DC 20423 .

In addition, concurrently send one copy to each of applicant's representatives:

Thomas E. Ebzery, Esq., Village Center 1, 1500 Poly Drive, Billings, MT 59102, FAX: (406) 245–0834.

David M. Schwartz, Esq., Robert L. Calhoun, Esq., Sullivan & Worcester, 1025 Connecticut Ave., NW., Washington, DC 20036, FAX: (202) 293–2275.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275–7245 [TTD for hearing impaired: (202) 275–1721].

Decided: July 31, 1991

By the Commission, Sidney L. Strickland, Jr., Secretary.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 91–18613 Filed 8–6–91; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Advisory Council on Employee Welfare and Pension Benefit Plans; Meeting

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 of the Working Group on Small Business Retirement Plans of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held at 9:30 a.m. Wednesday, September 11, 1991, in room S–4215 AB, U.S. Department of Labor Building, Third and Constitution Avenue, NW., Washington, DC 20210.

This Small Business Retirement Plans Working Group was formed by the Advisory Council to study issues relating to Small Business for employee benefit plans covered by ERISA.

The purpose of the September 11 meeting is to address the following specific issues:

I. Determination of the magnitude and scope of "the problems" that may exist regarding retirement plan coverage among small employers.

II. Determination of the extent to which the complexity of rules and administrative burdens has contributed to diminished coverage, with related recommendations regarding simplification.

III. Determination of the appropriate degree of balance between benefit security for employees of small firms

and measures to encourage small business coverage.

IV. Determination of what measures beyond simplification of existing rules might be taken by the government to improve the degree of meaningful secure coverage of employees of small business.

A number of various groups and individuals will be invited to address these issues. The Working Group will also take testimony and or submissions from employee representatives, employer representatives and other interested individuals and groups regarding the subject matter.

Individuals, or representatives of organizations, wishing to address the Working Group should submit written requests on or before September 6, 1991, to William E. Morrow, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, suite N–5677, 200 Constitution Avenue, NW., Washington, DC 20210. Oral presentations will be limited to ten minutes, but witnesses may submit an extended statement for the record.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statement 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 September 6, 1991.

Signed at Washington, DC, this 1st day of August, 1991.

David George Ball,

Assistant Secretary for Pension and Welfare Benefits Administration.

[FR Doc. 91–18687 Filed 8–6–91; 8:45 am]

BILLING CODE 4510–29–M

Advisory Council on Employee Welfare and Pension Benefit Plans; Meeting

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 of the Working Group on Enforcement of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held at 9 a.m. Thursday, September 12, 1991, in room S–4215 AB, U.S. Department of Labor Building, Third and Constitution Avenue, NW., Washington, DC 20210.

This Enforcement Working Group was formed by the Advisory Council to study issues relating to Enforcement for employee benefit plans covered by ERISA.

The purpose of the September 12 meeting is to receive testimony from various organizations and individuals concerning:

I. Whether there is a need for alternatives to court litigation for resolving plan benefit claims and other ERISA claims, and

II. How alternative dispute resolution procedures can be effectively structured. Among the organizations invited to testify are the Pension Rights Center, the Pension Benefit Guaranty Corporation, the Federal Mediation & Conciliation Service, the Administrative Conference of the United States, the National Association of Insurance Commissioners, the National Association of Securities Dealers, the American Arbitration Association, and various employer and labor groups.

The working Group will also take testimony and or submissions from other interested individuals and groups, not mentioned above, regarding the subject matter.

Individuals, or representatives of organizations, wishing to address the Working Group should submit written requests on or before September 6, 1991, to William E. Morrow, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, suite N–5677, 200 Constitution Avenue, NW., Washington, DC 20210. Oral presentations will be limited to ten minutes, but witnesses may submit an extended statement for the record.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20 copies of such statement 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 September 6, 1991.

Signed at Washington, DC, this 1st day of August, 1991.

David George Ball,

Assistant Secretary for Pension and Welfare Benefits Administration.

[FR Doc. 91–18688 Filed 8–6–91; 8:45 am]

BILLING CODE 4510–29–M

Advisory Council on Employee Welfare and Pension Benefit Plans; Meeting

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 of the Working Group on Retiree Medical Benefits of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held at 9:30 a.m. Friday, September 13, 1991, in room S–4215 AB, U.S. Department of Labor Building, Third and Constitution Avenue, NW., Washington, DC 20210.

This Retiree Medical Benefits Working Group was formed by the Advisory Council to study issues relating to Retiree Medical Benefits for employee benefit plans covered by ERISA.

The purpose of the September 13 meeting will be to hear expert testimony concerning the impact of: (1) Medical care cost of inflation, (2) changing demographics, (3) changed accounting rules for other post employment benefits, and (4) the lack of broad tax favored prefunding alternatives and associated minimum standards, on retiree medical plan design, coverage and benefits. The Working Group will also take testimony and or submission from other interested individuals and groups, not mentioned above, regarding the subject matter.

Individuals, or representatives of organizations, wishing to address the Working Group should submit written requests on or before September 6, 1991, to William E. Morrow, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, suite N–5677, 200 Constitution Avenue, NW., Washington, DC 20210. Oral presentations will be limited to ten minutes, but witnesses may submit an extended statement for the record.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statement should be sent to the Executive Secretary of the Advisory Council at the above address. Paper will be accepted and included in the record of the meeting if received on or before September 6, 1991.

Signed at Washington, DC, this 1st day of August, 1991.

David George Ball,

Assistant Secretary for Pension and Welfare Benefits Administration.

[FR Doc. 91–18689 Filed 8–6–91; 8:45 am]

BILLING CODE 4510–29–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–409]

Dairyland Power Coop; La Crosse Boiling Water Reactor (LACBWR); Issuance of Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is

considering the issuance of an order authorizing decommissioning and issuance of a renewal and amendment of Possession Only Licensee No. DPR–45 for Dairyland Power Cooperatives (DPC's) La Crosse Boiling Water Reactor (LACBWR). The Decommissioning Plan involves long-term storage of the facility (SAFSTOR) followed by dismantlement.

Description of Proposed Action

LACBWR has been shut down since April 30, 1987. All spent fuel has been removed from the reactor and is stored in the LACBWR Fuel Element Storage Well. Approval of the Decomissioning Plan and renewal of License No. DPR–45 will allow storage of spent fuel on site until a Federal repository is available and SAFSTOR of LACBWR until March 29, 2031.

Environmental Impacts

The NRC staff has reviewed the proposed decommissioning, the proposed renewal and amendment of the possession only license and DPC's Supplemental Environmental Report with respect to 10 CFR 51.53(b). To document its review, the staff has prepared an Environmental Assessment. The proposed SAFSTOR of LACBWR will prevent unrestricted use of a small area of land for the SAFSTOR period but will result in a reduced exposure of workers that do final dismantling and also result in a reduced volume of radioactive waste.

Finding of No Significant Impact

The staff has reviewed the proposed decommissioning, license renewal and amendment relative to the requirements set forth in 10 CFR part 51. Based upon the Environmental Assessment, the staff concluded that there are no significant environmental impacts associated with the proposed action and that the proposed action will not have a significant effect on the quality of the human environment. Therefore, the Commission had determined, pursuant to 10 CFR 51.31, not to prepare an environmental impact statement for the proposed amendment.

For further details with respect to this action, see: (1) The licensee's application for authorization to decommission the facility, dated December 21,, 1987, as revised February 22, 1988, September 9, 1988, September 30, 1988, January 26, 1989, March 28, 1989, June 6, 1989, October, 3, 1989, July 25, 1990, May 10, 1991, and July 25, 1991; (2) Amendment No. 66 to License No. DPR–45; (3) the Commission's related Safety Evaluation; and (4) the Environmental Assessment and Finding of No Significant Impact. These documents are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC 20555, and at the La Crosse Public Library, 800 Main Street, La Crosse, Wisconsin 54601. Copies of items (2), (3), and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Advanced Reactors and Special Projects.

Dated at Rockville, Maryland this 31st day of July 1991.

For the Nuclear Regulatory Commission.

Richard F. Dudley, Jr.,

Acting Director Non-Power Reactors, Decommissioning and Environmental Project Directorate, Division of Advanced Reactors, and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 91 18724 Filed 8–6–91; 8:45 am]

BILLING CODE 7590–01–M

Biweekly Notice Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law (P.L.) 97-415, the Nuclear Regulatory Commission (the Commission) is publishing this regular biweekly notice. P.L. 97-415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from July 15, 1991 through July 26, 1991. The last biweekly notice was published on July 24, 1991 (56 FR 33950).

Notice of Consideration of Issuance of Amendment To Facility Operating License And Proposed No Significant Hazards Consideration Determination And Opportunity For Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room P-223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland from 7:30 a.m. to 4:15 p.m. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By September 6, 1991, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or

petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington DC 20555, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to **(Project Director)**: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the local public document room for the particular facility involved

Arizona Public Service Company, et al., Docket No. STN 50-529, Palo Verde Nuclear Generating Station, Unit 2, Maricopa County, Arizona

Date of amendment request: July 13, 1991

Description of amendment request: This amendment request proposes to extend the surveillance requirement frequency for Unit 2 Diesel Generators (DGs) at PVNGS by allowing a one time extension to the current 18 month surveillance plus the additional 25% allowed by Section 4.0.2 of the Technical Specifications. The proposed Technical Specification amendment, in the form of a footnote to Surveillance Requirement 4.8.1.1.2.d.1, would allow the DGs to be inspected in accordance with procedures prepared in conjunction with its manufacturer's recommendations for this class of standby service (currently to be performed no later than September 29, 1991), to be deferred until the upcoming refueling outage, but not beyond December 31, 1991.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensees have provided their analysis of the issue of no significant hazards consideration, which is presented below:

Standard 1 — Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendment would extend the surveillance requirement interval of 18 months plus 25% to the end of the upcoming refueling outage or December 31, 1991, which ever[sic] is earlier. The objectives of the surveillance inspections are to detect possible equipment problems before they become serious enough to cause equipment malfunctions, and to verify that the diesel generator and its associated electrical equipment are in an operable condition.

Surveillance test 32-ST-9PE01-2 was last performed on Train "A" on January 5, 1990, and[on] Train "B" November 8, 1989, therefore, the 18 month plus 25% ST[Surveillance Test] is due November 28, 1991, and September 29, 1991, respectively. Train "B" will be the only DG which will be over the surveillance requirement timeframe, [which] will be from September 29, 1991, until October 19, 1991, a total of 20 days. Train "B" DG is scheduled to begin its ST on October 18, 1991.

The proposed extension will not impact the DG's ability to start and perform its intended safety function. Since initial licensing, train "A" has had 127 starts as of May 2, 1991, with only one failure to start. The failure on test start 119 (December 12, 1990) was caused by air in the fuel line which happened during post-maintenance testing after routine maintenance. Train "B" has had 120 starts as of May 9, 1991, and has had zero failures. Based on the past performance of the DG's, an extension of the surveillance requirement to the end of the refueling outage will not involve a significant increase in the probability of an accident previously evaluated. Train "A" DG will be operable while Train "B" is undergoing the 18 month inspection. Technical Specification 3.8.1.2 allows one DG to be out of service in Modes 5 and 6 to allow for inspections. When Train "B" is declared operable, scheduled for November 10, 1991, Train "A" will begin its 18 month inspection. During the refueling outage, at least one train of the DG will be operable. Therefore, the proposed Technical Specification amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

Standard 2 — Create the possibility of a new or different kind of accident from any accident previously evaluated.

The objectives of the Surveillance Test are to detect possible equipment problems before they become serious enough to cause equipment malfunctions, and to verify that the diesel generator and its associated electrical equipment are in an operable condition. Train "A" will remain in an operable condition during the refueling outage until its scheduled surveillance of November 11, 1991. This[condition of Train "A"] is in accordance with Technical Specification 3.8.1.2 which requires that one diesel generator shall be operable in Modes 5 and 6. Train "B" is scheduled to begin its surveillance testing on October 19, 1991, with completion of the integrated safeguards testing on November 10, 1991, at which time Train "B" will be declared operable.

Train "B" diesel generator surveillance extension will be from September 29, 1991, until October 19, 1991, a total of 20 days. The diesel generator will still perform its intended function even after the 18 month plus 25% surveillance requirement. There is no reason to believe otherwise based on its past performance during its surveillances. Subjecting the diesel to inspection in accordance with procedures prepared in conjunction with the manufacturer's recommendations for this class of standby service provides additional assurance that the diesel generators will perform their safety function when called upon to do so. Therefore, the proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.

Standard 3 — Involve a significant reduction in a margin of safety.

The proposed amendment does not involve a significant reduction in the margin of safety because the extension of time sought for the diesel generator testing does not involve a change to safety limits, setpoints or design margins. At least one diesel generator will be operable during the refueling outage, [which] meets the Technical Specification requirements. Therefore, the proposed amendment will not involve in a significant reduction in the margin of safety.

The NRC staff has reviewed the licensees' analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: Phoenix Public Library, 12 East McDowell Road, Phoenix, Arizona 85004

Attorney for licensees: Arthur C. Gehr, Esq., Snell & Wilmer, 3100 Valley Center, Phoenix, Arizona 85073

NRC Project Director: James E. Dyer

Baltimore Gas and Electric Company, Docket Nos. 50-317 and 50-318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of amendments request: July 2, 1991

Description of amendments request: The proposed amendments would revise the Technical Specifications (TS) for both Units 1 and 2. The proposed TS revisions are requested to support the planned upgrade of the spent fuel cask handling crane to a single-failure-proof design. The crane is being upgraded to handle the new spent fuel transfer cask which will be used to transfer spent fuel to the new Independent Spent Fuel Storage Installation (ISFSI) which is currently being constructed on the plant site. The ISFSI transfer cask will weigh 90 tons, when loaded with spent fuel, which is three times that previously analyzed for a cask load drop.

The current TS restrict the movement of heavy loads greater than 1600 pounds over fuel assemblies by the spent fuel cask handling crane. The proposed revision to TS 3/4.9.7 changes the Limiting Condition for Operation (LCO) to allow the movement of heavy loads in excess of 1600 pounds over fuel assemblies in the storage pool. The Surveillance Requirement, TS 3.9.7.1, is also revised to delete load weight verification when the new single-failure-proof crane is in use and adds new requirements. The new surveillance requirements include: visual inspection of slings and lifting devices, verifying operability, pre-operational and periodic tests, and the performance of preventative maintenance in accordance with plant procedures. TS 3/4.9.13, which currently has LCOs and surveillance requirements to prevent the movement of a spent fuel shipping cask within on cask length of any fuel assembly is deleted based on the proposed changes to TS 3/4.9.7 and 3/4.9.7.1. The Bases sections for TS 3/4.9.7 and 3/4.9.7.1 are revised to support the proposed changes and the Bases section for TS 3/4.9.13 is deleted.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) involve a significant increase in the probability or consequences of an accident previously evaluated.

With a single-failure-proof crane, the probability of an accidental load drop while handling heavy loads over the spent fuel has been accepted to be insignificant in NUREG-0612, "Control of Heavy Loads at Nuclear Power Plants." The spent fuel cask crane currently meets the evaluation criteria of Section 5.1 of NUREG-0612 through Technical Specification restrictions, mechanical stops, and electrical interlocks in conjunction with a spent fuel cask drop analysis (Alternate 3, Seciton 5.1.2 of NUREG-0612). Under the proposed amendment, the evaluation criteria of Section 5.1 will be met with a single-failure-proof crane that satisfies the guidelines of Section 5.1.6 of NUREG-0612 (Alternate 1). A fault tree evaluation performed by NRC to establish the bases for NUREG-0612 guidelines shows the potential for unacceptable consequences is comparable for these alternatives. Therefore, the proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

(2) create the possibility of a new or different type of accident from any accident previously evaluated.

The proposed change will allow the handling of loads in excess of 1600 lbs over the fuel assemblies in the storage pool which is an area previously off limits for such loads. It will also allow the movement of heavy

loads up to the maximum critical load rating of the main hoist (125 ton) which is more than the 35 ton spent fuel cask that has been previously shown to cause actual punching shear stress to the spent fuel pool floor, if dropped from a height of 42.5 ft. (3.5 ft. in the air, 39 ft. in the water). However, the single-failure-proof design will eliminate the need to address drops in the previously restricted areas. Further the capability of a single-failure-proof crane to handle heavy loads has been accepted as the equivalent in overall risk to the currently established heavy load controls of a non single-failure-proof crane. Therefore, operation of the facility in accordance with the proposed amendment, 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 four alternative guidelines provided in Section 5.1.2 of NUREG-0612 for the spent fuel pool area have been shown to provide an essentially equivalent level of safety. In addition, heavy load handling operations at Calvert Cliffs continues to meet the seven general defense-in-depth guidelines of Section 5.1.1. Therefore, operation of the facility in accordance with the proposed amendment, will not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendments request involves no significant hazards consideration.

Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland.

Attorney for licensee: Jay E. Silbert, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC. 20037.

NRC Project Director: Robert A. Capra

Commonwealth Edison Company, Docket Nos. STN 50-454 and STN 50-455, Byron Station, Unit Nos. 1 and 2, Ogle County, Illinois; Docket Nos. STN 50-456 and STN 50-457, Braidwood Station, Unit Nos. 1 and 2, Will County, Illinois

Date of application for amendments: June 10, 1991

Description of amendments request: The proposed amendments would revise the Technical Specifications (TS) by removing the TS on radioactive effluents and radiological environmental monitoring and adding controls to include them in the Offsite Dose Calculational Manual (ODCM). Specifications on solid radioactive wastes will be relocated to the Process Control Program (PCP). This action is in response to Generic Letter 89-01 dated January 31, 1989.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's review is presented below:

The proposed amendment relocates procedural details from the Byron and Braidwood TS to the ODCM or the PCP without revision. Administrative controls are to be placed in the TS to control these programs. As a result, all aspects of the Final Safety Analysis Report (FSAR) safety analyses will remain unchanged and there will be no physical change to the facility. Therefore, the proposed change does not involve a significant increase in the probability or consequences of any accident previously evaluated.

The proposed change relocates conformance details from the TS to the ODCM and PCP. This relocation of the radiological effluent TS program does not reduce the controls on radiological effluent. No plant design changes are necessary to implement these line-item improvements. Therefore, the current plant safety analyses remain complete and accurate in addressing the licensing basis events and analyzing the plant response and consequences. The proposed amendment cannot create the possibility of a new and different kind of accident than previously evaluated.

Radiological regulatory requirements are established in 10 CFR 20.106, 40 CFR Part 190, 10 CFR 50.36a, and Appendix I to 10 CFR Part 50. The limits defined for Byron and Braidwood based on these requirements will be relocated from the TS to the ODCM and PCP, unchanged. All technical content will be preserved. Since there will be no change to the physical design or operation of the plant, the proposed amendment will not involve a reduction in a safety margin.

Based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: For Byron, the Byron Public Library, 109 N. Franklin, P. O. Box 434, Byron, Illinois 61010; for Braidwood, the Wilmington Township Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481.

Attorney to licensee: Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60690.

NRC Project Director: Richard J. Barrett

Commonwealth Edison Company, Docket Nos. 50-373 and 50-374, LaSalle County Station, Units 1 and 2, LaSalle County, Illinois

Date of application for amendments: June 4, 1991

Description of amendments request: This amendment proposes to modify the Technical Specification (TS) requirements for the Anticipated Transient Without Scram - Recirculation Pump Trip (ATWS-RPT) to reflect improvements made to the logic and instrumentation system. The proposed changes include revising the minimum number of operable channels per trip system from one to two since the new logic system will use "1-out-of-2 taken twice" logic vice "1-out-of-4 taken once" logic. In addition, a shiftly channel check surveillance for the high pressure sensor will be added since the new instrumentation provides a direct pressure indicator which can be verified against other plant instruments. And finally, the action statements will be modified to reflect the various combinations of inoperable channels. The allowed outage time will be reduced from 14 days to 72 hours.

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:

Based on the criteria for defining a significant hazards consideration established in 10 CFR 50.92, operation of LaSalle County Station Units 1 and 2 in accordance with the proposed amendment will not:

1) Involve a significant increase in the probability or consequences of an accident previously evaluated because:

The action requirements for Technical Specifications 3.3.4.1 provides a higher degree of protection and operational flexibility by addressing all possible combinations of inoperable channels and trip systems. The allowed outage times in the proposed amendment become progressively more restrictive depending on the nature of any failures. The proposed allowed outage time for an inoperable trip channel is reduced from 14 days to 72 hours. The reduced outage times will not significantly increase the probability of an accident previously evaluated.

The proposed amendment to Table 3.3.4.1-1 increases the required number of instrumentation channels from 1 to 2 for each trip system. This enhanced design reflects modifications being made to the anticipated transient without scram-recirculation pump trip (ATWS-RPT) in response to 10 CFR Part 50.62 requirements. This change clarifies the channel operability requirements for the ATWS-RPT instrumentation and ensures consistent application of the requirements. This amendment will not affect the

performance of the ATWS-RPT system. Therefore, the consequences of an accident previously evaluated are not significantly increased by enhancing the ATWS-RPT logic.

The proposed amendment to Table 4.3.4.1-1 adds a shiftly "channel check" requirement for the ATWS-RPT high reactor vessel pressure instrumentation. The addition of this requirement provides additional assurance of the ATWS-RPT instrumentation operability. The probability of an undetected instrument failure is lessened by the implementation of a shiftly "channel check". The current Technical Specifications do not require this surveillance.

This amendment also removes a footnote that allowed waiver of the 18 month surveillance interval for certain surveillance requirements during Unit 1 Cycle 1. This footnote is no longer applicable and the change has no impact on safety.

2) Create the possibility of a new or different kind of accident from any accident previously evaluated because:

The proposed amendments are intended to clarify and enhance the existing Technical Specification requirements. The proposal reflects improvements being made to the ATWS-RPT instrumentation and does not constitute a change to the operation of the facility as described in the UFSAR. The reduction of allowed outage times from 14 days to 72 hours for the ATWS-RPT trip channels does not involve any changes to the facility or the operation of the facility as described in the UFSAR. The proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated.

3) Involve a significant reduction in the margin of safety because:

The proposed amendments clarify and enhance the existing requirements for ATWS-RPT instrumentation. The changes will help to reduce the potential for misinterpretation of the requirements and institute additional surveillance requirements for the new instrumentation. Therefore, it is CECo's expectation that the proposed amendments will increase 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: Public Library of Illinois Valley Community College, Rural Route No. 1, Ogelsby, Illinois 61348.

Attorney to licensee: Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60690.

NRC Project Director: Richard J. Barrett

Connecticut Yankee Atomic Power Company, Docket No. 50-213, Haddam Neck Plant, Middlesex County, Connecticut

Date of amendment request: July 2, 1991

Description of amendment request: Connecticut Yankee Atomic Power Company (CYAPCO) has proposed to change Technical Specification Section 3.7.1.3 and the associated Bases Section to increase the demineralized water storage tank minimum volume from the present 50,000 gallons to a new minimum volume of 70,000 gallons.

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 analyzed.

The proposed change will not significantly increase the probability or consequences of an accident previously evaluated. The proposed change will increase the minimum [auxiliary feedwater] pump AFW [Net Positive Suction Head] NPSH available during design basis events and also allow for greater operator action time than would otherwise be required with a 50,000-gallon initial [demineralized water storage tank] DWST inventory. Therefore, it is concluded that previously analyzed accidents are not affected.

2. Create the possibility of a new or different kind of accident from any previously analyzed.

The proposed change will not create the possibility of a new or different kind of accident. Because the AFW pumps operate on the order of 2500 feet of total head, a change in DWST level has a negligible affect on AFW system flows. The NPSH available to NPSH required ratio increase is the only identified affect on the AFW system. Therefore, it is concluded that no new failure modes are introduced.

3. Involve a significant reduction in a margin of safety.

The proposed change does not have any adverse impact on the protective boundaries. Since the proposed change also does not affect the consequences of any accident previously analyzed, there is no reduction in a margin of safety. The proposed change increases the margin of safety since the increased inventory/level will correspond to an increase in the ratio of AFW pump NPSH available to NPSH required.

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: Russell Library, 123 Broad Street, Middletown, Connecticut 06457.

Attorney for licensee: Gerald Garfield, Esquire, Day, Berry & Howard, Counselors at Law, City Place, Hartford, Connecticut 06103-3499.

NRC Project Director: John F. Stolz

Entergy Operations, Inc., Docket No. 50-313, Arkansas Nuclear One, Unit No. 1, Pope County, Arkansas

Date of amendment request: June 18, 1991

Description of amendment request: The proposed change to Technical Specification (TS) 3.5.1.4 involves the addition of the following wording "...except during channel testing" to the TS clarifying that the key operated shutdown bypass switch is used during monthly channel testing in order to verify that the shutdown bypass logic is operable.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

An evaluation of the proposed change has been performed in accordance with 10CFR50.91 (a) (1) regarding no significant hazards consideration using the standards in 10CFR50.92 (c). A discussion of those standards as they relate to this amendment request follows:

Criterion 1 - Does not involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated.

The proposed change adds a clarifying statement which is provided for in the original design and therefore, does not involve any increase in the probability or consequence of an accident previously evaluated.

Criterion 2 - Does not create the possibility of a New or Different Kind of Accident from any Previously Evaluated.

In order to test the operability of the shutdown bypass logic during power operations the key operated shutdown bypass switch must be used. In as much as the reactor protection channel will already be bypassed pursuant to TS 3.5.1.3 this change would not create the possibility of a new or different kind of accident from any previously evaluated.

Criterion 3 - Does not Involve a Significant Reduction in the Margin of Safety.

The proposed change is administrative in nature, is provided for in the original design, and is required to test shutdown bypass logic during power operations. This circuit does not affect the reactor protection system due to the associated protection channel already being bypassed. Therefore this change does not involve any reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Tomlinson Library, Arkansas

Tech University, Russellville, Arkansas 72801

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, N.W., Washington, D.C. 20005-3502

NRC Project Director: Theodore R. Quay

Entergy Operations, Inc., Docket No. 50-313, Arkansas Nuclear One, Unit No. 1, Pope County, Arkansas

Date of amendment request: June 27, 1991

Description of amendment request: The proposed changes would revise Technical Specifications (TSs) 3.9 and 4.10 regarding the control room emergency ventilation (air conditioning and air filtration) system and control room isolation system, to achieve consistency with the requirements for Arkansas Nuclear One, Unit 2 and to avoid misinterpretation of the TSs and enhance the operability of the systems.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Criterion 1 - Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated.

The proposed changes retain the original requirements of the Technical Specifications or provides for more stringent requirements in the form of Regulatory Guide 1.52 Revision 2 and, therefore, does not involve an increase in the probability or consequences of an accident previously evaluated. Sealing the Control Room by use of the fire dampers or manually actuating a system provides the same amount of protection from toxic gas as do the isolation dampers. Subdividing the actions ensures that proper action is taken based on the failure mode. Thus, no increase in the probability or consequences of an accident previously evaluated is incurred.

Criterion 2 - Does Not Create the Possibility of a New or Different Kind of Accident from any Previously Evaluated.

The proposed changes serve to update the requirements to Regulatory Guide 1.52 Revision 2 or provide equivalent protection in the form of use of fire dampers to isolate the Control Room and, therefore, does not create the possibility of a new or different kind of accident from any previously evaluated.

Criterion 3 - Does Not Involve a Significant Reduction in the Margin of Safety.

As these proposed changes will provide clarification of the requirements, update the Technical Specifications, and provide equivalent protection in the form of fire dampers for isolation of the Control Room, the margin of safety will not be reduced.

Based on the above evaluation, it is concluded that the proposed Technical Specification change does not constitute a significant hazards concern.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, N.W., Washington, D.C. 20005-3502

NRC Project Director: Theodore R. Quay

Entergy Operations, Inc., Docket No. 50-313, Arkansas Nuclear One, Unit No. 1, Pope County, Arkansas

Date of amendment request: June 27, 1991

Description of amendment request: The proposed change would amend Technical Specifications (TSs) 5.3.1.6 and 5.4.1.1 to increase the maximum allowable enrichment for future reload fuel from 3.5 to 4.1 weight percent uranium-235 (U-235). TS 5.4.1.1 would also be revised to delineate the allowable storage positions in the fresh fuel rack. Additionally, "235U" would be corrected to "U-235".

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:

Entergy Operations has concluded that the proposed changes to Technical Specifications 5.3.1.6 and 5.4.1.1 do not involve a significant hazards consideration because the operation of Arkansas Nuclear One, Unit 1 in accordance with these changes would not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes will not significantly increase the probability or consequences of any accident previously evaluated since the effect of increasing fuel enrichment is included in the calculation of measurable core parameters each reload cycle and these, in turn, are reviewed to ensure adequate margins of safe operation and conformance to the safety limits and LCOs [limiting conditons for operation] established by Technical Specifications are met. The fission product inventory contained in the fuel is a function of burnup, not enrichment, so the consequences of postulated accident releases are unchanged.

The fuel loading errors originally addressed in the FSAR [Final Safety Analysis Report] have been reviewed and the statements made continue to be valid for the higher 4.1 weight percent enrichment. Cross core loading errors would be detected with an equal or higher probability and the strict administrative controls used to prevent pellet and rod enrichment errors continue to remain in effect.

Fresh fuel handling accidents remain bounded by the original FSAR analysis. The only accident scenarios for which the probability of occurrence are affected by fuel enrichment involve criticality events during fuel handling and storage. The enclosed criticality analysis demonstrates that the calculated k-effective, during fuel handling and storage, is adequate to ensure subcriticality for all defined accident conditions. Since subcriticality is maintained, no releases result from the above fuel handling criticality accident scenario.

(2) Create the possibility of a new or different kind of accident from any previously evaluated.

The proposed changes will not create the possibility of a new or different kind of accident from any previously analyzed since the current request does not address the actual enrichment currently utilized in the ANO-1 core; but merely changes the maximum allowable enrichment limit for new fuel. A separate safety evaluation is required prior to the use of such reload fuel which will address specific enrichments. The possibility of loading assemblies into the prohibited spaces in the Fresh Fuel Storage Rack will be prevented by physical blockage of these spaces prior to any fuel storage in the Rack. It should be noted that if these spaces were not blocked through error and if the rack was fully loaded, then inadvertent criticality would still not occur until foam of the appropriate density was introduced into the racks.

(3) Involve a significant reduction in the margin of safety.

The proposed enrichment increase may cause an increase in future fresh fuel reactivity but it will not change or reduce the related margins of safety, such as the Limiting Condition for Operation which requires maintaining a 1% [delta]k/k shutdown margin or the Safety Limits on DNBR [departure from nucleate boiling ratio] or allowable power peaking.

The enclosed criticality analysis demonstrates that there is adequate margin to ensure subcriticality of the new fuel during storage and handling operations.

Therefore, based on the evaluation discussed above, Entergy Operations has concluded that the proposed changes do not involve a significant hazards consideration.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn,

1400 L Street, N.W., Washington, D.C. 20005-3502

Entergy Operations, Inc., Docket No. 50-313, Arkansas Nuclear One, Unit No. 1, Pope County, Arkansas

Date of amendment request: June 27, 1991

Description of amendment request: The proposed change to the Technical Specifications (TS) would allow a spent fuel cask for Arkansas Nuclear One, Unit 1 (ANO-1) to be handled by the auxiliary building crane, for the period of October 15, 1991, through January 31, 1992, for the shipment of two spent fuel rods utilizing a 17-ton shipping cask.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Criterion 1 - Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated.

ANO's procedures, load paths, crane equipment certification, operator training and other related heavy load handling topics were evaluated as part of the control of heavy loads issue and found acceptable. Spent fuel cask handling is discussed in Section 9.6.2.6 of the ANO-1 SAR [Safety Analysis Report], which shows that the cask will never travel over spent fuel. Although cask handling is presently prohibited by TS 3.8.15, ANO-1 SAR Section 9.6.2.6 further evaluates the unlikely event of a cask drop accident and shows that the consequences are acceptable. An exception to TS 3.8.15 to allow handling of a spent fuel shipping cask by the Auxiliary Building crane will have no actual impact on the cask drop or any other previously analyzed accident.

The cask drop evaluation in ANO-1 SAR Section 9.6.2.6 assumes 15 full fuel assemblies, 100 days after shutdown, are involved. Although the DOE [Department of Energy] extended burnup fuel assemblies have longer operation than the three cycles assumed in the SAR evaluation, they have been stored in the ANO-1 fuel pool much longer than the assumed 100 days, thus the iodine and noble gas inventory available for release has decreased substantially due to isotopic decay. The proposed amendment will allow the movement of only 2 spent fuel rods, a very small fraction of the number of rods in 15 full assemblies (3120 fuel rods). The SAR analysis assumes twenty-five percent of the noble gases and ten percent of the available iodine from all 3120 fuel rods is released. This would be equivalent to the complete release of noble gases and iodine from several hundred individual rods. Therefore, the offsite doses resulting from a cask drop would be much lower than those presented in the SAR. Additionally, this is a one time exception request; only one cask will be moved which represents only a small increase in the probability of a cask drop accident due to reliability of the equipment and precautions utilized. This amendment request, therefore, does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Criterion 2 - Create the Possibility of a New or Different Kind of Accident From any Accident Previously Evaluated.

The proposed amendment request will allow handling of a spent fuel shipping cask by the Auxiliary Building crane where previously prohibited due to pending NRC evaluation of the spent fuel cask drop accident and the crane design by AP&L [Arkansas Power & Light] and NRC review and approval. The cask handling methods and cask drop accident are discussed and evaluated in ANO-1 SAR Section 9.6.2.6. Additionally, the NRC performed an independent evaluation of the radiological consequences of a cask drop accident, as documented in the ANO-1 SER [Safety Evaluation Report] dated June 6, 1973. The evaluation of the unlikely event of a cask drop accident included assessment of equipment failures and has shown the consequences to be within acceptable bounds. No new accident scenarios can be identified related to the proposed amendment request, therefore, this change is bounded by the current analysis in the SAR. The proposed amendment request will, therefore, not create the possibility of a new or different kind of accident from any accident previously evaluated.

Criterion 3 - Involve a Significant Reduction in the Margin of Safety.

Although allowing use of the Auxiliary Building crane where previously prohibited by the TS could increase the possibility of a cask drop accident, the margin of safety is preserved in that the acceptable consequences of the cask drop accident evaluation in SAR Section 9.6.2.6 are not affected by this change. The proposed amendment request will not adversely affect the adequacy and conservatism of the cask drop accident evaluation. The spent fuel cask certificate has been issued and continues to hold an NRC Certificate of Compliance for radioactive materials packages, and load paths and equipment to be used for cask handling have been reviewed and approved by the NRC with the resolution of the control of heavy loads issue. Additionally, this proposed amendment allows a one time use of the cask, which represents only a small increase in the probability of a cask drop accident due to the reliability of the equipment and precautions utilized. Therefore, the cask handling issue at ANO-1 continues to exhibit an acceptable margin of safety and this amendment request will not involve a significant reduction in the margin of safety.

Based on the above discussion and evaluation, Entergy Operations concluded that the proposed TS amendment request meets the standards for determining that no significant hazards consideration is involved and, therefore, concluded that this amendment application involves no significant hazards considerations.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, N.W., Washington, D.C. 20005-3502

NRC Project Director: Theodore R. Quay

Entergy Operations, Inc., Docket No. 50-368, Arkansas Nuclear One, Unit No. 2, Pope County, Arkansas

Date of amendment request: June 18, 1991

Description of amendment request: The proposed change to the Arkansas Nuclear One, Unit 2 (ANO-2) Technical Specifications (TS) would revise Section 4.8.1.1.2.C.8.c to provide for conserving starting air for Emergency Diesel Generators (EDG) in the event of an engine failure to start on a Safety Injection Actuation Signal (SIAS).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Criterion 1 - Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated.

The proposed change to the Technical Specification 4.8.1.1.2.C.8.c excludes the engine start failure trip from the automatic bypass upon a Safety Injection Actuation Signal. The engine start failure logic is derived from two diverse signals, namely engine speed greater than 250 RPM and engine jacket coolant pressure greater than 8 psi. This logic of two independent measurements is recommended by position C-8 of Regulatory Guide 1.9 (1978) and is also applied to the lube oil pressure switches in the existing control circuit. Therefore, the probability of an EDG start failure has been minimized by application of dual diverse logic. In addition, this change will preserve starting air for additional start attempts without deviating from NRC guidelines and, therefore, does not involve an increase in the probability or consequences of an accident previously evaluated.

Criterion 2 - Does Not Create the Possibility of a New or Different Kind of Accident from any Previously Evaluated.

The proposed change (i.e., excluding the engine failure to start from the automatic bypass upon a Safety Injection Actuation Signal) is intended to preserve starting air to allow restarting of the Emergency Diesel Generator. The control circuit design is in conformance with Regulatory Guide 1.9 (1978) position C-8. No new or different kind

of accident from any previously evaluated is created by this change to the Technical Specifications and subsequent plant modification.

Criterion 3 - Does Not Involve a Significant Reduction in the Margin of Safety.

The proposed change will not impair the ability of the onsite power system to supply electric power. It is intended to protect against the depletion of the starting air system in the event of a loss of offsite power coincident with SIAS and an engine failing to start. The circuit design is in conformance with position C-8 of Regulatory Guide 1.9. Therefore, the margin of safety will not be reduced.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, N.W., Washington, D.C. 20005-3502

NRC Project Director: Theodore R. Quay

Entergy Operations, Inc., Docket No. 50-368, Arkansas Nuclear One, Unit No. 2, Pope County, Arkansas

Date of amendment request: July 18, 1991

Description of amendment request: Figure 3.4-2 of the Arkansas Nuclear One, Unit 2 (ANO-2) Technical Specifications (TS) entitled "Reactor Coolant System Temperature Limitations for 0 to 10 years of Full Power Operation", expires after 8.24 effective full power years (EFPY) of operation (10 years of 2900 MW_T operation at an 80% capacity factor; actual thermal rating of only 2815 MW_T). With ANO-2 approaching the expiration of the current pressure/temperature curves, the licensee is proposing changes to this figure, TS 3/4.4.9, and the associated Bases to reflect operational limitations through 21 EFPY.

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 will not increase the probability or consequences of any accident previously evaluated since the proposed changes revise the pressure/temperature limits in accordance with 10 CFR 50, Appendix G utilizing the latest NRC guidelines in Regulatory Guide 1.99, Revision 2 relative to estimating neutron irradiation damage to the reactor vessel. The proposed changes also maintain the conservative limits with respect to the LTOP system.

(2) Create the possibility of a new or different kind of accident from any previously evaluated.

The proposed changes will not create the possibility of a new or different kind of accident from any previously analyzed since they do not introduce new systems, failure modes, or other plant perturbations. The proposed changes revise the pressure/temperature limits in accordance with 10 CFR 50, Appendix G utilizing the latest NRC guidelines in Regulatory Guide 1.99, Revision 2 relative to estimating neutron irradiation damage to the reactor vessel.

(3) Involve a significant reduction in the margin of safety.

The proposed changes will not involve a significant reduction in the margin of safety since equal or more stringent pressure/temperature limitation requirements for reactor operation will be applied. The proposed changes were derived in accordance with approved NRC methodology which was developed to assure the RCS pressure boundary is designed with sufficient margin to withstand any condition during normal operation including anticipated operational occurrences and system inservice leak and hydrostatic tests.

These requirements were revised in accordance with 10 CFR 50, Appendix G utilizing the latest NRC guidance in Regulatory Guide 1.99, Revision 2 relative to estimating neutron irradiation damage to the reactor vessel. The LTOP system limits were also reanalyzed for the proposed changes.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, N.W., Washington, D.C. 20005-3502

NRC Project Director: Theodore R. Quay

Entergy Operations, Inc., Docket Nos. 50-313 and 50-368, Arkansas Nuclear One, Unit Nos. 1 and 2 (ANO-1&2), Pope County, Arkansas

Date of amendment request: October 26, 1989 as supplemented by letter dated June 18, 1991

Description of amendment request: The proposed amendments would revise the Technical Specifications (TS) by adding requirements for additional Inadequate Core Cooling (ICC) Instrumentation. Specifically, operability and surveillance requirements for the Reactor Vessel Level Monitoring Systems (RVLMS) and the Hot Leg Level Measurement System (HLLMS) would be added into the Unit 1 TS, and the operability and surveillance requirements for the RVLMS would be added to the Unit 2 TS. Special Report Requirements associated with the changes will be reflected in Section 6, Administrative Controls, for each unit's 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:

In accordance with 10 CFR 50.92, AP&L has evaluated whether the proposed change involves a significant safety hazards consideration. AP&L has concluded that the proposed changes to incorporate operability and surveillance requirements for the reactor coolant inventory tracking portions of the ICC system do not involve a significant hazards consideration because the operation of Arkansas Nuclear One, Units 1 and 2 in accordance with this change would not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated.

The reactor coolant inventory tracking portion of the ICC instrumentation is used for operator information only. There are no safety system actuations or any specific operator actions taken solely on indications from the instrumentation addressed by this proposed change. Therefore, the accident mitigation features of the plant are not affected by the proposed change.

(2) Create the possibility of a new or different kind of accident from any previously evaluated.

No new possibility for an accident is introduced by incorporating operability and surveillance requirements for the reactor coolant inventory tracking instrumentation. The equipment addressed by the proposed change is not a part of plant control instruments or safety system actuation circuitry and is used only for operator information. Requirements related to systems that have only a passive monitoring function do not create the possibility of a new or different kind of accident.

(3) Involve a significant reduction in the margin of safety.

Addition of operability and surveillance requirements for the reactor coolant inventory tracking instrumentation constitutes an additional control not presently included in the ANO-1 and 2 Technical Specifications and will require that this equipment is properly maintained. The new and more stringent requirements related to equipment which provides additional operator information may therefore enhance the margin of safety. The potential for display of misleading information from this

instrumentation has been evaluated and appropriately addressed and incorporated into plant emergency operating procedures.

Therefore, based on the evaluation discussed above, AP&L has concluded that the proposed change does not involve a significant hazards consideration.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, N.W., Washington, D.C. 20005-3502

NRC Project Director: Theordore R. Quay

Florida Power Corporation, et al., Docket No. 50-302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida

Date of amendment request: February 22, 1991

Description of amendment request: The proposed amendment would (1) delete the fire protection requirements from the Technical Specifications, (2) add a license condition to establish a change process for the Fire Protection Program, and (3) correct the remote shutdown system steam generator level instrumentation location and measurement range to accurately reflect the existing configuration of Crystal River Unit 3.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed change to the Fire Protection requirements [(relocation of existing Technical Specification requirements and establishment of a new license condition)] does not involve a significant hazards consideration. The removal of fire protection requirements from the Technical Specifications will remove those specifications that do not directly involve reactor control and safety; will remove those things that are not directly the responsibility of the operators; will improve the change process for [T]echnical [S]pecifications by reducing the number of requests for changes; and will meet guidelines established in Generic Letters 86-10 and 88-12 for control and changes to the fire protection program at Crystal River Unit 3.

Based on the above, it is concluded that this change will not:

1. Involve a significant increase in the probability of occurrence or consequences of an accident previously evaluated because the existing fire protection program requirements have been incorporated into the [Final Safety Analysis Report (FSAR)] and site Fire Protection Plan, and, therefore, [the proposed changes do] not increase the probability of occurrence or consequences of previously evaluated accidents.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated because this change is administrative in nature and is consistent with the guidance provided in Generic Letters 86-10 and 88-12. The requirements of the existing fire protection Technical Specifications have been incorporated into the FSAR and the site Fire Protection Plan.

3. Involve a significant reduction in a margin of safety because the existing requirements are maintained as a part of the Fire Protection Program and incorporated in the FSAR by reference.

Regarding the correction of the remote shutdown system steam generator level instrumentation location and measurement range in Table 3.3-9, this change is consistent with the licensee's submittal on remote shutdown capability previously accepted by the NRC staff. The correction of the measurement range for the reactor coolant temperature instrumentation will reflect the existing ranges for these instruments as installed on the remote shutdown panel.

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. In addition, the change to the remote shutdown system steam generator level instrumentation location and measurement range updates data which is not current in the Technical Specifications and therefore does not involve a significant hazards consideration. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Coastal Region Library, 8619 W. Crystal Street, Crystal River, Florida 32629

Attorney for licensee: A. H. Stephens, General Counsel, Florida Power Corporation, MAC - A5D, P. O. Box 14042, St. Petersburg, Florida 33733

NRC Project Director: Herbert N. Berkow

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50-424 and 50-425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia

Date of amendment request: May 13, 1991

Description of amendment request: Technical Specification (TS) 3/4.5.3.2, "ECCS Subsystems - Tavg Less Than 350° F, Safety Injection Pumps," currently requires the safety injection (SI) pumps to be inoperable in Modes 4, 5, and 6 with the reactor vessel head on. The proposed amendments would revise:

1. The Applicability section of TS 3.5.3.2 so that one SI pump may be available in Mode 5 with the reactor coolant system (RCS) loops not filled and in Mode 6 with the reactor vessel head on and with the RCS loops not filled.

2. The bases for TS 3/4.5.3.2 to explain that one SI pump is allowed to be available in Modes 5 and 6 with the RCS loops not filled so that it can be used to mitigate the effects of a loss of decay heat removal capability during partially drained conditions. The bases will also state that the control room handswitch for the available SI pump will be in the pull-to-lock position to preclude the pump from being inadvertently started by a signal.

Basis for proposed no significant hazards consideration determination: Reducing the reactor coolant level during Modes 5 and 6 for refueling and maintenance creates the potential for the loss of suction to the residual heat removal (RHR) pumps. The reduced inventory condition, coupled with a loss of RHR capability and the potential for RCS openings due to maintenance activities, creates a concern for rapid core uncovery without a means of inventory addition. On October 17, 1988, the NRC issued Generic Letter (GL) 88-17 to address concern for loss of RHR during nonpower operation and to request several specific actions and program enhancements to prevent, mitigate and control such events. In GL 88-17, the NRC stated that TSs that restrict or limit the safety benefit of the actions identified in GL 88-17 should be identified and appropriate changes should be submitted. One of the examples cited in GL 88-17 in this respect was TSs that control equipment availability. According, the licensee has proposed using an SI pump during Modes 5 and 6, when the RCS loops are not filled and the vessel head is on, to mitigate the effects of a loss of RHR capability. The proposed TS change is intended to permit the availability of one intermediate head SI pump in Mode 5 with the RCS loops not filled and in Mode 6 with the reactor vessel head on and the RCS loops not filled.

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 use of one SI pump in Modes 5 and 6 does not involve a significant increase in the probability or consequences of an accident previously evaluated in the Final Safety Analysis Report (FSAR). In this application, one SI pump will be used to mitigate a loss of RHR during Modes 5 and 6. This is not an accident previously evaluated in the FSAR, but it is a condition addressed in Generic Letter 88-17. The availability of the SI pump will allow restoration of RCS level after a loss of RHR cooling in order to prevent fuel failures due to excessive heatup. By maintaining RCS level with the SI pump, the potential for an accident involving fuel failures beyond that assumed in the FSAR is minimized. Therefore, the dose consequences defined in the FSAR remain bounding. Furthermore, based on the analysis presented..., the cold overpressurization analysis presented in FSAR section 5.2.2.10 remains valid.

2. The use of the SI pump in Modes 5 and 6 does not create the possibility of an accident which is different than any already evaluated in the FSAR. Cold overpressurization is a transient which is already considered in the FSAR as a result of charging pump operation. The evaluations presented have considered the potential for overpressurization resulting from SI pump operation and have defined conditions under which SI pump availability is acceptable. Failure of the nozzle dams or temporary thimble tube seals are not scenarios which would be created by the proposed amendment. They are possible under existing requirements. Furthermore, the evaluations, which are presented..., demonstrate that their [occurrence] is of no consequence from the standpoint of the safety analysis. No new performance requirements are being imposed on the SI pumps, since operation under the conditions in Modes 5 and 6 is similar to that experienced for operation in response to a loss of coolant accident (LOCA), for which the pumps have been designed. The availability of an SI pump in Modes 5 and 6 will not affect the integrity or reliability of the pumps to function in their normal emergency core cooling system mode in response to a LOCA. Therefore, no new credible single failure scenario has been created.

3. The proposed amendment does not involve a significant reduction in a margin of safety. The margin of safety provided by Technical Specification 3/4.5.3.2 provides assurance that a mass addition pressure transient can be relieved by the operation of a single pressurizer power operated relief valve or RHR suction relief valve. Analyses in support of SI pump availability have determined that sufficient operator action time exists, assuming operation of one SI pump, to prevent the overpressurization of the system. Therefore, the margin of safety as originally defined in Technical Specification 3.5.3.2 is maintained.

The NRC staff has reviewed the licensee's analysis, and based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Burke County Public Library, 412 Fourth Street, Waynesboro, Georgia 30830.

Attorney for licensee: Mr. Arthur H. Domby, Troutman, Sanders, Lockerman and Ashmore, Candler Building, Suite 1400, 127 Peachtree Street, NE., Atlanta, Georgia 30043.

NRC Project Director: David B. Matthews

Houston Lighting & Power Company, City Public Service Board of San Antonio, Central Power and Light Company, City of Austin, Texas, Docket Nos. 50-498 and 50-499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of amendment request: April 15, 1991

Description of amendment request: The amendment request proposes to modify Technical Specifications by eliminating the requirement for a Power Range, Neutron Flux High Negative Rate Trip (NFRT). The references to this trip in sections 2.2.1, 3.3.1, and item 4 in Tables 2.2-1, 3.3-1, 3.3-2, and 4.3-1, would be deleted. The deletion is requested as a result of an NRC-approved topical report by the Westinghouse Owners' Group which details a new dropped rod analysis in which reliance on the NFRT is not considered.

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 a previously evaluated accident. The applicable accident is a Dropped Rod accident caused by an electrical or mechanical failure of RCCA(s). The proposed change does not modify the RCCAs or change the acceptance criteria for DNB and therefore cannot increase the probability or consequences of a previously evaluated accident.

2. The proposed change does not create the possibility of a new or different kind of accident from any previously evaluated. The proposed change does not modify the design or operation of the RCCA and the deletion of the NFRT has been analyzed with acceptable results. The temporary modification of the NFRT has been evaluated for possible failure modes and it has been determined that the modification does not create the possibility of a new or different accident. Therefore, the proposed change does not create the possibility of a new or different accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in the margin of safety. The margin of safety is the difference between the DNB acceptance limit and the failure of the fuel rod cladding. The DNB acceptance limits are the same with the proposed change, therefore, the margin of safety remains unchanged.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the request for amendments involves no significant hazards consideration.

Local Public Document Rooms Location: Wharton County Junior College, J. M. Hodges Learning Center, 911 Boling Highway, Wharton Texas 77488

Attorney for licensee: Jack R. Newman, Esq., Newman & Holtzinger, P.C., 1615 L Street, NW, Washington, DC 20036

NRC Project Director: George F. Dick, Acting Director

Illinois Power Company and Soyland Power Cooperative, Inc., Docket No. 50-461, Clinton Power Station, Unit No. 1, DeWitt County, Illinois

Date of amendment request: July 1, 1991

Description of amendment request: The proposed amendment would modify various setpoints identified in Technical Specification (TS) 3/4.3.2, "Containment and Reactor Vessel Isolation Control System," to accommodate TS surveillance intervals of 18 months.

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) Although this request involves changes to the trip setpoints and/or allowable values for certain CRVICS instruments, the safety bases for these setpoints have not been changed, and design calculations have been performed which demonstrate that the proposed setpoints still support the applicable safety bases. That is, for the proposed changes to allowable values, the design calculations demonstrate that the associated automatic isolations will still occur when required such that detection of and automatic isolation in response to a 25-gpm equivalent steam leak will occur as intended (and in all cases, within 10 minutes). The proposed setpoints will also continue to ensure that, in the event of a leak, temperatures do not exceed the environmental qualification temperature limits for safe-shutdown equipment located in the associated areas. Moreover, the proposed setpoints are supported by calculations which include instrument accuracy, calibration uncertainties and drift allowances during the time intervals between calibration. These proposed changes have also been

reviewed to ensure that they do not result in spurious isolations during normal operating conditions. Therefore, these proposed changes will not increase the probability or the consequences of any accident previously evaluated.

2) The proposed changes only involve changes to trip setpoints and/or allowable values for the affected instruments. These proposed changes do not physically modify any existing system components, do not change the functional requirements of any system's components, nor do they affect existing system redundancy or failure analysis. Consequently, no new failure modes are introduced by the proposed changes. Therefore, these proposed changes cannot create the possibility of a new or different kind of accident from any accident previously evaluated.

3) The proposed changes establish new instrument trip setpoints and/or allowable values to support an 18-month (rather than a 6-month) calibration frequency. While new instrument setpoints have been established which impact the automatic actuation points for affected instruments and equipment, these trip setpoints and allowable values have been established to account for the effects of increasing the calibration interval. The proposed trip setpoints and allowable values have been established in accordance with the methodology of Regulatory Guide 1.105. Accordingly, each proposed change is supported by calculations that include instrument accuracy, calibration uncertainties, and drift allowance during the 18-month calibration interval. By this methodology, trip setpoints and allowable values are established to ensure that an appropriate margin of safety is maintained and that the applicable automatic actions occur when intended or assumed by the applicable safety analyses. Further, the proposed changes have been reviewed to ensure that they will not result in spurious isolations and that they continue to limit area temperatures such that the qualification of safe-shutdown equipment located in the associated areas is not adversely impacted. Therefore, these proposed changes will not result in a significant reduction in the margin(s) 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: Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727

Attorney for licensee: Sheldon Zabel, Esq., Schiff, Hardin and Waite, 7200 Sears Tower, 233 Wacker Drive, Chicago, Illinois 60606

NRC Project Director: John N. Hannon

Illinois Power Company and Soyland Power Cooperative, Inc., Docket No. 50-461, Clinton Power Station, Unit No. 1, DeWitt County, Illinois

Date of amendment request: July 12, 1991

Description of amendment request: The proposed amendment regarding alternate snubber visual inspection intervals would allow the Clinton Power Station to extend snubber visual inspection intervals without reducing the confidence level provided by the currently existing inspection interval. This proposed change is in conformance with the guidance provided in Generic Letter 90-09, "Alternate Requirements for Snubber Visual Inspection Intervals and Corrective Actions."

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) Increasing the length of the snubber visual inspection interval does not affect the function, installation, location, or configuration of any snubbers nor does it affect the design or function of any piping or systems protected by snubbers. The existing snubber operability requirements are unchanged. Thus, the proposed change will not alter the plant configuration nor does it change the operation of any of the plant's systems or components. The proposed visual inspection requirements, together with the existing functional test requirements, will effectively verify snubber system reliability. Thus, adequate assurance exists that plant systems will remain operable and capable of performing their intended functions during postulated seismic and/or dynamic events. Also, lengthening the inspection interval involves no reduction in the confidence level associated with snubber testing and therefore has no effect on the probability of occurrence of an accident. Therefore, the proposed changes do not significantly increase the probability or the consequences of any accident previously evaluated for CPS.

2) Increasing the length of the snubber visual inspection interval does not affect the function, installation, location, or configuration of any snubbers nor does it affect the design or function of any piping or systems. Thus, the proposed change will not alter the plant configuration nor does it change the operation of any of the plant's systems or components. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated for CPS.

3) The proposed change involves only visual surveillance requirements and does not alter the current Limiting Condition for Operation or the accompanying ACTION statement for snubbers. The required functional testing of safety-related snubbers will maintain a 95 percent confidence that at least 90 percent of all Technical Specification required snubbers are operable. This functional testing, along with the proposed visual inspection intervals, will continue to provide adequate assurance that the snubber system will adequately perform its intended function. Therefore, the proposed changes do not involve a significant reduction in the margin of safety for CPS.

Based upon the foregoing, Illinois Power Company has concluded that the proposed changes do not involve a significant hazards consideration.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727

Attorney for licensee: Sheldon Zabel, Esq., Schiff, Hardin and Waite, 7200 Sears Tower, 233 Wacker Drive, Chicago, Illinois 60606

NRC Project Director: John N. Hannon

Iowa Electric Light and Power Company, Docket No. 50-331, Duane Arnold Energy Center, Linn County, Iowa

Date of amendment request: March 8, 1991

Description of amendment request: The amendment would extend the license condition requiring a Plan for the Integrated Scheduling of Plant Modifications for another five years.

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) This proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

This license amendment is purely administrative in nature and has no effect on existing plant systems or equipment. Therefore, the probability or consequences of an accident are not increased. Further, this amendment is identical to earlier amendments which have already been reviewed and approved by the NRC with the exception that this request is for a five-year extension instead of two years.

2) This proposed amendment does not create the possibility of a new or different kind of accident from any previously evaluated.

This license amendment is purely administrative in nature and has no effect on existing plant systems or equipment. Therefore, the possibility of a new or different kind of accident has not been created.

3) This proposed amendment does not involve a significant reduction in a margin of safety.

This license amendment is purely administrative in nature and has no effect on existing plant systems or equipment. Therefore, there is no reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Cedar Rapids Public Library, 500 First Street, S.E., Cedar Rapids, Iowa 52401.

Attorney for licensee: Jack Newman, Esquire, Kathleen H. Shea, Esquire, Newman and Holtzinger, 1615 L Street, N.W., Washington, D.C. 20036.

NRC Project Director: John N. Hannon

Iowa Electric Light and Power Company, Docket No. 50-331, Duane Arnold Energy Center, Linn County, Iowa

Date of amendment request: April 1, 1991

Description of amendment request: The amendment would replace the numerical limits for special nuclear material, source and byproduct materials, with a more generalized description.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91[a], the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

1) This proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change to the Operating License is administrative in nature and only replaces specific descriptions of special nuclear, source and byproduct material which appear in the license with a more-general description. The simplified format is consistent with wording contained in Operating Licenses issued after approximately 1975. No changes are proposed to the Technical Specifications. The requirements of 10 CFR 30, 40, and 70 must still be met. Therefore, the proposed change cannot increase the probability or consequences of a previously evaluated accident.

2) This proposed amendment does not create the possibility of a new or different kind of accident from any previously evaluated.

The purpose of the proposed change is to revise the Operating License to incorporate the now-standard language regarding special nuclear, source and byproduct material. The proposed change does not affect the function or operation of any equipment which could cause a new or different kind of accident. No changes are proposed which affect the Technical Specifications. The requirements of 10 CFR 30, 40, and 70 must still be met. Therefore, the proposed change does not create the possibility of a new or different kind of accident.

3) This proposed amendment does not involve a significant reduction in a margin of safety.

The proposed change is administrative in nature. The revised language, while more general, still provides the degree of specificity necessary to assure plant activities are conducted without reducing any margins of safety. No changes are proposed which affect the Technical Specifications or direct operation of the DAEC. The requirements of 10 CFR 30, 40, and 70 must still be met. Therefore, the proposed change will not involve a reduction in any margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Cedar Rapids Public Library, 500 First Street, S.E., Cedar Rapids, Iowa 52401.

Attorney for licensee: Jack Newman, Esquire, Kathleen H. Shea, Esquire, Newman and Holtzinger, 1615 L Street, N.W., Washington, D.C. 20036.

NRC Project Director: John N. Hannon.

Iowa Electric Light and Power Company, Docket No. 50-331, Duane Arnold Energy Center, Linn County, Iowa

Date of amendment request: June 28, 1991

Description of amendment request: The amendment would revise the surveillance testing of the ESW flow rate by specifying a certain rate and total developed head which must be delivered. The curve previously used to determine the minimum acceptable rate would be removed. It would also delete the requirement to test each week when river water temperature exceeds 80° F.

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. No physical changes will result from this amendment. The ESW system will still maintain its ability to support various safety related equipment which is designed to mitigate the consequences of certain accidents and transients. These safety related systems play no part in the probability of these accidents or transients occurring. Since the ESW system will continue to fully support the cooling requirements of the safety related equipment which mitigates the consequences of certain accidents and transients, this amendment will not affect the consequences of these accidents and transients. The re-analysis of the component heat loads assumed worse case conditions and involved conservative assumptions. Our continuing program for monitoring heat exchanger performance established in response to Generic Letter 89-13 will still verify that the individual components are capable of performing their design function. Therefore, the proposed amendment does not involve a change in the probability or consequences of an accident previously evaluated.

2. The proposed license amendment does not create the possibility of a new or different kind of accident from any previously evaluated. The safety function of the ESW system is unchanged. The revised flow requirements for the system have been established using conservative assumptions and worse case heat loads and are appropriately documented. This amendment will result in no physical changes to the ESW system and therefore, will not affect its ability to continue to provide reliable cooling water. Consequently, the proposed license amendment does not create the possibility of a new or different kind of accident from any previously evaluated.

3. The proposed change will not reduce the margin of safety. The re-analysis of the ESW flow rate requirements and component heat loads was performed using worst case assumptions and maximum component heat loads. Additionally, the 800 gpm requirement ensures sufficient margin above the minimum flow rate requirement while allowing for potential system expansion. The actual operation of the ESW system will not be changed. The ESW system is normally run at full flow and does not approach the 800 gpm limit. Any degradation of ESW pump performance would be detected long before reaching the 800 gpm requirement by the Inservice Testing (IST) program which requires quarterly testing of these pumps and monitoring of the pump's differential pressure. The 800 gpm limit represents the minimum flow rate requirement for the ESW system to satisfactorily perform its design function. Deleting the requirement to perform the surveillance weekly when river water temperature exceeds 80° F will not reduce the margin of safety because even at 95° F river water temperatures, the required ESW flow rate is well below the flow capacity of the pump. Deleting the weekly surveillance only eliminates unnecessary testing of the ESW pumps, thereby, reducing wear on the pump.

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: Cedar Rapids Public Library, 500 First Street, S.E., Cedar Rapids, Iowa 52401.

Attorney for licensee: Jack Newman, Esquire, Kathleen H. Shea, Esquire, Newman and Holtzinger, 1615 L Street, N.W., Washington, D.C. 20036.

NRC Project Director: John N. Hannon.

Omaha Public Power District, Docket No. 50-285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of amendment request: June 28, 1991

Description of amendment request: The proposed amendment would revise Fort Calhoun Station, Unit 1, Technical Specification 3.5(7) to adopt the guidance of NRC Regulatory Guide 1.35, Revision 3, July 1990, for the maintenance of the Prestressing System Surveillance Program.

The current specification was written to comply with the guidance of NRC Regulatory Guide 1.35, Revision 1, June 1974. It requires the inspection of three dome tendons and three helical wall tendons of each orientation at a five year frequency. The inspection is to include liftoff force measurements for each selected tendon, complete detensioning of all selected tendons to inspect for broken wires and any evidence of damage or deterioration of the anchorage hardware, and the removal of one wire from each of one dome tendon and three wall tendons for examination and tensile testing. It also requires a comparison be made between the quality control records and each of the surveillance inspection records for each of the surveillance tendons.

The proposed change to the specification would require the inspection of four dome tendons and five helical wall tendons of each orientation at a five year frequency. The inspections would include liftoff force measurements for each selected tendon, complete detensioning of one dome tendon and one helical wall tendon of each orientation to inspect for broken wires and any evidence of damage or deterioration of the anchorage hardware, and the removal of one wire from each of one dome tendon and one helical wall tendon of each orientation for examination and tensile testing. The new specification would require the laboratory testing of samples of filler grease from each tendon to determine water content, reserve alkalinity, and the concentrations of water soluble chlorides, nitrates and sulfides. It would also require the estimation of grease leakage from each selected tendon by measuring the difference between the amount of grease removed from a tendon and the amount of grease required to refill the tendon. These tests and examinations are recommended by Reg Guide 1.35, Revision 3.

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:

Will the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

No. The prestressing system was designed to be tested and inspected. The activities required by the proposed change do not add any new stresses to the containment structure and the increase in sample size will not adversely affect any tendons since the tendons are designed to be tested in the manner prescribed. In the unlikely event that a design basis LOCA [loss of coolant accident] occurs during the performance of a prestressing system surveillance and one of the tendons is detensioned, sufficient prestress would still be applied to the containment concrete according to USAR [Updated Safety Analysis Report] Section 5.3.3, which stated,

The design of the containment satisfies the criteria of [USAR Sections] 5.5.1, 5.5.2.2, 5.5.2.3, and 5.5.2.4 with sufficient margin to compensate for the loss of approximately five to ten wall tendons and two to three dome tendons depending on their location and spacing relative to each other.

Will the change create the possibility of a new or different kind of accident from any accident previously evaluated?

No. The prestressing system does not interface with any active systems of the station. The prestressing system was designed to be tested and inspected. Therefore, this change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

Will the change involve a significant reduction in a margin of safety.

No. The change does not alter any testing practices in a way which would compromise containment structural integrity. The relaxation of the requirement to detension all selected tendons to detensioning one tendon per group increases the margin of safety by reducing the probability of prestressing tendon assembly degradation by component dismantling and reassembling. This should provide increased assurance of the overall margin of safety designed into the containment structure.

Therefore based on the above considerations, OPPD [Omaha Public Power District] does not believe that this proposed amendment involves a significant hazards consideration as defined by 10 CFR 50.92 and the proposed changes will not result in a condition which significantly alters the impact of the Station on the environment. Thus, the proposed change meets the eligibility criteria for categorical exclusion set forth in 10 CFR 51.22(e)(9) and pursuant to 10 CFR 51.22(b) no environmental assessment need by prepared.

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: W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102

Attorney for licensee: LeBoeuf, Lamb, Leiby, and MacRae, 1333 New Hampshire Avenue, N.W., Washington, D.C. 20036

NRC Project Director: Theodore R. Quay

Pacific Gas and Electric Company, Docket Nos. 50-275 and 50-323, Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Date of amendment request: June 5, 1991 (Reference LAR 91-05)

Description of amendment request: The proposed amendment would revise the combined Technical Specifications (TS) for the Diablo Canyon Power Plant Unit Nos. 1 and 2 to relocate cycle-specific information to the Core Operating Limits Report (COLR) in accordance with Generic Letter 88-16. The specific TS changes are as follows:

(1) FQ(Z) and K(Z) functions in TS 3/4.2.2, "Heat Flux Hot Channel Factor FQ(Z)," would be relocated to the COLR. The numerical FQ limit referenced in TS 3/4.2.2 would be replaced with a function FQRTP (Rated Thermal Power), which is to be specified in the COLR. Figure 3.2-2, K(Z) vs. Core Height would be deleted from the TS and relocated to the COLR.

(2) Administrative changes would be made to TS 3/4.2.2 and 3/4.10 to change references and delete specific Unit 2 Cycle 3 requirements. Reference to Surveillance Requirements for W(z) and Fxy in TS 6.9.1.8.a, "Core Operating Limits Report," would be deleted. The COLR now references the entire TS for W(z) and Fxy.

(3) FN delta H in TS 3/4.2.3, "RCS Flow Rate and Nuclear Enthalpy Rise Hot Channel Factor," would be relocated to the COLR. The numerical values for the FN delta H limit and part power multiplier would be replaced with parameter FRTP delta H and Power Factor delta H (PF delta H), which are to be defined in the COLR. Figures 3.2-3a and 3.2-3b would be revised to be consistent with TS 3/4.2.3.

(4) The Bases for Heat Flux Hot Channel Factor and RCS Flow Rate and Nuclear Enthalpy Rise Hot Channel

Factor would be revised to be consistent with their associated TS.

Generic Letter 88-16, "Removal of Cycle-Specific Parameter Limits from Technical Specifications," provides guidance for relocating cycle-specific parameters from the TS so that future reload designs can be implemented in accordance with 10 CFR 50.59. Generic Letter 88-16 requires that the cycle-specific parameters be maintained in a COLR and that the NRC be informed of changes to the COLR. Any changes to operating limits will be made using approved NRC methodology for DCPP.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

a. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

Relocating the cycle-specific parameters of the Heat Flux Hot Channel Factor and the RCS Flow Rate and Nuclear Enthalpy Rise Hot Channel Factor TS to the COLR is an administrative change. Removal of the cycle-specific parameter limits from the TS has no influence or impact on the probability or consequences of a previously evaluated accident. The cycle-specific parameter limits, although not in the TS, will be maintained by the DCPP TS and the COLR. The proposed TS requires the same action to be taken if a limit is exceeded as is required by the current TS. Future reloads will be evaluated using NRC-approved methodologies and will be examined per the requirements of 10 CFR 50.59.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

b. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

There is neither physical alteration to any plant system, nor is there a change in the method by which any safety-related system performs its function. As stated above, the proposed change is administrative in nature.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

c. Does the change involve a significant reduction in a margin of safety?

The margin of safety is not affected by the removal of a cycle-specific parameter limits from the TS. The proposed TS still require operation within the core limits as determined from the NRC-approved reload design methodologies. The development of the limits for future reloads will continue to conform to those methods described in NRC-approved documentation. In addition, each future reload will involve a 10 CFR 50.59 review. Appropriate actions will continue to be taken if limits are exceeded.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: California Polytechnic State University, Robert E. Kennedy Library, Government Documents and Maps Department, San Luis Obispo, California 93407

Attorney for licensee: Richard F. Locke, Esq., Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120

NRC Project Director: James E. Dyer

Pacific Gas and Electric Company, Docket Nos. 50-275 and 50-323, Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Date of amendment request: June 5, 1991 (Reference LAR 91-06)

Description of amendment request: The proposed amendment would revise the combined Technical Specifications (TS) for the Diablo Canyon Power Plant Unit Nos. 1 and 2 to support a comprehensive program to upgrade the plant Radiation Monitoring System (RMS).

The proposed changes to TS 3/4.3.2, "Engineered Safety Features Actuation System Instrumentation," are as follows:

(1) Tables 3.3-3, 3.3-4 and 4.3-2 would be revised to include Functional Unit 3.c.4) and footnotes (a) and (b). Functional Unit 3.c.4) would add RM-44A and 44B and remove RM-14A and 14B as inputs to the Solid State Protection System (SSPS) Containment Ventilation Isolation (CVI) actuation logic. Footnotes (a) and (b) would provide applicable requirements following installation of RM-44A and 44B.

Table 3.3-4 would be revised to remove the Cycle 3 and Cycle 4 notations from 4.d.1) as Unit 1 is in Cycle 5 and Unit 2 is in Cycle 4 and the notations are no longer applicable.

(2) Table 3.3-5 would be revised to include Initiating Signal and Function 12 and footnotes (a) and (b). Initiating Signal and Function 12 would add RM-44A and 44B and remove RM-14A and 14B as inputs to the SSPS CVI actuation logic. Footnotes (a) and (b) would provide applicable requirements following installation of RM-44A and 44B.

The proposed changes to TX 3/4.3.3.1, "Radiation Monitoring Instrumentation for Plant Operations," are as follows:

(1) Table 3.3-6 would be revised to include Instruments 3.a.3), 3.b.1), and 4, and footnotes (a) through (d). Instruments 3.a.3) and 3.b.1) would add RM-44A and 44B and remove RM-14A and 14B as the monitoring capability for containment exhaust and to provide containment ventilation isolation and would include the capability of RM-44A and 44B to monitor particulate as well as gaseous activity for containment exhaust. Instrument 4 would add RM-45A and 45B and remove RM-58 and 59 as inputs to the Fuel Handling Building (FHB) Ventilation System mode shift actuation logic.

Footnote (a) would provide applicable requirements following installation of RM-45A and 45B. Action 32 would not apply to the Fuel Storage Area instruments when RM-45A and 45B are installed, but would apply to FHB Ventilation System mode shift instruments.

Footnotes (b) and (c) would provide applicable requirements following installation of RM-44A and 44B.

Footnote (d) would provide applicable requirements following installation of RM-45A and 45B.

(2) Table 4.3-3 would be revised to include Instruments 3.a.3), 3.b.1) and 4, and footnotes (a) through (c). Instruments 3.a.3) and 3.b.1) would add RM-44A and 44B and remove RM-14A and 14B as inputs to the SSPS CVI actuation logic, and include the capability of RM-44A and 44B to monitor particulate as well as gaseous activity. Instrument 4 would add RM-45A and 45B and remove RM-58 and 59 as inputs to the FHB Ventilation System mode shift actuation logic.

Footnotes (a) and (b) would provide applicable requirements following installation of RM-44A and 44B. Footnote (c) would provide applicable requirements following installation of RM-45A and 45B.

The proposed changes to TS 3/4.3.3.10, "Radioactive Gaseous Effluent Monitoring Instrumentation," are as follows:

(1) Tables 3.3-13 and 4.3-9 would be revised to include Instruments 3.f and 5.b, and footnotes (a) through (e). Instrument 3.f would add new plant vent RMS flow rate monitors and remove the iodine sampler flow rate monitors. Instrument 5b would add RM-44A and 44B and remove RM-14A and 14B as inputs to the SSPS CVI actuation logic.

Footnote (a) would provide applicable requirements following installation of RM-14 and 14R. RM-14 and 14R are the

new, upgraded replacements for RM-14A and 14B.

Footnotes (b) and (c) would provide applicable requirements following installation of the plant vent RMS flow rate monitors.

Footnotes (d) and (e) would provide applicable requirements following installation of RM-44A and 44B.

The proposed change to TS 3/4.9.9, "Containment Ventilation Isolation System," would add footnote (a) regarding the addition of RM-44A and 44B and removal of RM-14A and 14B as inputs to the SSPS CVI actuation logic, and would provide applicable requirements following installation of RM-44A and 44B.

The proposed change to the Bases 3/4.9.12, "Fuel Handling Building Ventilation System," would add RM-45A and 45B and remove RM-58 and 59 as inputs to the FHB Ventilation System mode shift actuation logic, and would provide applicable requirements following installation of RM-45A and 45B.

From November 1987 to April 1990, DCPP experienced eight spurious CVIs due to voltage transients on radiation monitor power supplies. In that same time period, DCPP also experienced five spurious FHB ventilation shifts due to voltage transients on radiation monitor power supplies. As a result of the PG&E CVI Task Force evaluations, PG&E is initiating a comprehensive Radiation Monitoring System (RMS) Upgrade Program. As a result of the upgrade, RM-44A, RM-44B, RM-45A, and RM-45B will be less sensitive to the voltage transients than the currently installed types of RMS monitors and the occasions of spurious actuation should be reduced.

The upgrade program will include the following changes to portions of the RMS governed by the TS:

(1) Addition of radiation monitors to the Containment Ventilation exhaust line (RM-44A and RM-44B) and to the FHB Ventilation exhaust line (RM-45A and RM-45B).

(2) Modifications to the Plant Vent Noble Gas Activity Monitors (RM-14A and RM-14B) and the Fuel Storage Area Radiation Monitors (RM-58 and RM-59).

(3) Addition of Plant Vent RMS flow rate monitors and removal of the iodine sampler flow rate monitors.

These changes will improve RMS performance, reliability, and capability.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

a. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The requested changes to support completion of the RMS upgrade would not change any accident analysis assumptions or adversely affect any accident analysis results. The upgrade program would enhance RMS response to airborne radioactivity in the containment ventilation exhaust and in the fuel storage areas, allow monitoring of effluent streams previously not monitored directly, increase plant effluent analysis capabilities, and replace existing monitors with monitors incorporating improvements in sensitivity, range, and dependability compared to the existing monitors.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

b. Does the change create the possibility of a new or different kind of accident from any previously evaluated

Airborne radioactivity in the containment ventilation exhaust and the fuel storage areas would be more effectively monitored following addition of RM-44A, 44B, 45A and 45B to the plant. The new monitors would also provide automatic termination of effluent streams using isolation signals from process monitors located in the containment purge and FHB ventilation effluent, instead of using provisions located further downstream in the plant vent or in the fuel storage areas. This capability, as specified in the SRP, Section 11.5, "Process and Effluent Radiological Monitoring."

Instrumentation and Sampling System," Table 1, does not exist with the current RMS design. Replacement of RM-14A, 14B, and the function of RM-58 and -59 with upgraded monitors would not remove the capability to monitor the plant vent for noble gas activity and would not remove the capability to monitor fuel storage area radiation. In addition, the new monitors would incorporate improvements in sensitivity, range, and dependability compared to the existing monitors. The addition of plant vent RMS flow rate monitor and removal of the iodine sampler flow rate monitor would increase plant vent effluent analysis capabilities.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

c. Does the change involve a significant reduction in a margin of safety?

The upgrade would enhance RMS response to airborne radioactivity in the containment ventilation exhaust and in the fuel storage areas and improve RMS performance, reliability, and capability.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: California Polytechnic State University, Robert E. Kennedy Library, Government Documents and Maps Department, San Luis Obispo, California 93407

Attorney for licensee: Richard F. Locke, Esq., Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120

NRC Project Director: James E. Dyer

Rochester Gas and Electric Corporation, Docket No. 50-244, R. E. Ginna Nuclear Power Plant, Wayne County, New York

Date of amendment request: February 15, 1991

Description of amendment request: The proposed amendment would change the audit frequency described in the Ginna Technical Specifications 6.5.2.8d from "at least once every year" to "at least once per 24 months." This proposed change is consistent with the required audit frequency of NUREG-0452, "Standard Technical Specifications for Westinghouse Pressurized Water Reactors."

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) There is no significant increase in the probability or consequences of an accident previously evaluated because accident conditions and assumptions are not affected by the proposed Technical Specification change.

(2) The possibility of a new or different kind of accident from any accident previously evaluated is not created. In matters related to nuclear safety, all accidents are bounded by previous analysis. The proposed change does not add or modify any equipment or system design nor does it involve any changes in the operation of any plant system. The absence of a hardware change means that the accident initiators remain unaffected, so no unique accident probability is created.

(3) The proposed amendment does not involve a significant reduction in the margin of safety as defined in the basis for any Technical Specification because the proposed amendment will continue to ensure that (1) performance based audits and assessments shall be in sufficient depth, (2) participating members are satisfied that items under review do not otherwise constitute a concern, and (3) all activities required by the Quality Assurance Program meet the criteria of Appendix B, 10 CFR 50. Further, the proposed amendment permits more efficient use of resources which in effect will enable the conduct of more assessments, both special and diagnostic. In addition to the above, this proposed amendment is consistent with the required audit frequency of 24 months identified in NUREG-0452, "Standard Technical Specifications for Westinghouse

Pressurized Water Reactors." Therefore, the proposed change to the operating license does not involve a significant reduction in the margin of safety as defined in the basis for any Technical Specification.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room Location: Rochester Public Library, 115 South Avenue, Rochester, New York 14610.

Attorney for licensee: Nicholas S. Reynolds, Bishop, Winston & Strawn, 1400 L Street, N.W., Washington, D.C. 20005

NRC Acting Project Director: Susan F. Shankman

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50-395, Virgil C. Summer Nuclear Station, Unit No. 1, Fairfield County, South Carolina

Date of amendment request: June 12, 1991

Description of amendment request: The proposed amendment would change the battery bank average temperature from greater than or equal to 65 degrees F to greater than or equal to 60 degrees F and the minimum battery bank capacity from 90 percent to 80 percent. These changes would reflect the fact that the replacement battery installed during refueling outage 5 meets the Institute of Electrical and Electronics Engineers (IEEE) Standard 450 1987, "Recommended Practice for Maintenance, Testing, and Replacement of Large Lead Storage Batteries for Generating Stations and Substations."

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 the Virgil C. Summer Nuclear Station (VCSNS) in accordance with the proposed amendment will not:

(1) involve a significant increase in the probability or consequences of an accident previously evaluated. The class 1E direct current power system for control and instrumentation neither contributes to the probability nor increases the consequences of a design basis accident. The replacement batteries maintain independence, redundancy, and capability of the original installation with additional enhanced capacity.

(2) create the possibility of a new or different kind of accident from any previously evaluated.

The proposed change will not make physical alterations to the class 1E direct current power system configuration, nor will it change its method of operation. The increased capacity of the replacement batteries enhance[s] the system performance. The failure modes and effects of the batteries remain unchanged.

(3) involve a significant reduction in a margin of safety.

The class 1E direct current power system with the batteries will provide sufficient capacity, including adequate operational margin, to satisfy the load demands of a design basis event or a station blackout period of four hours. The original system design basis as evaluated by NUREG-0717, *Safety Evaluation Report Related to the Operation of Virgil C. Summer Nuclear Station Unit No. 1,* remains unchanged. The proposed change does not decrease 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: Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180

Attorney for licensee: Randolph R. Mahan, South Carolina Electric & Gas Company, P.O. Box 764, Columbia, South Carolina 29218

NRC Project Director: Elinor G. Adensam

The Cleveland Electric Illuminating Company, Centerior Service Company, Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company, Toledo Edison Company, Docket No. 50-440, Perry Nuclear Power Plant, Unit No. 1, Lake County, Ohio

Date of amendment request: June 28, 1991

Description of amendment request: The amendment requests revision of Technical Specification 3.5.1, "Emergency Core Cooling Systems Operating," to add an Action Statement to specify the actions to be taken in the event that the Automatic Depressurization System (ADS) supply header low pressure alarm system becomes inoperable.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

(1) The proposed change does not involve a significant increase in the probability or consequences of a previously evaluated accident because the proposed Action ensures that the ADS supply header pressure will be appropriately monitored utilizing backup instrumentation that has been determined to be adequate for this purpose.

A periodic check of the backup indication is considered equivalent to a continuous monitor with alarm-only capability. This is especially true in view of the fact that the indicator[s], as long as it is periodically checked, can potentially indicate a degraded condition before the alarm setpoint would be reached on the currently utilized instrument. Also, periodic checks will be performed frequently enough such that the probability of occurrence of a leakage condition suddenly occurring between checks is acceptably low. Also, the ERIS computer system provides the capability for alarm annunciation of ADS supply header[s] pressure, equivalent to the Control Room panel annunciator. The alternate indication is already provided in the plant, and therefore no design changes are necessary to implement this change request. Since the normal and the alternate monitoring indications perform no active safety function, they cannot cause an accident to occur, therefore the probability of an accident is not increased. Also, since the ADS system pressure will be maintained, the ADS system will remain fully capable of responding in accordance with the design basis for any accident, in order to mitigate the consequences.

(2) The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated because no design changes or new or different modes of operation are proposed for the plant. Operation under the proposed Action statement (determined to be acceptable on the basis discussed above) does not constitute a different mode of operation since adequate monitoring of the ADS accumulator supply header pressure and adequate verification of instrument operability will be maintained.

The proposed Action takes into account the accident scenarios assumed for the design and operational requirements established for the ADS supply header low pressure alarm system and no new scenarios have been introduced.

(3) The proposed change does not involve a significant reduction in the margin of safety. As described in the answer to question 1 above ADS system operation is not impacted by the proposed change and no margin of safety is impacted with respect to supplying adequate pneumatic pressure to the ADS valves.

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: Perry Public Library, 3753 Main Street, Perry, Ohio 44081.

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John N. Hannon.

Toledo Edison Company, Centerior Service Company, and The Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of amendment request: March 18, 1991

Description of amendment request: The amendment would revise Technical Specifications (TS) 3.0.3 and 3.0.5, "Applicability-Limiting Conditions for Operation." The proposed changes would affect TS 3.0.3 and 3.0.5 by revising the allowable time interval for achieving Hot Standby (Mode 3). Specifically, a change is proposed to TS 3.0.3 to increase the time interval allowed for reaching Hot Standby from 6 hours to 7 hours once TS 3.0.3 has been entered. A minor editorial correction is also proposed to this TS. Corresponding changes have been proposed to TS Bases 3.0.3. A similar change is proposed to TS 3.0.5 to increase the time interval from 6 hours to 8 hours allowed for reaching Hot Standby once TS 3.0.5 has been entered.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The staff's review is presented below:

1. The proposed change will not involve a significant increase in the probability or consequences of an accident previously evaluated because the increase of 1 or 2 hours for the plant to shut down pursuant to TS 3.0.3 or 3.0.5 does not significantly increase the probability of component or system failure and is consistent with NUREG-0103, Revision 4, "Standard Technical Specifications for Babcock and Wilcox Pressurized Water Reactors." Proposed TS 3.0.3 is also consistent with Generic Letter 87-09, "Sections 3.0 and 4.0 of the Standard Technical Specifications (STS) on the applicability of Limiting Conditions for Operation and Surveillance Requirements."

2. The proposed change will not create the possibility of a new or different kind of accident from any previously evaluated accident because no hardware changes are being made, no new testing is being created, and no new operating manipulations are being created.

3. The proposed change will not involve a significant reduction in a margin of safety because the increase of 1 or 2 hours for the plant to shut down pursuant to TS 3.0.3 or 3.0.5 does not significantly increase the probability of component or system failure and is consistent with NUREG-0103, Revision 4. Proposed TS 3.0.3 is also consistent with Generic Letter 87-09.

Based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Attorney for licensee: Gerald Charnoff, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, N.W., Washington, D.C. 20037.

NRC Project Director: John N. Hannon

Washington Public Power Supply System, Docket No. 50-397, Nuclear Project No. 2, Benton County, Washington

Date of amendment request: October 23, 1990

Description of amendment request: The proposed amendment adds actions for inoperable scram discharge volume vent and/or drain valves to Limiting Condition for Operation 3.1.3.1 - Control Rods.

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 Supply System has evaluated this amendment request per 10 CFR 50.92 and determined that it does not represent a significant hazards considerations because it does not:

1) Involve a significant increase in the probability or consequences of an accident previously evaluated. The SDV vent/drain valves are not assumed in the initiation of an analyzed event. Their role is containing reactor coolant following analyzed events that cause a scram, and thereby limits accident consequences. The proposed action will not allow continuous operation and thereby adequately limits the probability of a single failure to create an unisolated path for reactor coolant release. Therefore, this proposed change will not involve a significant increase in the probability or consequences of an accident previously evaluated.

2) Create the possibility of a new or different kind of accident from any accident previously evaluated because the isolation function is maintained by either the remaining operable automatic isolation valve or manual isolation of the vent and/or drain path. The alarm, control rod block and reactor scram functions on increasing water level in the SDV are unaffected. Hence no new or different kind of accident is credible.

3) Involve a significant reduction in a margin of safety. The time allowed to continue operation with inoperable SDV vent and/or drain valves, prior to requiring a plant shutdown, is acceptable based on the small probability of an event requiring the SDV vent and drain valves to isolate and the desire to minimize unnecessary plant transients. The requested completion times may also provide sufficient time to repair the inoperable valves without subjecting the plant to a shutdown transient which would increase the probability of an event requiring the function of the SDV. The exposure of the plant to the small probability of an event requiring the SDV vent and drain valves during the increased time is insignificant and offset by the benefit of avoiding an unnecessary plant transient.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Richland Public Library, 955 Northgate Street, Richland, Washington 99352

Attorney for licensee: Nicholas S. Reynolds, Esq., Winston & Strawn, 1400 L Street, N.W., Washington, D.C. 20005-3502

NRC Project Director: James E. Dyer

Washington Public Power Supply System, Docket No. 50-397, Nuclear Project No. 2, Benton County, Washington

Date of amendment request: December 31, 1990

Description of amendment request: The proposed amendment modifies the scram discharge volume trip setpoints to reflect the fact that a recent facility modification has made it impossible to achieve the current technical specification values.

The modification was performed to the scram discharge system in order to reduce stay time and personnel exposure during maintenance activities. Gauge glasses were added to facilitate calibration of the scram discharge volume level sensing instrumentation. Subsequent grade surveys identified that actual equipment elevation does not agree with those used to determine the SDV high level trip setpoints. Consequently, the trip setpoints specified in the technical specifications are in error.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the

issue of no significant hazards consideration, which is presented below:

The Supply System has evaluated this amendment per 10 CFR 50.92 and determined that it does not represent a significant hazard because it does not:

1) Involve a significant increase in the probability or consequences of an accident previously evaluated because as discussed the decrease in margin for the trip setpoints and Allowable Values is insignificant. In both cases less than 0.8%. Therefore the probability or consequences of an accident previously evaluated are not significantly increased by these changes.

2) Create the possibility of a new or different kind of accident from any accident previously evaluated because SDV operation, including the Scram and Rod Block functions, remains unaffected. No new modes of operation of any equipment result due to this change. Therefore this change will not result in, nor create, a new or different kind of accident from any accident previously evaluated.

3) Involve a significant reduction in a margin of safety because, as discussed above, the reduction in margins represented by these changes is insignificant, less than 0.8%. Therefore, this change will not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Richland Public Library, 955 Northgate Street, Richland, Washington 99352

Attorney for licensee: Nicholas S. Reynolds, Esq., Winston & Strawn, 1400 L Street, N.W., Washington, D.C. 20005-3502

NRC Project Director: James E. Dyer

Washington Public Power Supply System, Docket No. 50-397, Nuclear Project No. 2, Benton County, Washington

Date of amendment request: February 21, 1991

Description of amendment request: The proposed amendment increases the surveillance intervals for those channel functional tests of the control rod block instrumentation currently specified as monthly to quarterly.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's review is presented below.

The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated because the changes have been shown to have negligible impact to overall control rod block function failure rates and operability as shown by NEDC-30851-P-A, Supplement 1, "Technical Specification Improvement Analysis for Control Rod Block Instrumentation." Hence, the probability or consequences of previously evaluated accidents are not significantly increased due to this change.

The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated because control rod block function and reliability are not significantly degraded by these changes. No new modes of plant operation are introduced with these changes. No new or different kind of accident is therefore credible.

The proposed changes do not involve a significant reduction in a margin of safety because, as shown in NEDC-30851-P-A, Supplement 1, "Technical Specification Improvement Analysis for Control Rod Block Instrumentation," the changes have an insignificant impact on control rod block function availability and does not involve a significant reduction in the margin of safety.

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 signfificant hazards consideration.

Local Public Document Room location: Richland Public Library, 955 Northgate Street, Richland, Washington 99352

Attorney for licensee: Nicholas S. Reynolds, Esq., Winston & Strawn, 1400 L Street, N.W., Washington, D.C. 20005-3502

NRC Project Director: James E. Dyer

Washington Public Power Supply System, Docket No. 50-397, Nuclear Project No. 2, Benton County, Washington

Date of amendment request: February 21, 1991

Description of amendment request: The proposed amendment increases the surveillance intervals for those channel functional tests of the emergency core cooling system actuation instrumentation currently specified as monthly to quarterly, with the exception of the 4.16 kV emergency bus undervoltage test which remains as currently specified. The proposed amendment also increases the allowable outage times for trip system channels from 2 hours to 6 hours and clarifies when the action associated with one or more ECCS actuation instrumentations channels inoperable should be taken.

The proposed amendment also modifies the reactor core isolation cooling system actuation instrumentation channel functional testing frequency from monthly to quarterly. The proposed amendment also increases the allowable outage times for trip system channels from 2 hours to 6 hours and clarifies when the action associated with the number of operable channels less than required should be taken.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's review is presented below.

The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated because the changes have been shown to have insignificant impact on overall ECCS failure rates and operability. As shown by NEDC-30936P-A, Parts 1 and 2, "Technical Specification Improvement Methodology (With Documentation for BWR ECCS Actuation Instrumentation)" and the corresponding plant specific analyses, the changes do not degrade the reliability of the ECCS. Hence the probability or consequences of previously evaluated accidents are not significantly increased due to this change.

The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated because ECCS function and reliability are not degraded by these changes. No new modes of plant operation are introduced with these changes. Hence, no new or different kind of accident is credible.

The proposed changes do not involve a significant reduction in a margin of safety because as shown in NEDC-30936P-A, Parts 1 and 2, "Technical Specification Improvement Methodology (With Documentation for BWR ECCS Actuation Instrumentation)" and the corresponding plant specific analyses, the changes represent an overall improvement in plant safety. As such, the margin of safety is enhanced by the proposed changes.

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 signfificant hazards consideration.

Local Public Document Room location: Richland Public Library, 955, Northgate Street, Richland, Washington 99352

Attorney for licensee: Nicholas S. Reynolds, Esq., Winston & Strawn, 1400 L Street, N.W., Washington, D.C. 20005-3502

NRC Project Director: James E. Dyer

Washington Public Power Supply System, Docket No. 50-397, Nuclear Project No. 2, Benton County, Washington

Date of amendment request: February 25, 1991

Description of amendment request: The proposed amendment modifies the jet pump surveillance delineated in section 4.4.1.2.1 of the technical specifications to delete the requirements that the surveillance be conducted with both flow control valves at the same position. The design of the Recirculation System at WNP-2 is such that the pumps run at a constant speed when driven by either the 15 Hz or 60 Hz power supplies. Therefore, the only way to vary flow in the recirculation loops is by the flow control valves. WNP-2 operates the recirculation loops to match flows versus flow control valve positions. Also, it is operationally more prudent to conduct the surveillance at matched flows and technical specification surveillance 4.4.1.2.1.a compares flow and flow control valve position against a baseline for signs of degradation. Therefore, the requirement for the flow control valves to be the same in surveillance 4.4.1.2.1 is not necessary.

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 Supply System has evaluated this amendment request per 10 CFR 50.92 and determined that it does not represent a significant hazard because it does not:

1) Involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed change preserves the intent of the Technical Specification and assures compliance to Technical Specification 3.4.1.3. Because of plant design and the requirements for flow mismatch of Specification 3.4.1.3, the core conditions during which comparisons are made to baseline values will remain within acceptable bounds. Therefore, there is no increase in the probability or consequences of a previously evaluated accident.

2) Create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed change does not implement any changes to the operation of the facility and no new modes of operation of any equipment are introduced. Therefore, no new or different kind of accident is created.

3) Involve a significant reduction in a margin of safety. As discussed above, the proposed change preserves the intent of the specification and also assures compliance with Specification 3.4.1.3. Because the change does not allow core conditions to change significantly there is no decrease in the probability that a degraded jet pump condition will remain undetected by the surveillance comparisons.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Richland Public Library, 955 Northgate Street, Richland, Washington 99352

Attorney for licensee: Nicholas S. Reynolds, Esq., Winston & Strawn, 1400 L Street, N.W., Washington, D.C. 20005-3502

NRC Project Director: James E. Dyer

Washington Public Power Supply System, Docket No. 50-397, Nuclear Project No. 2, Benton County, Washington

Date of amendment request: March 11, 1991

Description of amendment request: The proposed amendment increases the surveillance intervals for those channel functional tests of the isolation actuation instrumentation currently specified as monthly to quarterly. The proposed amendment also increases the allowable outage times for single trip system channels from 2 hours to 6 hours and clarifies when the required action associated with one or more isolation actuation instrumentations channels inoperable should be taken. For those isolation actuation instruments which are common to both the Reactor Protection System and the isolation actuation instrumentation the more restrictive allowable outage times are proposed.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's review is presented below.

The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated because the changes have been shown to have negligible impact on overall isolation actuation function failures rates. As shown by NEDC-30851-P-A, Supplement 2, "Technical Specification Improvement Analysis for BWR Isolation Actuation Instrumentation Common to RPS and ECCS Instrumentation," and NEDC-31677P-A, "Technical Specification Improvement Analyses for BWR Isolation Actuation Instrumentation," the changes do not significantly degrade the reliability of the isolation actuation instrumentation. Hence, the probability or consequences of previously evaluated accidents are not significantly increased due to this change.

The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated because isolation actuation function and reliability are not significantly degraded by these changes. No new modes of plant operation are introduced with these changes. No new or different kind of accident is therefore credible.

The proposed changes do not involve a significant reduction in a margin of safety because, as shown in NEDC-30851-P-A, "Technical Specification Improvement Analysis for BWR Isolation Actuation Instrumentation Common to RPS and ECCS Instrumentation" and NEDC-31677P-A, "Technical Specification Improvement Analyses for BWR Isolation Actuation Instrumentation," the changes represent an overall net improvement to plant safety and operations. Also, the changes were shown to have negligible impact on isolation function availability and reliability. As such, the margin of safety overall is enhanced by the proposed changes.

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 signfificant hazards consideration.

Local Public Document Room location: Richland Public Library, 955 Northgate Street, Richland, Washington 99352

Attorney for licensee: Nicholas S. Reynolds, Esq., Winston & Strawn, 1400 L Street, N.W., Washington, D.C. 20005-3502

NRC Project Director: James E. Dyer

Washington Public Power Supply System, Docket No. 50-397, Nuclear Project No. 2, Benton County, Washington

Date of amendment request: April 4, 1991

Description of amendment request: The proposed amendment removes the battery load profiles from the technical specifications with the understanding that they will be placed in the Final Safety Analysis Report.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The Supply System has evaluated this amendment request per 10 CFR 50.92 and determined that it does not represent a significant hazard because it does not:

1) Involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed change preserves the control of the battery(s) design limit and thereby ensures that design changes are not introduced that would exceed design limits. A design change that would impact the battery load would receive a design safety analysis. Part of this assessment would be the consideration of the revised load on the battery capacity. In addition, because plant design changes are always evaluated to the requirements of 10 CFR 50.59, the battery(s) will receive the same level of review as the entire plant. Therefore the relocation of the table will not introduce a higher probability of battery(s) failure. The design limits will be preserved. Therefore, there is no increase in the probability or consequences of a previously evaluated accident introduced by this change.

2) Create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed change does not implement any changes to the operation of the facility and no new modes of operation of any equipment are introduced. Therefore, no new or different kind of accident is created.

3) Involve a significant reduction in a margin of safety. No reduction in a margin of safety is possible as the battery(s) will continue to receive the same treatment as they presently do. Any future changes to the requirements as incorporated in the FSAR will be evaluated per the standards of 10 CFR 50.59 which is a more stringent review than the 10 CFR 50.92 process. Accordingly design margins will be preserved. Therefore, there is no significant reduction in a margin of safety represented by this change.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Richland Public Library, 955 Northgate Street, Richland, Washington 99352

Attorney for licensee: Nicholas S. Reynolds, Esq., Winston & Strawn, 1400 L Street, N.W., Washington, D.C. 20005-3502

NRC Project Director: James E. Dyer

Wisconsin Public Service Corporation, Docket No. 50-305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

Date of amendment request: June 4, 1991

Description of amendment request: This amendment would revise the Technical Specification (TS) in Section 4.13, "Radioactive Materials Sources," and Table 3.5-2, "Instrument Operation Conditions for Reactor Trip." The proposed amendments would add a new radiation calibrator and fission detectors to the list of sealed sources which are exempt from periodic leak testing, would state that fission detectors shall be leak tested prior to being subjected to core flux, and would describe the P-6 permissive setpoint in percent power consistent with the readout of the new fission detectors. Administrative changes are also being proposed dealing with format and typographical inconsistencies.

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) Proposed Changes to TS 4.13-1 and TS 4.13-2

TS Section 4.13 is being revised due to the purchase and installation of new Gamma Metrics neutron fission detectors and the purchase of a new J. L. Shepherd Model 89-400 radiation calibrator.

This proposed amendment is consistent with the language contained in the Standard Technical Specifications. The proposed changes pose no significant hazards for the following reasons:

1. The proposed changes do not involve a significant increase in the probability of occurrence or consequences of an accident previously evaluated. The fissionable material used in a fission detector is inside the sealed detector chamber and therefore inaccessible. Standard Technical Specifications exempt fission detectors from periodic leak testing.

Leak testing of the J. L. Shepherd Model 89-400 is not advantageous as it is a totally enclosed instrument calibrating assembly. This model is similar to the model currently described in WPSC Technical Specifications. Leak testing would require disassembly of the calibration assembly shield, controls, etc., resulting in personnel exposure without corresponding benefits.

The revision to TS 4.13.5 regarding the transfer of a stored source is for clarification purposes only and is consistent with the Standard Technical Specifications.

2. The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed amendment does not alter the plant configuration, operating setpoints, or overall plant performance.

3. The proposed changes do not involve a significant decrease in the margin of safety. Fissionable material sealed inside a fission detector is considered a sealed source by 10 CFR 70.4. The fissionable material is therefore inaccessible. It does not affect any plant systems since it is internal to the detectors.

The J. L. Shepherd Model 89-400 is similar to the Eberline Model 1000 currently being used in that it is a totally enclosed instrument calibrating assembly for which leak testing of the enclosed sources is not practical. Leak testing of these sources would require disassembly of the calibration assembly shield, controls, etc., resulting in personnel exposure without corresponding benefits.

The change being made to TS 4.13.5 regarding the transfer of sealed sources is consistent with Standard Technical Specifications and is being made for clarification purposes only.

(b) Proposed Change to Table TS 3.5-2

Permissive condition for P-6 is being revised to specify that the bypass condition is satisfied when 1 of 2 Intermediate Range (IR) channels indicates [greater than] 10^{-5}% power, and administrative changes are being made.

The proposed change was reviewed in accordance with the provisions of 10 CFR 50.92 to show no significant hazards exist. The proposed changes pose no significant hazards for the following reasons:

1. The proposed changes do not involve a significant increase in the probability of occurrence or consequences of an accident previously evaluated.

The proposed change does not affect the SR high neutron flux reactor trip as discussed in the USAR. The basis for the P-6 setpoint is to verify that the IR channel is functional prior to manually disabling the SR trip. The setpoint wording is being changed from specifying [greater than] 10^{-10} amps to [greater than] 10^{-5}% power which is the comparable value. Therefore, the proposed change will not increase the probability or consequences of an accident previously evaluated.

2. The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The setpoint of 10^{-5}2% power is comparable to 10^{-10} amps; therefore, the revision is only a change in nomenclature consistent with the display capabilities of the new neutron flux detectors. The proposed amendment does not alter the plant configuration, operating setpoints, or overall plant performance.

3. The proposed changes do not involve a significant decrease in the margin of safety.

The actual value of the setpoint is not altered by this proposed change. The purpose of the change is to revise the note in TS consistent with the readout capability of the new detection system. Therefore, there is no reduction to the margin of safety by this proposed change.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request

involves no significant hazards consideration.

Local Public Document Room location: University of Wisconsin Library Learning Center, 2420 Nicolet Drive, Green Bay, Wisconsin 54301.

Attorney for licensee: David Baker, Esq., Foley and Lardner, P. O. Box 2193 Orlando, Florida 31082.

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: May 14, 1991

Description of amendment request: The amendment request proposes revising Technical Specification 3/4.4.4 and its associated Bases to modify the limiting conditions of operation of power-operated relief valves (PORVs) to follow the staff positions, with plant specific alternatives, as provided in Generic Letter 90-06, "Resolution of Generic Issue 70, 'Power-Operated Relief Valve and Block Valve Reliability,' and Generic Issue 94, 'Additional Low-Temperature Overpressure Protection for Light-Water Reactors,' Pursuant to 10 CFR 50.54(f)." Additionally, this amendment request proposes revising Technical Specification 3.4.9.3 to reflect the use of either the PORVs or the residual heat removal (RHR) suction relief valves for overpressure protection as provided in the generic letter.

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:

Standard 1 - Involves a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated.

The proposed changes to Technical Specification 3/4.4.4 requires that with the block valve(s) closed, power be maintained to the valve(s) so they can be readily opened from the control room. This change would decrease the amount of time to initiate feed and bleed capabilities in the event an alternative measure to remove decay heat from the reactor core is necessary and thus be a benefit to plant safety. The proposed changes to Technical Specification 3.4.9.3 provides added flexibility and availability for providing low-temperature overpressure protection with no degradation in the level of plant safety. Therefore, the proposed changes to Technical Specifications 3/4.4.4, its associated Bases and 3.4.9.3 do not involve a significant increase in the probability or consequences of an accident previously evaluated.

Standard 2 - Create the Possibility of a New or Different Kind of Accident from any Previously Evaluated.

The proposed changes to Technical Specifications 3/4.4.4, its associated Bases and 3.4.9.3 do not create the possibility of a new or different kind of accident from any previously evaluated. No change to the design of the facility is being performed and the manner of plant operations is not significantly altered.

Standard 3 - Involve a Significant Reduction in the Margin of Safety.

The proposed changes to Technical Specification 3/4.4.4, its associated Bases and 3.4.9.3 do not involve a significant reduction in the margin of safety. The proposed changes to Technical Specification 3/4.4.4 increase the reliability of the power-operated relief valves (PORVs) and block valves to perform their intended function. The proposed changes to Technical Specification 3.4.9.3 increases the flexibility and availability of the overpressure protection system to mitigate a low-temperature overpressurization event. The changes do not affect any technical specification 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: 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: George F. Dick, Jr., Acting Director

Wolf Creek Nuclear Operating Corporation, Docket No. 50-482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: June 11, 1991

Description of amendment request: The proposed license amendment revises Technical Specification Tables 2.2-1, 4.3-1 and associated Bases to accommodate the replacement of the existing resistance temperature detector (RTD) bypass system with an RTD thermowell system.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Standard 1 - Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated.

The existing RTD temperature outputs are used by the Reactor Protection System for the Overtemperature Delta-T (OTDT) and Overpower Delta-T (OPDT) trip functions. These trip functions provide primary protection against departure from nucleate boiling (DNB) and fuel centerline melting during postulated transients. The Loss of Flow trip function provides protection for DNB due to the loss of Reactor Coolant System (RCS) flow in one or more primary side loops. The Loss of Flow trip function is dependent upon the measured temperature since a primary parameter in the determination of RCS flow is the primary side enthalpy rise. Additionally, RTD temperature signals are utilized by other control systems.

Those transients and accidents that were effected by the OTDT, OPDT, and Loss of Flow trip functions were evaluated. This evaluation concluded that the OTDT, OPDT, and Loss of Flow trips will continue to function in a manner consistent with the existing analyses assumptions for these events. Evaluation of events initiated by a failure of those control systems that use temperature signals from the narrow range RTDs concluded that there will be no degradation in the performance of or increase in the number of challenges to equipment assumed to function during an accident situation. On this basis it is concluded that there will be no significant increase in the probability or consequences of previously evaluated accidents.

Standard 2 - Create the Possibility of a New or Different Kind of Accident from any Previously Analyzed.

The plant modification will be performed in a manner consistent with applicable standards, preserve the existing design bases, and will not adversely impact the qualification of any plant systems. This will preclude adverse control and protection system interactions. The design, installation and inspection of the RTD thermowell system will be done in accordance with ASME Boiler and Pressure Vessel Code criteria. By adherence to industry standards, the pressure boundary integrity will be preserved. Therefore, the proposed changes will not create the possibility of a new or different kind of accident from any previously analyzed.

Standard 3 - Involve a Significant Reduction in a Margin of Safety.

The applicable margins of safety are defined in Bases Sections 2.1.1 and 2.1.2. Bases Section 2.1.1 states that the minimum value of the departure from nucleate boiling ratio (DNBR) during steady state operation, normal operational transients, and anticipated transients corresponds to a 95 percent probability at a 95 percent confidence level that departure from nucleate boiling (DNB) will not occur. The restrictions of this fuel cladding integrity safety limit prevent overheating of the fuel and possible cladding perforation which would result in the release of fission products to the coolant. The minimum DNBR reported in the accident analyses will be unaffected by the plant

modification. Bases Section 2.1.2 states that the Safety Limit on maximum RCS pressure protects the integrity of the RCS from overpressurization and thereby prevents the release of radionuclides contained in the reactor coolant from reaching the containment atmosphere. The maximum RCS pressure reported in the accident analyses is unaffected by the plant modification. Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room Location: 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: George F. Dick, Jr., Acting Director

Wolf Creek Nuclear Operating Corporation, Docket No. 50-482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: June 21, 1991

Description of amendment request: The proposed license amendment revises Technical Specification 4.6.2.3, "Containment Cooling System," and affected Technical Specification Bases to reduce the minimum required cooling water flow to the containment cooling units during accident conditions. The proposed amendment also deletes a surveillance requirement for periodic measurement of cooling water flow to the containment cooling units in the normal operating alignment. Plant specific analyses have been performed to demonstrate continued adequate performance of the containment cooling system with the proposed reduced minimum flow requirement.

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:

Standard I - Involves a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated.

This amendment request proposes to reduce the minimum cooling water flow requirement for the containment cooling system (CCS) for post- accident conditions and delete a surveillance requirement to verify a specified minimum flow rate in the normal operating mode of the CCS. The effect of the proposed reduction in the minimum required cooling water flow rate to the CCS has been evaluated and shown to have no significant effect on the consequences of postulated accidents. For a postulated Loss of Coolant Accident (LOCA), the calculated peak containment pressure is unchanged and the containment pressure response remains consistent with the assumptions used to evaluate the potential offsite radiological consequences of a LOCA due to leakage from the containment. For a postulated Main Steam Line Break (MSLB) event, the containment pressure remains well below the design pressure of the containment and safety related equipment located within the containment has been evaluated and found to remain fully qualified for the revised containment conditions. The deletion of the surveillance requirement for flow measurement during normal operations does not adversely affect the reliability of the CCS since ongoing performance monitoring of these heat exchangers provides more reliable indication of potential heat exchanger degradation. On these bases, it is concluded that there will be no significant increase in the probability of occurrence or consequences of previously evaluated accidents.

Standard II - Create the Possibility of a New or Different Kind of Accident From any Previously Evaluated.

The CCS serves to mitigate the consequences of postulated accidents, but is not associated with the initiation of design basis events and has no direct impact on the Reactor Coolant System or other structures or systems associated with the initiation of postulated accidents. Therefore, this proposed technical specification revision does not create the possibility of a new or different kind of accident from any previously evaluated.

Standard III - Involve a Significant Reduction in the Margin of Safety.

The proposed reduction in required cooling water flow has been shown to be acceptable based on revised accident analyses. For a LOCA the containment peak pressure and temperature were not increased. Although a slight increase in the MSLB peak containment pressure does occur as a result of this proposed change, the revised value remains well below the containment design pressure. The margin of safety between the containment design pressure and the pressure at which the containment would ultimately fail is unchanged by this proposed amendment. Therefore, it is concluded that there is no significant reduction in the margin of safety as described in the bases of any technical specification.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room Location: 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: George F. Dick, Jr., Acting Director

Notice of Issuance of Amendment To Facility Operating License

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing in connection with these actions was published in the Federal Register as indicated. No request for a hearing or petition for leave to intervene was filed following this notice.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendments, (2) the amendments, and (3) the Commission's related letters, Safety Evaluations and/or Environmental Assessments as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, D.C., and at the local public document rooms for the particular facilities involved. A copy of items (2) and (3) may be obtained upon

request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects.

Carolina Power & Light Company, et al., Docket No. 50-324, Brunswick Steam Electric Plant, Unit 2, Brunswick County, North Carolina

Date of amendment request: April 23, 1991, as supplemented July 9, 1991

Brief description of amendment: The amendment changes the Technical Specification to change the minimum critical power ratio safety limit from 1.06 to 1.07. The change is necessary because a new fuel type (GE8x8NB-3) is being added to the core.

Date of issuance: July 18, 1991.

Effective date: July 18, 1991.

Amendment No.: 184

Facility Operating License No. DPR-62: Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** May 29, 1991 (56 FR 24206) The July 9, 1991, supplement submitted updated Technical Specification pages and did not change the initial determination of no significant hazards consideration as published in the FEDERAL REGISTER. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 18, 1991.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of North Carolina at Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403-3297.

Commonwealth Edison Company, Docket No. 50-265, Quad Cities Nuclear Power Station, Unit 2, Rock Island County, Illinois

Date of application for amendment: April 18, 1991

Brief description of amendment: Revision of Technical Specifications to reflect a modification to the fast acting solenoid valves which initiate rapid closure of the turbine control valves. The new design uses a pressure switch, rather than a limit switch, to initiate a reactor scram.

Date of issuance: July 23, 1991

Effective date: Startup from refueling outage No. 11

Amendment No.: 125

Facility Operating License No. DPR-30. The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 29, 1991 (56 FR 24206) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 23, 1991.

No significant hazards consideration comments received: No

Local Public Document Room location: Dixon Public Library, 221 Hennepin Avenue, Dixon, Illinois 61021.

Commonwealth Edison Company, Docket Nos. 50-295 and 50-304, Zion Nuclear Power Station Units 1 and 2, Lake County, Illinois

Date of application for amendments: May 3, 1991

Brief description of amendments: The amendments revise Technical Specification 3.2.1.F to allow a reduction in the boric acid system concentration from 12% to 3.4%.

Date of issuance: July 17, 1991

Effective date: July 17, 1991

Amendment Nos.: 126 and 115

Facility Operating License Nos. DPR-39 and DPR-48. The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 29, 1991 (56 FR 24207) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 17, 1991.

No significant hazards consideration comments received: No

Local Public Document Room location: Waukegan Public Library, 128 N. County Street, Waukegan, Illinois 60085.

Commonwealth Edison Company, Docket Nos. 50-295 and 50-304, Zion Nuclear Power Station Units 1 and 2, Lake County, Illinois

Date of application for amendments: May 15, 1991

Brief description of amendments: The amendments revise Technical Specification Tables 3.14-1 and 4.14-1 to incorporate the radiation monitoring instrumentation installed in the new Technical Support Center.

Date of issuance: July 22, 1991

Effective date: July 22, 1991

Amendment Nos.: 127 and 116

Facility Operating License Nos. DPR-39 and DPR-48. The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 12, 1991 (56 FR 27040) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 22, 1991.

No significant hazards consideration comments received: No

Local Public Document Room location: Waukegan Public Library, 128 N. County Street, Waukegan, Illinois 60085.

Duke Power Company, Docket Nos. 50-369 and 50-370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of application for amendments: April 11, 1991, as supplemented July 3, 1991.

Brief description of amendments: The amendments revise Technical Specifications 3/4.6.1.8, "Annulus Ventilation System," and 3/4.7.6, "Control Area Ventilation System," to revise the carbon adsorber test method and methyl iodide penetration criteria along with other administrative changes.

Date of issuance: July 15, 1991

Effective date: July 15, 1991

Amendment Nos.: 122 and 104

Facility Operating License Nos. NPF-9 and NPF-17: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 15, 1991 (56 FR 22463)

The licensee's July 3, 1991, submittal provided supplemental information which did not affect the scope of the initial notice or the Commission's proposed significant hazards consideration analysis.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 15, 1991.

No significant hazards consideration comments received: No.

Local Public Document Room location: Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223

Duquesne Light Company, et. al, Docket Nos. 50-334 and 50-412, Beaver Valley Power Station, Unit Nos. 1 and 2, Shippingport, Pennsylvania

Date of application for amendments: April 4, 1990

Brief description of amendments: The proposed amendments would revise certain administrative control requirements, where applicable, previous titles with new titles developed for the Nuclear Group organization. Specifically, the title Plant Manger will be changed to General Manager Nuclear Operations, the title Radiological Control Manager will be changed to Health Physics Manager, and the title Plant Safety Review Director will be changed to Onsite Safety Committee Supervisor. These changes would affect TS Sections 6.1, 6.2, 6.5, 6.8, and 6.17. Additionally, TS Section 6.5 would be revised to provide for written notification to the next higher management level of disagreement between the Onsite Safety Committee and the General Manager Nuclear Operations.

Date of issuance: July 11, 1991
Effective date: July 11, 1991
Amendment Nos.: 159 and 38
Facility Operating License Nos. DPR-66 and NPF-73. Amendments revised the Technical Specifications.
Date of initial notice in **Federal Register:** May 30, 1990 (53 FR 21970) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 11, 1991.
No significant hazards consideration comments received: No
Local Public Document Room location: B.F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Duquesne Light Company, et. al., Docket Nos. 50-334 and 50-412, Beaver Valley Power Station, Unit Nos. 1 and 2, Shippingport, Pennsylvania

Date of application for amendments: February 20, 1991
Brief description of amendments: The amendments revise the Appendix A Technical Specifications for determining containment leakage. Specifically, the amendments modify surveillance requirement (TS 4.6.1.2) to delete the reference to ANSI N45.4-1972, thereby directing the leakage rate be determined in accordance with Appendix J of 10 CFR Part 50. Appendix J includes both ANSI N45.4-1972 and alternate method ANSI/ANS 56.8-1987 as approved procedures for calculating containment leakage rate.
Date of issuance: July 11, 1991
Effective date: July 11, 1991
Amendment Nos.: 158 and 37
Facility Operating License Nos. DPR-66 and NPF-73: Amendments revised the Technical Specifications.
Date of initial notice in **Federal Register:** May 1, 1991 (56 FR 20035) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 11, 1991.
No significant hazards consideration comments received: No
Local Public Document Room location: B.F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Entergy Operations, Inc., Docket No. 50-368, Arkansas Nuclear One, Unit No. 2, Pope County, Arkansas

Date of application for amendment: May 9, 1991
Brief description of amendment: The amendment revised Technical Specification (TS) 3.6.3.1 on containment isolation valves. The change allows exceptions to the requirements of TS 3.0.4 on mode changes when the action statements that allow continued operation for an unlimited period of time are met.
Date of issuance: July 15, 1991
Effective date: July 15, 1991
Amendment No.: 121
Facility Operating License No. NPF-6. Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** June 12, 1991 (56 FR 27043) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 15, 1991.
No significant hazards consideration comments received: No.
Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

Florida Power and Light Company, Docket Nos. 50-250 and 50-251, Turkey Point Plant Units 3 and 4, Dade County, Florida

Date of application for amendments: November 27, 1990, as supplemented June 12, 1991
Brief description of amendments: These amendments provide for reduction of the boric acid concentration in the boric acid tanks and removal of heat tracing from the tanks and from the boric acid makeup system piping and valves. The amendments also include changes in the action statements for related component inoperability which affects both units to provide for orderly, sequential dual unit shutdown.
Date of issuance: July 16, 1991
Effective date: July 16, 1991
Amendment Nos.: 144, 139
Facility Operating Licenses Nos. DPR-31 and DPR-41: Amendments revised the Technical Specifications.
Date of initial notice in **Federal Register:** February 6, 1991 (56 FR 4863) The June 12, 1991 letter provided supplemental information which did not change the staff's initial no significant hazards consideration determination.
The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 16, 1991.
No significant hazards consideration comments received: No
Local Public Document Room location: Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199.

Niagara Mohawk Power Corporation, Docket No. 50-410, Nine Mile Point Nuclear Station, Unit No. 2, Scriba, New York

Date of application for amendment: February 19, 1991, as supplemented May 8, 1991, and May 20, 1991
Brief description of amendment: The amendment permits increases in the Technical Specification setpoints of the Main Steam Line Radiation monitors during the performance of a special test in which hydrogen will be injected into the reactor coolant. The purpose of this test is to demonstrate that the injected hydrogen will reduce the concentration of oxygen in the reactor coolant. Reducing the concentration of oxygen in the reactor coolant decreases the susceptibility of the austenitic stainless steel in the reactor coolant system to intergranular stress corrosion cracking. However, this injection of hydrogen is expected to cause an increase in the carryover of N^{16} in the steam which will be detected by the Main Steam Line Radiation monitors as an increase in radiation levels. Therefore, it may be necessary to increase the high level alarm and trip setpoints for these radiation monitors during the test to prevent the occurrence of spurious alarms and/or reactor scrams.
Date of issuance: July 15, 1991
Effective date: July 15, 1991
Amendment No.: 33
Facility Operating License No. NPF-69: Amendment revises the Technical Specifications.
Date of initial notice in **Federal Register:** April 17, (56 FR 15644) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 15, 1991.
No significant hazards consideration comments received: No
Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Public Service Company of New Hampshire, Docket No. 50-443, Seabrook Station, Rockingham County, New Hampshire

Date of application for amendment: November 13, 1990
Brief description of amendment: This amendment revises the Technical Specifications for Seabrook Station, Unit 1 involving testing of high pressure turbine control valves.
Date of issuance: July 24, 1991
Effective date: July 24, 1991
Amendment No.: 4
Facility Operating License No. NPF-86: Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** May 29, 1991 (56 FR 24216). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 24, 1991
No significant hazards consideration comments received: No

Local Public Document Room location: Exeter Public Library, 47 Front Street, Exeter, New Hampshire 03833.

Public Service Company of New Hampshire, Docket No. 50-443, Seabrook Station, Rockingham County, New Hampshire

Date of application for amendment: January 24, 1991, as supplemented on May 16, 1991

Brief description of amendment: The amendment revises the Technical Specifications for Seabrook Station, Unit 1 involving removal of the residual heat removal (RHR) isolation valve autoclosure interlock.

Date of issuance: July 15, 1991

Effective date: July 15, 1991

Amendment No.: 3

Facility Operating License No. NPF-86: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 12, 1991 (56 FR 27048) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 15, 1991.

No significant hazards consideration comments received: No

Local Public Document Room location: Exeter Public Library, 47 Front Street, Exeter, New Hampshire 03833.

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50-395, Virgil C. Summer Nuclear Station, Unit No. 1, Fairfield County, South Carolina

Date of application for amendment: April 23, 1991, as supplemented June 11, 1991.

Brief description of amendment: The amendment changes the TS to remove the snubber visual examination schedule in the existing TS and replaces it with a refueling outage based visual examination schedule as shown in Table 4.7-2, "Snubber visual Inspection Interval," of Enclosure B to Generic Letter 90-09.

Date of issuance: July 15, 1991.

Effective date: July 15, 1991.

Amendment No.: 103

Facility Operating License No. NPF-12. Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** March 6, 1991 (56 FR 9387). The June 11, 1991, supplement did not affect the staff's finding of no significant hazards considerations.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 15, 1991.

No significant hazards consideration comments received: No

Local Public Document Room location: Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180.

Southern California Edison Company, et al., Docket No. 50-361, San Onofre Nuclear Generating Station, Unit No. 2, San Diego County, California

Date of application for amendment: May 22, 1991

Brief description of amendment: The amendment revised Surveillance Requirement 4.8.1.1.2.d.1 in Technical Specification 3/4.8.1, "A.C. Sources." The amendment permitted a surveillance interval extension of up to one month, from 24 to 25 months, on a one-time basis for Cycle 5 to perform certain inspection activities. Additionally, this amendment corrects a typographical error that was found on TS page 3/4 8-3.

Date of issuance: July 12, 1991

Effective date: July 12, 1991

Amendment No.: 96

Facility Operating License No. NPF-10: The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 12, 1991 (56 FR 27049) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 12, 1991.

No significant hazards consideration comments received: No.

Local Public Document Room location: Main Library, University of California, P.O. Box 19557, Irvine, California 92713

Tennessee Valley Authority, Docket No. 50-327, Sequoyah Nuclear Plant, Unit 1 Hamilton County, Tennessee

Date of application for amendment: May 24, 1991

Brief description of amendment: The amendment changes the steam generator water level low-low setpoints for the reactor trip system and the engineered safety feature actuation system to reflect replacement of the unmodified Barton level transmitters with modified Barton level transmitters during the 1991 refueling outage.

Date of issuance: July 24, 1991

Effective date: July 24, 1991

Amendment No.: 151

Facility Operating License No. DPR-77:

Date of initial notice in **Federal Register:** June 26, 1991 The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 24, 1991.

No significant hazards consideration comments received: 1101 Broad Street, Chattanooga, Tennessee 37402

Toledo Edison Company, Centerior Service Company, and The Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of application for amendment: March 1, 1991

Brief description of amendment: The amendment allowed an alternate method of determining battery operability following service or performance discharge surveillance testing.

Date of issuance: July 16, 1991

Effective date: July 16, 1991

Amendment No. 158

Facility Operating License No. NPF-3. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 3, 1991 (56 FR 13671) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 16, 1991

No significant hazards consideration comments received: No

Local Public Document Room location: University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Virginia Electric and Power Company, et al., Docket Nos. 50-338 and 50-339, North Anna Power Station, Unit Nos. 1 and 2, Louisa County, Virginia

Date of application for amendments: December 28, 1989, as modified February 14, 1991.

Brief description of amendment: The amendments revise the acceptance criteria for the monthly testing of auxiliary feedwater pumps and allow acceptable discharge pressure and flow rates to be established and periodically reevaluated by ASME Section XI testing.

Date of issuance: July 15, 1991

Effective date: July 15, 1991

Amendment Nos.: 147, 131

Facility Operating License No. NPF-7: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 12, 1991 (56 FR 27050) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 15, 1991.

No significant hazards consideration comments received: No.

Local Public Document Room location: The Alderman Library, Special Collections Department, University of Virginia, Charlottesville, Virginia 22903-2498.

Yankee Atomic Electric Company, Docket No.50-029, Yankee Nuclear Power Station, Franklin County, Massachusetts

Date of application for amendment: March 14, 1991

Brief description of amendment: The amendment makes certain administrative changes to the Technical Specifications to incorporate the requirements of 10 CFR 50.55a by removing the outdated ASME Code Edition and Addenda references and replacing them with references to the requirements of 10 CFR 50.55a.

Date of issuance: July 23, 1991

Effective date: July 23, 1991

Amendment No.: 140

Facility Operating License No. DPR-3: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 17, 1991 (56 FR 15647). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 23, 1991.

No Significant Hazards Consideration Comments Received: No

Local Public Document Room location: Greenfield Community College, 1 College Drive, Greenfield, Massachusetts 01301.

Yankee Atomic Electric Company, Docket No. 50-029, Yankee Nuclear Power Station, Franklin County, Massachusetts

Date of application for amendment: April 24, 1991

Brief description of amendment: This amendment clarifies the ECCS requirements contained in the current Technical Specification which is applicable to both Mode 5 (average coolant temperature equal to or less than 200° F) and Mode 4 (average coolant temperature between 300° F and 200° F) with the main coolant pressure less than 1000 psig. The new Technical Specification is divided into two separate Specifications, one applicable to Mode 4 and one applicable to Mode 5 and Mode 6 (average coolant temperature equal to or below 140° F). Additionally, this change incorporates administrative requirements related to emergency core cooling system (ECCS) valve positions and ECCS pump operability.

Date of issuance: July 15, 1991

Effective date: July 15, 1991

Amendment No.: 139

Facility Operating License No. DPR-28: Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:**

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 15, 1991

No significant hazards consideration comments received: No

Local Public Document Room location: Greenfield Community College, 1 College Drive, Greenfield, Massachusetts 01301.

Notice of Issuance of Amendment To Facility Operating License And Final Determination of No Significant Hazards Consideration And Opportunity For Hearing (Exigent Or Emergency Circumstances)

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment and Proposed No Significant Hazards Consideration Determination and Opportunity for a Hearing. For exigent circumstances, the Commission has either issued a **Federal Register** notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its no significant hazards determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the local public document room for the particular facility involved.

A copy of items (2) and (3) may be obtained upon request addressed to the U. S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendment. By September 6, 1991, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be

affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to **(Project Director)**: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

Nebraska Public Power District, Docket No. 50-298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: July 10, 1991

Brief description of amendment: The amendment revised the Technical Specification (TS) setpoint for the Emergency Buses Loss of Voltage Relays associated with TS 3.2.B. The change corrects an error made when the setpoint was added to the TS as part of Amendment No. 143.

Date of issuance: July 17, 1991

Effective date: July 17, 1991

Amendment No.: 144

Facility Operating License No. DPR-46. 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 July 17, 1991.

Attorney for licensee: Mr. G. D. Watson, Nebraska Public Power District, Post Office Box 499, Columbus, Nebraska 68602-0499

Local Public Document Room location: Auburn Public Library, 118 15th Street, Auburn, Nebraska 68305.

NRC Project Director: Theodore R. Quay

Dated at Rockville, Maryland, this 31st day of July 1991.

For the Nuclear Regulatory Commission

Steven A. Varga,

Director, Division of Reactor Projects - I/II, Office of Nuclear Reactor Regulation

[Doc. 91-18603 Filed 8-6-91; 8:45 am]

BILLING CODE 7590-01-D

[Docket No. 50-302]

Florida Power Corp., Crystal River Unit 3 Nuclear Generating Plant; Receipt of Petition for Director's Decision

Notice is hereby given that by Petition of June 25, 1991, Edward S. Wollesen

requested that the U.S. Nuclear Regulatory Commission take action regarding the Florida Power Corporation (FPC) Crystal River Unit 3 plant. Petitioner requests that the NRC institute a proceeding in accordance with § 2.206 of title 10 of the Code of Federal Regulations (10 CFR 2.206) to suspend or revoke FPC's license for the Crystal River facility or to take such other action as may be proper.

Petitioner asserts as bases for his request the following:

(1) 1,500 to 3,000 instruments in the plant, most of which are safety-related, are not properly identified and are not in a proper calibration program. There are no controlled calibration data sheets for the instruments, making it impossible to determine if the instruments are within engineering design standards. Moreover, engineering diagrams do not include these instruments, as required by the NRC.

(2) In recent quality audit reports FPC stated that its security and fire protection programs comply with NRC requirements, although the programs are not sufficiently defined to be auditable in accordance with NRC requirements.

(3) FPC has not adequately defined and does not know the exact requirements of the technical specifications for the plant.

(4) Contrary to American National Standards Institute (ANSI) Standard N45.2.10–1973, the FPC Plant Review Committee Guidelines Manual, an uncontrolled manual, includes mandatory instructions for nuclear operations.

(5) There is no assurance that safety-related instruments are in calibration. When informed of this problem, plant management ignored it.

Petitioner asserts that these deficiencies render ineffective the quality assurance program, the fire protection program, and other programs critical to nuclear safety.

The Petition has been referred to the Director of the Office of Nuclear Reactor Regulation pursuant to 10 CFR 2.206. As provided by § 2.206, appropriate action will be taken with regard to the specific issues raised by the Petition within a reasonable time.

A copy of the Petition is available for inspection at the Commission's Public Document Room at 2120 L Street, NW., Washington, DC 20555, and at the local public document room for the Crystal River facility located at the Coastal Region Library, 8619 W. Crystal Street, Crystal River, Florida 32629.

Dated at Rockville, Maryland this 31 day of July, 1991.

For the Nuclear Regulatory Commission.

Thomas E. Murley,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 91–18725 Filed 8–6–91; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–424–OLA–2, 50–425–OLA–2; ASLBP No. 91–647–OLA–2]

Georgia Power Co., et al., (Vogtle Electric Generating Plant, Units 1 and 2)

July 30, 1991.

Order

(Scheduling Prehearing Conference)

Before Administrative Judges: Sheldon J. Wolfe, Chairman; Dr. James H. Carpenter, Dr. Thomas S. Elleman.

Supplementing our Memorandum and Order of July 23, 1991 (LBP–91–33), the Board orders that a prehearing conference will be held on September 12, 1991 at the Federal Trade Commission, room 1010, 1718 Peachtree Street NW., Atlanta, Georgia beginning at 9 a.m. Oral arguments upon the proposed contentions of Georgians Against Nuclear Energy (Petitioner) will be heard at that time.

Pursuant to § 2.715(a), limited appearance statements will not be heard at this prehearing conference; however, if one (or more) of the Petitioner's proposed contentions is admitted as an issue to be litigated, such limited appearance statements will be taken at the beginning of any subsequent conferences and the hearing.

It is so ordered.

Bethesda, Maryland, July 30, 1991.

For the Atomic Safety and Licensing Board.

Sheldon J. Wolfe,

Chairman, Administrative Judge.

[FR Doc. 91–18726 Filed 8–6–91; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–271–OLA–4, ASLBP No. 89–595–03–OLA]

Vermont Yankee Nuclear Power Station; Construction Period Recapture

Notice of Postponement of Prehearing Conference

August 1, 1991.

(Construction Period Recapture)

Before Administrative Judges: Robert M. Lazo, Chairman; Jerry R. Kline, Frederick J. Shon.

Please take notice that the Prehearing Conference in this proceeding scheduled for August 6 and 7, 1991, in Brattleboro, VT, has been postponed to facilitate current settlement negotiations by and between the parties.

If no agreement leading to termination of this proceeding has been approved by the Licensing Board by August 31, 1991, we will enter an Order rescheduling the Preheating Conference for an early date convenient to the Board and parties.

It is so ordered.

Issued at Bethesda, Maryland, this 1st day of August 1991.

For the Atomic Safety and Licensing Board.

Robert M. Lazo,

Chairman, Administrative Judge.

[FR Doc. 91–18727 Filed 8–6–91; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Suspension of Duties Increased in the Japan Semiconductor Case; Notice of Effective Date

AGENCY: Office of the United States Trade Representative.

ACTION: Effective date with regard to suspension of duties increased in the Japan semiconductor case.

SUMMARY: On June 7, 1991, the Office of the United States Trade Representative (USTR) announced that, pursuant to authority delegated by the President in Proclamation No. 5631 of April 17, 1987, the USTR was suspending all remaining increased duties on imports of high performance portable and desktop computers and electropneumatic hammers from Japan effective upon the date of entry into force of the 1991 Arrangement between the Government of Japan and the Government of the United States of America Concerning Trade in Semicondutor Products (56 FR 26455). The action was taken in response to Japan's progress in implementing its obligations under the U.S.-Japan Arrangement concerning Trade in Semiconductor Products dated September 2, 1986 (the "1986 Arrangement"), and because the market access objectives are expected to be fully realized within the framework of a new arrangement which is to enter into force on August 1, 1991.

EFFECTIVE DATE: This action becomes effective with respect to merchandise entered or withdrawn from warehouse for consumption on or after August 1, 1991.

FOR FURTHER INFORMATION CONTACT: Wendy Silberman, (202) 395–6160 (for technical and policy information); Timothy Reif, (202) 395–6800 (for legal issues).

SUPPLEMENTARY INFORMATION: The background to this action is fully described in an earlier Federal Register notice (56 FR 26455). As stated in that earlier notice, as a result of Japan's progress in implementing its market access obligations under the 1986 Arrangement, and because the market access objectives are expected to be fully realized within the framework of the 1991 Arrangement, I have determined that it is in the interest of the United States to suspend the increased duties on the remainder of the products of Japan subject to increased duties under Proclamation 5631.

Consequently, I hereby order the suspension of the increased duties imposed by Proclamation 5631 on certain products covered by tariff items 9903.41.15, 9903.41.20 and 9903.41.30, effective with respect to merchandise entered or withdrawn from warehouse for consumption on or after August 1, 1991. The Harmonized Tariff Schedules of the United States shall be modified to reflect the suspension of the increased duties for articles provided for in those tariff items, as set forth in the Annex hereto.

This determination shall be published in the Federal Register.

Joshua B. Bolten,

Acting United States Trade Representative.

Annex

Articles From Japan

9903.41.15

Automatic data processing machines, of the type of which constituent units are integrated in the same housing, whether finished or unfinished, which incorporate a microprocessor-based calculating mechanism, are capable of handling data words of at least 16-bits off the microprocessor, and are designed for use with a non-cathode ray tube (non-CRT) display unit, whether or not capable of use without an external power source (provided for in subheading 8471.20).

Automatic data processing machines, of the type of which the constituent units are separately housed, whether finished or unfinished, which incorporate a microprocessor-based calculating mechanism, are capable of handling data words of at least 16-bits off the microprocessor, designed for use while affixed to or placed on a table, desk, or similar place.

9903.41.20

Having a microprocessor-based calculating mechanism capable of directly handling memory of over 8 megabits (provided for in subheading 8471.91).

Rotary drills, not battery powered, with a chuck capacity of ½ inch or more, electropneumatic rotary and percussion hammers; and grinders, sanders, and polishers, belt sanders, and orbital and straight-line sanders), the foregoing which are elctromechanical tools for working in the hand with self-contained electric motor:

9903.41.30

Electropneumatic rotary and percussion hammers (provided for in subheading 8508.80).

[FR Doc. 91–18712 Filed 8–6–91; 8:45 am]

BILLING CODE 3190–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2515, Amdt. 2]

Iowa and Contiguous Counties in Minnesota and Wisconsin); Delaration of Disaster Loan Area

The above-numbered Declaration is hereby amended in accordance with an amendment dated July 25, 1991, to the President's major disaster declaration of July 12, to include the counties of Greene, Hamilton, and Hancock in the State of Iowa as a disaster area as a result of damages caused by severe storms and flooding which occurred June 1–15, 1991.

In addition, applications for economic injury loans from small businesses located in the contiguous counties of Calhoun, Carroll, Dallas, Webster, and Worth in the State of Iowa may be filed until the specified date at the previously designated location.

Any counties contiguous to the above-named primary counties and not listed herein have previously been named as contiguous or primary counties for the same occurrence.

All other information remains the same, i.e., the termination date for filing applications for physical damage is September 11, 1991, and for economic injury until the close of business on April 13, 1992.

The economic injury number for the State of Iowa is 734200.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: July 30, 1991.

Alfred E. Judd,

Acting Assistant Administrator for Disaster Assistance.

[FR Doc. 91–18690 Filed 8–6–91; 8:45 am]

BILLING CODE 8025–01

DEPARTMENT OF STATE

[Public Notice 1440]

United States Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Study Group C Meeting

The Department of State announces that Study Group C (Telephone Network Operations) of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on August 29, 1991, at the Newark Airport Marriott Hotel, Newark International Airport, Newark, New Jersey 07114. The room will be posted in the lobby. The meeting will begin at 9:30 a.m. and end at 4 p.m.

The agenda for the August 29th meeting will include consideration of optical fiber and optical fiber system issues in preparation for the CCITT SG XV meeting in Geneva, Switzerland beginning November 11, 1991. Other matters relevant to the competence of Study Group C may be raised and considered.

Members of the general public may attend the meeting and join in the discussion subject to the instructions of the Chairman. Admittance of public members will be limited to the seating available. Prior to the meeting persons who plan to attend should so advise Ellen Bradley on (908) 234–8624.

Dated: July 12, 1991.

Earl S. Barbely,

Director, Telecommunications and Information Standards, Chairman U.S. CCITT National Committee.

[FR Doc. 91–18663 Filed 8–6–91; 8:45 am]

BILLING CODE 4710–01–M

[Public Notice 1442]

United States Organization for the International Telegraph and Telephone Consultative Committee (CCITT) Strategic Planning Group

The Department of State announces that the Ad Hoc Strategic Planning Group of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on August 30, 1991 in room 1408 from 2 p.m. to 4 p.m., Department of State, 2201 C Street, NW., Washington, DC 20520.

The purpose of the meeting will be to review the works and future activities of the various task forces. They are:

(a) CCITT Relationship to other standards organizations.

(b) ONA/ONP.

(c) ITU Structure and Function.

(d) Selling U.S. Positions Abroad.
(e) EDI.

Members of the general public may attend the meetings and join in the discussions, subject to the instructions of the Chairman. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. Prior to the meeting, persons who plan to attend should so advise the Office of Earl Barbely, Department of State, 202–647–2592 (fax 202–647–7407). The above includes government and non-government attendees. Notification should include Date of Birth and Social Security Number. All attendees must use the C Sreet entrance.

Dated: July 24, 1991.

Earl S. Barbely,

Director, Telecommunications and Information Standards, Chairman U.S. CCITT National Committee.

[FR Doc. 91–18664 Filed 8–6–91; 8:45 am]

BILLING CODE 4710–07–M

[Public Notice 1441]

United States Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Study Group D Meeting

The Department of State announces that Study Group D of the U.S. Organizations for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on September 16, 1991, in Room 1207 and the Message Handling Service-Management Domain (MHS–MD) Ad Hoc Group will meet on September 17 and 18, 1991 in room 1912 from 9 a.m. to 5 p.m., Department of State, 2201 C Street, NW., Washington, DC 20520.

The purpose of the September meeting will be to review US contributions for the October meetings of Study Groups XVII and VIII, and to consider any other business within the scope of US Study Group D.

The meeting will also consider proposals for the reorganization of Study Groups. The September 17 and 18 meetings will continue the work of the MHS–MD Ad Hoc Group.

Members of the general public may attend the meetings and join in the discussions, subject to the instructions of the Chairman. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. Prior to the meeting, persons who plan to attend should so advise the Office of Gary Fereno, Department of State, 202–647–2592 (fax 202–647–7407). The above includes government and non-government attendees. Notification should include Date of Birth and Social Security Number. All attendees must use the C Street entrance.

Dated: July 18, 1991.

Earl S. Barbely,

Director, Telecommunications and Information Standards, Chairman U.S. CCITT National Committee.

[FR Doc. 91–18665 Filed 8–6–91; 8:45 am]

BILLING CODE 4710–07–M

[Public Notice 1448]

Shipping Coordinating Committee; Subcommittee on Safety of Life at Sea Working Group on Bulk Chemicals; Meeting

The Working Group on Bulk Chemicals of the Subcommittee on Safety of Life at Sea (SOLAS) will conduct an open meeting at 1 p.m. on August 22, 1991, in room 2415, at U.S. Coast Guard Headquarters, 2100 2nd Street, SW., Washington, DC 20593–0001. The purpose of the meeting is to finalize preparation for the 21st Session of the Subcommittee on Bulk Chemicals of the International Maritime Organization (IMO) which is scheduled for September 9–13, 1991, at the IMO Headquarters in London.

Among other things, the items of particular interest are:

a. Amendments and interpretation of the Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk (BCH Code) and the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk (IBC Code).

b. Amendments and interpretation of the provisions of Annex II of the International Convention for the Prevention of Pollution from Ships (MARPOL 73/78).

c. Amalgamation of the lists of hazardous liquid substances carried in bulk under the requirements of Annex II of MARPOL 73/78 and the IBC Code and the BCH Code.

d. Amendments and interpretation of the provisions of the Code of the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk (GC Code) and the International Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk (IGC Code).

e. Guidelines for technical assessment for intervention under the 1973 Intervention Protocol.

f. Vapor emission control systems.

g. Transboundary movement of wastes by sea.

h. Role of the human element in maritime casualties.

i. Air pollution from ships.

Members of the public may attend this meeting up to the seating capacity of the room. Interested persons may seek information by writing: CDR K.J. Eldridge, U.S. Coast Guard (G–MTH–1), 2100 Second Street, SW., Washington, DC 20593–0001 or by calling (202) 267–1217.

Dated: July 29, 1991.

Geoffrey Ogden,

Chairman, Shipping Coordinating Committee.

[FR Doc. 91–18644 Filed 8–6–91; 8:45 am]

BILLING CODE 4710–7–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Milwaukee, Racine, and Kenosha Counties, WI

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 (EIS) will be prepared for the proposed extension of the Lake Arterial in Milwaukee, Racine and Kenosha Counties, Wisconsin.

FOR FURTHER INFORMATION CONTACT: Ms. Jacki Lawton, Environmental Coordinator, Federal Highway Administration, 4502 Vernon Boulevard, Madison, Wisconsin 53705–4905. Telephone (608) 264–5967. You may also contact Ms. Carol Cutshall, Director, Office of Environmental Analysis, Wisconsin Department of Transportation, 4802 Sheboygan Avenue, Madison, Wisconsin 53705. Telephone (608) 266–9626.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Wisconsin Department of Transportation, will prepare an Environmental Impact Statement on a proposal to extend the Lake Arterial between East Layton Avenue in Milwaukee County, and State Trunk Highway (STH) 31 in Kenosha County, Wisconsin, a distance of about 36.5 km (22 miles).

The extension of the Lake Arterial south of Layton Avenue is being considered to relieve existing congestion on north-south arterials and to provide for projected traffic demand in the study corridor. Alternatives under consideration include: (1) Take no action; (2) construct a new roadway adjacent to the Chicago and North Western Railroad right-of-way that would join STH 31 south of the Racine-Kenosha County line; (3) widen STH 38 (Howell Avenue) along its present alignment with a connection to the railroad alignment between STH 100 (Ryan Road) and Five Mile Road; and (4) widen Pennsylvania Avenue along its present alignment with a connection to the railroad alignment near Oakwood Road. Study of the various build alternatives will include multimodal transit considerations.

Information 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 series of public meetings will be held in the project corridor throughout data gathering and development of alternatives. In addition, a public hearing will be held. Public notice will be given of the time and place of the meetings and hearing. The Draft EIS will be available for public and agency review and comment prior to the public hearing. As part of the scoping process, an interagency coordination meeting will be held. Agencies having an interest in, or jurisdiction regarding the proposed action will be contacted regarding the date and location of the meeting.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues 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 FHWA or the Wisconsin Department of Transportation at the addresses provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: July 29, 1991.

Robert W. Cooper,

District Engineer, Madison, Wisconsin.

[FR Doc. 91-18666 Filed 8-6-91; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement; Pulaski and Saline Counties, Arkansas

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 Pulaski and Saline counties, Arkansas.

FOR FURTHER INFORMATION CONTACT: H.C. Wieland, Division Administrator, Federal Highway Administration, 3128 Federal Office Building, Little Rock, Arkansas 72201, or Lynn Malbrough, Ecologist II, Environmental Division, Arkansas State Highway and Transportation Department, P.O. Box 2261, Little Rock, Arkansas 72203, Telephone: (501) 569-2281.

SUPPLEMENTARY INFORMATION: FHWA, in cooperation with the Arkansas State Highway and Transportation Department will prepare an environmental impact statement (EIS) on a proposal to widen Interstate 30 from four lanes to six lanes and to construct interchange and frontage road modifications on this controlled access facility. The project will serve central Arkansas, including Pulaski and Saline Counties; plus interstate traffic utilizing Interstate 30. The proposed project extends along Interstate 30 from Geyer Springs Road in southwestern Little Rock, Arkansas to the Sevier Street interchange in Benton, Arkansas. The proposed interstate modifications will increase the capacity of Interstate 30 in southwestern Little Rock and Saline County. The proposed project will match an existing six-lane roadway section that extends from the Geyer Springs interchange to the interchange of Interstate 30 with Interstate 40. The proposed interchange modifications include the elimination of slip ramps on to the two-way frontage roads, resulting in a more effective separation of the interstate and frontage road traffic. These design modifications will improve the capacity and safety of this section of Interstate 30 and its frontage road system. The primary purpose of the exit ramp and frontage road modifications is to improve roadway safety. The approximate length of the proposed project is 18 miles.

Alternatives to be considered are: (1) The "Do-Nothing" Alternative where roads are constructed according to the regional plan with the exception of the proposed facility; (2) the "Two-way Frontage Roads" Alternative will include the Interstate 30 widening plus modification of the ramps and frontage roads to eliminate the slip ramps between the main lanes and the two-way frontage roads; (3) the "One-way Frontage Road" Alternative will include the Interstate 30 widening plus modification of the ramps and frontage roads to provide one-way traffic movement. Various design schemes may be studied to accomplish the design goal of two-way or one-way frontage road traffic movements under these two basic alternatives.

Letters describing the proposed action to solicit comments will be sent to appropriate Federal, state and local agencies, major Arkansas newspapers, and to private organizations, including chambers of commerce, conservation groups, and groups of individuals who have voiced project opposition or concern regarding significant project impacts. After the letters have been sent a formal scoping meeting will be held to allow local officials and agency representatives an opportunity to discuss the range of alternatives, impacts, and significant issues related to the proposed project. Following the scoping meeting a series of public involvement sessions will be held in a mobile trailer situated directly in the areas to be affected by the proposed project. A public hearing will be held to solicit comments from the public, local officials and affected Federal, state and local agencies. The project's draft EIS will be available for public and agency review and comment prior to and during the public hearing. Public notice will be given of the time and place of the hearing.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues 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 at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation of Federal programs and activities apply to this program.)

Issued on: July 30, 1991.

Carl Kraehmer,

Environmental and Design Specialist, Little Rock, Arkansas.

[FR Doc. 91-18718 Filed 8-6-91; 8:45 am]

BILLING CODE 4910-22-M

Corrections

Federal Register
Vol. 56, No. 152
Wednesday, August 7, 1991

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 91-083]

Witchweed Regulated Areas

Correction

In rule document 91-15592 beginning on page 29889, in the issue of Monday, July 1, 1991, make the following corrections:

§ 301.80-2a [Corrected]

1. On page 28991, in the first column, in § 301.80-2a, in the fifth paragraph, in the second line, "southeast" should read "southwest".

2. On the same page, in the same column, in the same section, in the 11th paragraph, in the last line, after "0.1" insert "mile"; and in the 13th paragraph, in the second line, "U.S. Highway 24" should read "State Highway 24".

BILLING CODE 1505-01-D

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 641

[Docket No. 910512-1180]

Reef Fish Fishery of the Gulf of Mexico

Correction

In rule document 91-17505 beginning on page 33883 in the issue of Wednesday, July 24, 1991, make the following correction:

On page 33883, in the second column, in the fourth line, the **EFFECTIVE DATE** "August 23, 1991" should read "August 19, 1991".

BILLING CODE 1505-01-D

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 901231-1134]

Taking and Importing of Marine Mammals Incidental to Commercial Fishing Operations

Correction

In notice document 91-13877 appearing on page 26995 in the issue of Wednesday, June 12, 1991, make the following corrections:

On the same page in the third column, in the first full paragraph a portion of the text was omitted and should read as set forth below:

On March 25, 1991, (56 FR 12367), NMFS published notification in the **Federal Register** of the effective dates and the scope of the intermediary nation provisions that apply under section 101(a)(2)(C) of the Marine Mammal Protection Act. That notification specified that NMFS will adhere to the terms of the court-ordered embargo with respect to any measures applied to intermediary nations and, therefore, will request the U.S. Customs Service to require declarations from importers stating that imports of yellowfin tuna and products derived from yellowfin tuna are not harvested with purse seines in the ETP by the embargoed harvesting nation.

The countries of Costa Rica, France, Italy, Japan and Panama are believed to have recently imported yellowfin tuna or tuna products from Mexico. Importers are hereby notified that imports of yellowfin tuna or tuna products from these five nations must be accompanied by a statement declaring that the imported merchandise was not harvested with purse seines in the ETP by Mexican vessels. This declaration is in addition to the Yellowfin Tuna Certificate of Origin, SF370-1, also required at the time of entry.

BILLING CODE 1505-01-D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TQ91-4-21-001]

Columbia Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

Correction

In notice document 91-17630 appearing on page 34060 in the issue of Thursday, July 25, 1991, make the following correction:

On the same page, in the first column, the Docket Number was omitted from the heading and should read as shown above.

BILLING CODE 1505-01-D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP91-196-000]

Florida Gas Transmission Co.; Petition for Limited Waiver

Correction

In notice document 91-17631 beginning on page 34060 in the issue of Thursday, July 25, 1991, make the following correction:

On the same page, in the third column, the Docket Number was omitted from the heading and should read as shown above.

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 91N-0280]

Drug Export; Human T-Lymphotropic Virus Type 1 (HTLV-1)

Correction

In notice document 91-17822 beginning on page 34205 in the issue of Friday, July 26, 1991, make the following correction:

On the same page, in the third column a portion of the subject heading was incorrect and should read as shown above.

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ-930-01-4214-11; A-9708]

Expiration of Withdrawal and Opening of Land; Arizona; Correction

Correction

In notice document 91-16587 appearing on page 31961, in the issue of Friday, July 12, 1991, in the third column, in the last line, "NE½". should read, "NE¼".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT-930-4214-10; NDM 79193]

Proposed Withdrawal and Opportunity for Public Meeting; North Dakota

Correction

In notice document 91-15719 beginning on page 30399, in the issue of Tuesday, July 2, 1991, make the following corrections:

1. On page 30399, in the first column, the docket number should read as set forth above.

2. On the same page, in the same column, in the **SUMMARY,** in the second line, "4,988,84" should read "4,988.84".

3. On the same page, in the second column, in the land description, under T.134 N.,R. 69 W., in the first line, after "SW¼;" remove the ".".

4. On the same page, in the same column, in the land description, under T.135 N., R. 69 W., in the first line, after "NE¼" insert a ".".

5. On the same page, in the third column, in the land description, under T. 159 N., R. 100 W., in the first line, after "SW¼" insert a ",".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Airspace Docket No. 90-AWP-14]

Consolidation of Restricted Areas R-3104A and R-3104B Island of Kahoolawe, HI

Correction

In rule document 91-15959 beginning on page 30685, in the issue of Friday, July 5, 1991, make the following correction:

§ 73.31 [Corrected]

On page 30686, in the first column, in § 73.31, in the next to last paragraph, in the second line, "Monday and Friday" should read "Monday to Friday".

BILLING CODE 1505-01-D

federal register

Wednesday
August 7, 1991

Part II

Environmental Protection Agency

Pesticide Reregistration; Outstanding Data Requirements for Certain List B Active Ingredients (Second Notice)

ENVIRONMENTAL PROTECTION AGENCY

[OPP-34015; FRL 3930-6]

Pesticide Reregistration; Outstanding Data Requirements for Certain List B Active Ingredients (Second Notice)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended in 1988 establishes a five-phase process for the reregistration of pesticide products containing active ingredients "contained in any pesticide first registered before November 1, 1984." During Phase 1 the Environmental Protection Agency (the Agency) divided the active ingredients subject to reregistration into four lists; List B was published in the **Federal Register** (54 FR 22706) on May 25, 1989. FIFRA requires the Administrator during Phase 4 of reregistration to publish the outstanding data requirements identified for those active ingredients being supported for reregistration. The Agency published in the **Federal Register** (56 FR 6849) on February 20, 1991 the first 10 active ingredients on List B and their outstanding data requirements. This second Notice now lists the outstanding data requirements for 30 more active ingredients on List B. The remaining ones will be addressed in one or more additional notices to be published in the next several months.

FOR FURTHER INFORMATION CONTACT: By mail, Denise Greenway, Special Review and Reregistration Division (H-7508W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, Crystal Station 1, 2800 Crystal Drive, Arlington, VA 22202. Telephone No. (703) 308-8179.

SUPPLEMENTARY INFORMATION: This Notice identifies, pursuant to FIFRA section 4(f)(1)(B), the outstanding data requirements needed for reregistration of certain of the active ingredients on List B. That section also calls for the separate issuance of Data Call-In notices to registrants to obtain information satisfying these data requirements. The Agency has recently issued such Data Call-In notices to the appropriate registrants.

This SUPPLEMENTARY INFORMATION is divided into four units. Unit I provides background information on pesticide reregistration. Unit II discusses the requirements of section 4(f)(1)(B). Unit III describes the process used by the Agency in identifying outstanding data requirements. It also contains a table of the outstanding data requirements for each active ingredient. Unit IV describes the Data Call-In notices that have been issued to obtain data to satisfy the data requirements identified in this Notice.

I. Background

Section 4 of FIFRA as amended in 1988 required the Agency to conduct pesticide reregistration of older pesticides in five phases. In Phase 1, the Agency published Lists A, B, C, and D of pesticide active ingredients subject to reregistration. For Lists B, C, and D in Phase 2, registrants seeking reregistration had to identify for the Agency any data requirements which registrants believe would apply to their active ingredients, and indicate the ones that they thought were now satisfied. For those that were not satisfied, registrants had to indicate how they would fulfill the remaining data requirements necessary for the reregistration of their products. In Phase 3, these registrants summarized and in some cases reformatted studies that they believed were adequate and that they had previously submitted to the Agency. In Phase 4, the Agency is directed to review the materials submitted by registrants in Phases 2 and 3, and to identify the outstanding data requirements that need to be fulfilled in order for the Agency to determine whether or not pesticides containing particular active ingredients are eligible for reregistration. The Agency is further directed to issue Data Call-In notices to obtain data to satisfy these outstanding requirements. Finally, in Phase 5, the Agency must review the data submitted by registrants; determine whether pesticides containing particular active ingredients are eligible for reregistration; obtain product-specific information needed to determine whether particular products should be reregistered; and make final determinations on whether such products should be reregistered. The final determination on reregistration is to be based on whether a pesticide meets the standards of FIFRA section 3(c)(5), which prescribes the standards for initial registration of pesticides. If the Administrator determines that a pesticide should not be reregistered, section 4 directs the Administrator to take appropriate regulatory action.

Pursuant to FIFRA section 4(c)(2)(B) the Agency published in the **Federal Register** on May 25, 1989, a list of 229 chemicals (in 149 review cases) constituting List B of reregistration. The Agency then sent guidance on how to comply with Phase 2 of reregistration to all registrants of pesticides containing active ingredients on List B. Registrants were required by August 25, 1989, to inform EPA of their intent to seek or not to seek reregistration, to identify data requirements they believe applied to their active ingredients in their products, to identify the data requirements for which they have already submitted adequate data, and to commit to replace missing or inadequate data concerning the List B active ingredients contained in their products.

To assist registrants in complying with Phase 3, the Agency issued on December 24, 1989 the FIFRA Accelerated Reregistration —Phase 3 Technical Guidance (EPA No. 540/09-90-078). This document provides detailed instructions on: (i) Summarizing studies, (ii) reformatting studies, (iii) identifying adverse information, and (iv) identifying previously submitted studies that may not fully satisfy current requirements. To meet the requirements for Phase 3, registrants were required to submit summaries of previously submitted studies that they wished to rely on for reregistration. Additionally, for studies submitted prior to January 1, 1982, registrants had to submit a reformatted version of the study, if data were for certain toxicological and residue chemistry guidelines. Registrants were to certify that the raw data for the previously submitted studies were either in their possession, or in the possession of the Agency, or were readily accessible elsewhere. Registrants were to identify and submit any data considered under section 6(a)(2) to show an adverse effect of the pesticide. Also, registrants were to identify any other information they considered to be supportive of registration. And registrants had to commit to fill any new data gaps identified by them. FIFRA required that these actions be completed by registrants of products containing List B chemicals by May 25, 1990.

In Phase 4, the Agency has been conducting a review of the adequacy of the data submitted by registrants for active ingredients on List B during Phases 2 and 3 and in compliance with any Data Call-In notices previously issued under section 3(c)(2)(B) of FIFRA. The purpose of the Agency's review was to systematically identify all data requirements for active ingredients that, based on information available to the Agency at this time, are necessary for a determination of eligibility for reregistration. For many active ingredients, registrants may have already committed to meet some of those requirements but have not yet submitted the results of their studies to

the Agency. The Agency completed its review of the first 10 List B active ingredients and published their outstanding data requirements in the **Federal Register** on February 20, 1991. Concurrently, to effect the submission of those data for which commitments have not yet been made, the Agency issued Data Call-In notices to affected registrants for the additional data required by the Agency. This Notice identifies the outstanding data requirements for 30 additional active ingredients on List B that were reviewed more recently. It includes any new data requirements identified that are the subject of Data Call-In notices being sent to affected registrants, as well as any other prior commitments of unfulfilled data requirements. Collection of this information is authorized under the Paperwork Reduction Act by the Office of Management and Budget under OMB Control No. 2070-0107.

II. Outstanding Data Requirements

Section 4 (f)(1)(B) of FIFRA requires the Agency to publish this Notice of outstanding data requirements for each active ingredient on Reregistration List B. The Agency has been conducting a review of the information provided on all List B submissions on record for data adequacy and completeness, and has identified in this followup Notice a partial list of those chemicals with outstanding data requirements. Section 2(ff) of FIFRA defines outstanding data requirements as "a requirement for any study, information, or data that is necessary to make a determination under section 3(c)(5) and which study, information, or data — (A) has not been submitted to the Administrator; or (B) if submitted to the Administrator, the Administrator has determined must be resubmitted because it is not valid, complete, or adequate to make a determination under section 3(c)(5) and the regulations and guidelines issued under such section."

For purposes of the **Federal Register** notice, outstanding data requirements include all requirements identified by the Agency which have yet to be satisfied at the active ingredient level, before or pursuant to Phases 2, 3, and 4 of reregistration. If registrants committed during Phases 2 and 3 or pursuant to prior actions to submit data to fulfill certain data requirements, and the data have not yet been submitted, the Agency is identifying them as outstanding. Upon review of the completed studies submitted either in response to earlier Data Call-In notices or as part of the reregistration process, the Agency may need to call in some additional studies before a final determination on reregistration can be made.

As in the previous **Federal Register** notice, the following Table 1 provides a complete listing of the Guideline Reference Numbers (GRN) and corresponding titles for the data requirements referred to in this Notice.

TABLE 1.— STUDY TITLES AND GUIDELINE REFERENCE NUMBERS OF REREGISTRATION DATA REQUIREMENTS

Guideline Reference No.	Test of Study
61-1	Product Identification and Disclosure of Ingredients[1]
61-2(a)	Description of Beginning Materials and Manufacturing Process[2]
61-2(b)	Discussion of Formation of Impurities[3]
62-1	Preliminary Analysis[4]
62-2	Certification of Limits[5]
62-3	Analytical Methods to Verify Certified Limits[6]
Physical and Chemical Characteristics[7]	
63-2	Color
63-3	Physical State
63-4	Odor
63-5	Melting Point
63-6	Boiling Point
63-7	Density, Bulk Density, or Specific Gravity
63-8	Solubility
63-9	Vapor Pressure
63-10	Dissociation Constant
63-11	Octanol/Water Partition Coefficient
63-12	pH
63-13	Stability
63-14	Oxidizing or Reducing Action
63-15	Flammability
63-16	Explodability
63-17	Storage Stability
63-18	Viscosity
63-19	Miscibility
63-20	Corrosion Characteristics
63-21	Dielectric Breakdown Voltage
64-1	Submittal of Samples
Wildlife and Aquatic Organisms Data Requirements[8]	
71-1(a)	Acute Avian Oral Toxicity (LD50) in Bobwhite Quail or Mallard Duck
71-1(b)	Acute Avian Oral Toxicity (LD50) in Bobwhite Quail or Mallard Duck (Using Typical End-Use Product)
71-2(a)	Acute Avian Dietary Toxicity (LC50) in Bobwhite Quail
71-2(b)	Acute Avian Dietary Toxicity (LC50) in Mallard Duck
71-3	Wild Mammal Toxicity Test
71-4(a)	Avian Reproductive Toxicity in Bobwhite Quail
71-4(b)	Avian Reproductive Toxicity in Mallard Duck
71-5(a)	Simulated Terrestrial Field Study
71-5(b)	Actual Terrestrial Field Study
72-1(a)	Fish Toxicity in Bluegill Sunfish
72-1(b)	Fish Toxicity in Bluegill Sunfish (Using Typical End-Use Product)
72-1(c)	Fish Toxicity in Rainbow Trout

TABLE 1.— STUDY TITLES AND GUIDELINE REFERENCE NUMBERS OF REREGISTRATION DATA REQUIREMENTS—Continued

Guideline Reference No.	Test of Study
72-1(d)	Fish Toxicity in Rainbow Trout (Using Typical End- Use Product)
72-2(a)	Invertebrate Toxicity Freshwater LC50 (*Daphnia* Preferred)
72-2(b)	Invertebrate Toxicity Freshwater LC50 (*Daphnia* Preferred-Using Typical End-Use Product)
72-3(a)	Toxicity to Estuarine and Marine Organisms (in Fish)
72-3(b)	Toxicity to Estuarine and Marine Organisms (in Mollusks)
72-3(c)	Toxicity to Estuarine and Marine Organisms (in Shrimp)
72-3(d)	Toxicity to Estuarine and Marine Organisms (in Fish - Using Typical End-Use Product)
72-3(e)	Toxicity to Estuarine and Marine Organisms (in Mollusks - Using Typical End-Use Product)
72-3(f)	Toxicity to Estuarine and Marine Organisms (in Shrimp - Using Typical End-Use Product)
72-4(a)	Early Life Stage in Fish
72-4(b)	Life Cycle in Aquatic Invertebrates (*Daphnia*/Mysid)
72-5	Fish Life Cycle Study
72-6	Aquatic Organism Accumulation Study
72-7(a)	Simulated Field Tests for Aquatic Organisms
72-7(b)	Actual Field Tests for Aquatic Organisms
Toxicology Data Requirements[9]	
81-1	Acute Oral Toxicity in the Rat
81-2	Acute Dermal Toxicity
81-3	Acute Inhalation Toxicity in the Rat
81-4	Primary Eye Irritation in the Rabbit
81-5	Primary Dermal Irritation
81-6	Dermal Sensitization
81-7	Acute Delayed Neurotoxicity in the Hen
82-1(a)	90-Day Feeding Study in the Rodent
82-1(b)	90-Day Feeding Study in the Non-Rodent
82-2	21-Day Dermal
82-3	90-Day Subchronic Dermal
82-4	90-Day Inhalation in Rat
82-5(a)	90-Day Neurotoxicity in Hen
82-5(b)	90-Day Neurotoxicity in the Mammal (Rat Preferred)
83-1(a)	Chronic Feeding Study in the Rodent
83-1(b)	Chronic Feeding Study in the Non-Rodent
83-2(a)	Oncogenicity Study in the Rat
83-2(b)	Oncogenicity Study in the Mouse
83-3(a)	Teratogenicity in the Rat
83-3(b)	Teratogenicity in the Rabbit
83-4	2-Generation Reproduction Study in the Rat
83-5	Chronic Feeding/Oncogenicity in the Rat
84-2(a)	Gene Mutation
84-2(b)	Structural Chromosome Aberration
84-4	Other Genotoxic Effects
85-1	General Metabolism
85-2	Dermal Penetration
86-1	Domestic Animal Safety
Plant Protection Data Requirements[10]	
Tier 1	
122-1(a)	Seed Germination and Seedling Emergence
122-1(b)	Vegetative Vigor
122-2	Aquatic Plant Growth
Tier 2	
123-1(a)	Seed Germination and Seedling Emergence
123-1(b)	Vegetative Vigor
123-2	Aquatic Plant Growth
Tier 3	
124-1	Terrestrial Field
124-2	Aquatic Field
Reentry Protection Data Requirements[11]	
132-1(a)	Foliar Residue Dissipation
132-1(b)	Soil Residue Dissipation
133-3	Dermal Passive Dosimetry Exposure
133-4	Inhalation Passive Dosimetry Exposure
Non-Target Insect Data Requirements[12]	
141-1	Honey Bee Acute Contact (LD50)
141-2	Honey Bee Toxicity of Residues on Foliage
141-5	Field Testing for Pollinators
Biochemical Pesticides Data Requirements[13]	
(a) Product Analysis Data Requirements	
151-10	Product Identity
151-11	Manufacturing Process
151-12	Discussion of Formation of Unintentional Ingredients
151-13	Analysis of Samples
151-15	Certification of Limits

TABLE 1.— STUDY TITLES AND GUIDELINE REFERENCE NUMBERS OF REREGISTRATION DATA REQUIREMENTS—Continued

Guideline Reference No.	Test of Study
151-16	Analytical Methods
151-17(a)	Color
151-17(b)	Physical State
151-17(c)	Odor
151-17(d)	Melting Point
151-17(e)	Boiling Point
151-17(f)	Density, Bulk Density, Specific Gravity
151-17(g)	Solubility
151-17(h)	Vapor Pressure
151-17(i)	pH
151-17(j)	Stability
151-17(k)	Flammability
151-17(l)	Storage Stability
151-17(m)	Viscosity
151-17(n)	Miscibility
151-17(o)	Corrosion Characteristics
151-17(p)	Octanol/Water Partition Coefficient
151-18	Submittal of Samples
(b) Residue Data Requirements	
153-3(a)	Chemical Identity
153-3(b)	Directions for Use
153-3(c)	Nature of the Residue (plants)
153-3(d)	Nature of the Residue (livestock)
153-3(e)	Residue Analytical Method
153-3(f)	Magnitude of the Residue (crop field trials)
153-3(g)	Magnitude of the Residue (processed food/feed)
153-3(h)	Magnitude of the Residue (meat/milk/poultry/eggs)
153-3(i)	Magnitude of the Residue (potable water)
153-3(j)	Magnitude of the Residue (fish)
153-3(k)	Magnitude of the Residue (irrigated crops)
153-3(l)	Magnitude of the Residue (food handling)
153-3(m)	Reduction of Residue
153-3(n)	Proposed Tolerance
153-3(o)	Reasonable Grounds in Support of the Petition
(c) Toxicology Data Requirements	
Tier 1	
152-10	Acute Oral Toxicity
152-11	Acute Dermal Toxicity
152-12	Acute Inhalation
152-13	Primary Eye Irritation
152-14	Primary Dermal Irritation
152-15	Hypersensitivity Study
152-16	Hypersensitivity Incidents
152-17	Studies to Detect Genotoxicity
152-18	Immunotoxicity
152-20	90-Day Feeding
152-21	90-Day Dermal
152-22	90-Day Inhalation
152-23	Teratogenicity
Tier II	
152-19	Mammalian Mutagenicity Tests
152-24	Immune Response
Tier III	
152-26	Chronic Exposure
152-29	Oncogenicity
(d) Nontarget Organism, Fate and Expression Data Requirements	
Tier I	
154-6	Avian Acute Oral
154-7	Avian Dietary
154-8	Freshwater Fish LC50
154-9	Freshwater Invertebrate LC50
154-10	Nontarget Plant Studies
154-11	Nontarget Insect Testing
Tier II	
155-4(a)	Volatility Study (Lab)
155-4(b)	Volatility Study (Field)
155-5	Dispenser-Water Leaching
155-6	Adsorption-Desorption
155-7	Octanol-Water Partition
155-8	U.V. Absorption
155-9	Hydrolysis
155-10	Aerobic Soil Metabolism
155-11	Aerobic Aquatic Metabolism
155-12	Soil Photolysis
155-13	Aquatic Photolysis
Tier III	
154-12	Terrestrial Wildlife Testing

TABLE 1.— STUDY TITLES AND GUIDELINE REFERENCE NUMBERS OF REREGISTRATION DATA REQUIREMENTS—Continued

Guideline Reference No.	Test of Study
154-13	Aquatic Animal Testing
154-14	Nontarget Plant Studies
154-15	Nontarget Insect Testing
Environmental Fate Data Requirements[14]	
160-5	Chemical Identity (See also 61-1)
161-1	Hydrolysis
161-2	Photodegradation in Water
161-3	Photodegradation on Soil
161-4	Photodegradation in Air
162-1	Aerobic Soil Metabolism Study
162-2	Anaerobic Soil Metabolism Study
162-3	Anaerobic Aquatic Metabolism Study
162-4	Aerobic Aquatic Metabolism Study
163-1	Leaching and Adsorption/Desorption
163-2	Laboratory Volatility Study
163-3	Field Volatility Study
164-1	Soil Field Dissipation Study
164-2	Aquatic Sediment Field Dissipation Study
164-3	Forestry Field Dissipation Study
164-4	Combinations and Tank Mixes
164-5	Long Term Soil Dissipation Study
165-1	Confined Rotational Crop Study
165-2	Field Rotational Crop Study
165-3	Accumulation in Irrigated Crops
165-4	Accumulation in Fish
165-5	Accumulation in Aquatic Non-Target Organisms
Groundwater Studies Data Requirements[15]	
166-1	Small Scale Prospective Groundwater Monitoring Study
166-2	Small Scale Retrospective Groundwater Monitoring Study
166-3	Large Scale Retrospective Groundwater Monitoring Study
Residual Chemistry Data Requirements[16]	
171-2	Chemical Identity
171-3	Directions For Use
171-4(a)	Nature of Residue in Plants
171-4(b)	Nature of Residue in Livestock
171-4(c)	Residue Analytical Method (Plants)
171-4(d)	Residue Analytical Method (Animals)
171-4(e)	Storage Stability
171-4(f)	Magnitude of the Residue in Potable Water
171-4(g)	Magnitude of the Residue in Fish
171-4(h)	Magnitude of the Residue in Irrigated Crops
171-4(i)	Magnitude of the Residue in Food Handling
171-4(j)	Magnitude of the Residue in Meat/Milk/Poultry/Eggs (Feeding/Dermal Treatment)
171-4(k)	Crop Field Trials
171-4(l)	Magnitude of the Residue in Processed Food/Feed
171-5	Reduction of Residues
171-6	Proposed Tolerance
171-7	Reasonable Grounds in Support of Petition
171-13	Analytical Reference Standard
Spray Drift Data Requirements[17]	
201-1	Droplet Size Spectrum
202-1	Drift Field Evaluation

[1] 40 CFR 158.155: Product Composition; Subdivision D, Product Chemistry: NTIS PB83-153890; Addendum 1, NTIS PB88-191705

[2] 40 CFR 158.160: Description of Materials Used to Produce the Product; 40 CFR 158.162: Description of Production Process; 40 CFR 158.165: Description of Formulation Process; Subdivision D, Product Chemistry: NTIS PB83-153890; Addendum 1, NTIS PB88-1917O5.

[3] 40 CFR 158.167: Discussion of Formation of Impurities; Subdivision D, Product Chemistry: NTIS PB83-153890; Addendum 1, NTIS PB88-191705.

[4] 40 CFR 158.170: Preliminary Analysis; Subdivision D, Product Chemistry: NTIS PB 83-153890; Addendum 1, NTIS PB88-191705.

[5] 40 CFR 158.175: Certified Limits; Subdivision D, Product Chemistry: NTIS PB83-153890; Addendum 1, NTIS PB88-191705.

[6] 40 CFR 158.180: Enforcement Analytical Method; Subdivision D, Product Chemistry: NTIS PB83-153890; Addendum 1, NTIS PB88-191705.

[7] 40 CFR 158.190: Physical and Chemical Characteristics; Subdivision D, Product Chemistry: NTIS PB83-153890; Addendum 1, NTIS PB88-191705.

[8] 40 CFR 158.490; Subdivision E, Hazard Evaluation: Wildlife and Aquatic Organisms, NTIS PB83-153908; Addendum 1, NTIS PB86-248176; Addendum 2, PB87-207700; Addendum 3, NTIS PB88-117288.

[9] 40 CFR 158.340; Subdivision F, Hazard Evaluation: Human and Domestic Animals, NTIS PB83-153916 (old); NTIS PB86-108958 (revised); Addendum 1, NTIS PB86-248184; Addendum 2, NTIS PB88-162292; Addendum 3, NTIS PB88-161179; Addendum 4, NTIS PB88-162227; Addendum 5, NTIS PB88-162219; Addendum 6, NTIS PB89-124077; Addendum 7, NTIS PB89-124085; Position Document, Maximum Tolerated Dose, NTIS PB88-116736.

[10] 40 CFR 158.540; Subdivision J, Hazard Evaluation: Non-Target Plants, NTIS PB83-153940.

[11] 40 CFR 158.390: Exposure; Subdivision K, Reentry Protection: NTIS PB83-153940.

[12] 40 CFR 158.590; Subdivision L, Hazard Evaluation: Non-Target Insect, NTIS PB83-153957; Addendum 1, NTIS PB88-117296.

[13] 40 CFR 158.690: Biochemical Pesticides Data Requirements; Subdivision M, Biorational Pesticides: NTIS PB83-153965.

[14] 40 CFR 158.290; Subdivision N, Chemistry: Environmental Fate, NTIS PB83-153973; Addendum 1, NTIS PB86-247848; Addendum 2, NTIS PB87-208393; Addendum 3, NTIS PB88-159892; Addendum 4, NTIS PB88-159900; Addendum 5, NTIS PB88-161187; Addendum 6, NTIS PB88-161195; Addendum 7, NTIS PB88-191721; Addendum 8, NTIS PB88-191739.

[15] Pesticide Assessment Guidelines for groundwater studies are being developed; for further information, contact EPA's Office of Pesticide Programs. Environmental Fate and Effects Division, Environmental Fate and Groundwater Branch.

[16] 40 CFR 158.240; Subdivision O, Residue Chemistry: NTIS PB83-153961; Addendum 1, NTIS PB86-203734; Addendum 2, NTIS PB86-248192; Addendum 3, NTIS PB87-208641; Addendum 4, NTIS PB88-117270; Addendum 5, NTIS PB88-124003; Addendum 6, NTIS PB88-191713; Addendum 7, NTIS PB89-124598; Addendum 8, NTIS PB89-124606.

[17] 40 CFR 158.440; Subdivision R, Pesticide Spray Drift Evaluation: NTIS PB84-189216.

For further information and descriptions regarding specific data requirements, criteria for testing, and general guidance on data acceptability, consult the FIFRA Accelerated Reregistration—Phase 3 Technical Guidance document (December 24, 1989), and the Pesticide Assessment Guidelines available from the National Technical Information Service (NTIS), Attn: Order Desk, 5285 Port Royal Road, Springfield, VA 22161 (Tel: 703-487-4650).

III. Partial Listing of List B Active Ingredients Outstanding Data Requirements

The pesticide reregistration effort under section 4 has proved to be a monumental undertaking requiring significant effort and resources from both the Agency and the pesticide industry. The Agency received approximately 200 List B Phase 3 submissions for review of data requirements under Phase 4. The amount of data submitted by registrants was voluminous, and differed widely by active ingredient, the number of registrants supporting an ingredient, and the number and type of summaries and reformatted studies. In total this group of submissions contained some 5000 summaries, reformatted studies, and complete studies, and a similar number of study waiver requests that had to be reviewed and acted upon by the Agency.

For a variety of reasons EPA's issuance of the reregistration data requirements for active ingredients on List B was delayed beyond the statutory deadline of October 24, 1990. To fulfill its commitments in Phase 4 the Agency decided to publish a series of **Federal Register** notices and issue Data Call-In notices for groups of active ingredients as their outstanding data requirements are identified. The first **Federal Register** notice which contained 10 List B active ingredients and their outstanding data requirements was published on February 20, 1991. This second Notice contains 30 additional active ingredients and their unfulfilled data requirements.

The 149 List B cases involving 229 active ingredients, originally published in the **Federal Register** in May 1989, have been reduced to 105 cases and 141 active ingredients as of this date. Of these, 130 active ingredients in 102 cases are presently on the Phase 4 reregistration schedule. An additional 11 active ingredients in 7 cases previously unsupported in Phase 2 are now supported, and will be on a later reregistration schedule. Products containing the 88 unsupported active ingredients have been cancelled.

The following Table 2 contains 30 List B active ingredients with data requirements that are unfulfilled by registrants at this time.

TABLE 2.—OUTSTANDING DATA REQUIREMENTS FOR LIST B ACTIVE INGREDIENTS

Case No.	Chemical No.	Chemical Name	Outstanding Data Requirements(By Guideline No.)
2005	000701	Acrolein	61-1, 61-2(a), 61-2(b), 62-1, 62-2, 62-3, 63-8, 71-1(a), 72-1(a), 72-1(c), 72-2(a), 72-3(a), 72-3(b), 72-3(c), 72-4(a), 72-4(b), 72-5, 81-6, 83-4, 84-4, 85-1, 123-2, 161-2, 162-3, 162-4, 163-1, 164-2, 171-2, 171-4(a), 171-4(b), 171-4(c), 171-4(d), 171-4(e), 171-4(f), 171-4(g), 171-4(h), 233-x*, 234-x*
2030	084301	Butyl-*N*-ethyl-a,a,a-trifluoro-2,6-dinitro-*p*-toluidine	61-1, 61-2(a), 61-2(b), 62-1, 62-2, 62-3, 63-9, 63-11, 71-4(a), 71-4(b), 72-1(b), 72-1(d), 72-2(a), 72-2(b), 82-1(b), 82-2, 83-1(a), 83-1(b), 83-2(a), 83-3(b), 83-4, 122-1(b), 160-5, 161-1, 162-3, 164-1, 165-1, 171-2, 171-4(a), 171-4(b), 171-4(c), 171-4(e), 171-4(k), 171-4(l), 201-1, 202-1
2035	009801	*S*-(*O,O*-Diisopropyl phosphorodithioate) ester of *N*-(2-mercaptoethyl)benzenesulfonamide.	61-1, 63-7, 71-4(a), 71-4(b), 72-3(a), 72-3(b), 72-3(c), 81-7, 81-8*, 82-7, 82-2, 82-5(b), 83-1(a), 83-1(b), 83-2(a), 83-2(b), 83-3(b), 83-4, 84-2(b), 84-4, 85-1, 85-4*, 161-3, 163-1, 164-1, 165-1, 165-4, 171-4(a), 171-4(b), 171-4(c), 171-4(e), 171-4(k), 201-1, 202-1
2100	067707	2-((*p*-Chlorophenyl)phenylacetyl)-1,3-indandione	62-1, 62-2, 63-8, 63-9, 63-10, 63-11, 63-12, 71-3, 72-1(a), 72-1(c), 72-2(a), 81-1, 81-4, 82-1(a), 82-4, 83-4, 84-4, 132-1(a), 133-3, 133-4, 162-4, 163-2, 164-2, 164-3, 164-5, 165-1, 165-3, 165-4
2125	041301	*S*-ethyl *N*-ethylcyclohexanecarbamothioate	71-2(b), 71-4(a), 71-4(b), 82-2, 83-2(b), 83-3(b), 85-1, 161-2, 162-2, 162-3, 163-1, 163-2, 165-1, 165-4, 171-4(a), 171-4(b), 171-4(d), 171-4(j), 171-4(k), 171-4(l)
2145	074801	*S,S,S*-Tributyl phosphorotrithioate	72-2(b), 72-3(a), 72-3(b), 72-3(c), 81-1, 81-2, 81-3, 81-5, 82-2, 82-4, 82-5(a), 83-1(a), 83-1(b), 83-2(a), 83-4, 85-1, 85-2, 132-1(a), 133-3, 133-4, 162-1, 162-2, 162-3, 164-1, 165-4, 171-4(a), 171-4(b), 171-4(c), 171-4(d), 171-4(e), 171-4(j), 171-4(k), 171-4(l), 201-1, 202-1, 231-x*, 232-x*

TABLE 2.—OUTSTANDING DATA REQUIREMENTS FOR LIST B ACTIVE INGREDIENTS—Continued

Case No.	Chemical No.	Chemical Name	Outstanding Data Requirements(By Guideline No.)
2160	110902	Methyl 2-(4-(2,4-dichlorophenoxy)phenoxy) propanoate	62-1, 63-8, 63-10, 63-13, 71-4(a), 71-4(b), 72-4(a), 72-5, 81-4, 83-2(a), 83-4, 85-2, 132-1(a), 133-3, 133-4, 163-1, 164-1, 165-1, 165-4, 171-4(a), 171-4(b), 171-4(c), 171-4(d), 171-4(e), 171-4(j), 171-4(k), 171-4(l)
2375	109101	*N,N*-Dimethylpiperidinium chloride	61-1, 61-2(a), 61-2(b), 62-1, 62-2, 62-3, 63-11, 72-1(a), 72-1(c), 72-2(a), 81-3, 82-1(a), 83-1(a), 83-2(a), 83-2(b), 83-4, 122-1(b), 161-3, 162-2, 164-1, 165-1, 171-4(a), 171-4(b), 171-4(d), 171-4(e), 171-4(j), 171-4(k), 171-4(l), 201-1, 202-1
2380	051704	Sodium 2-mercaptobenzothiazolate	61-2(a), 61-2(b), 62-1, 63-5, 63-13, 71-1(a), 71-2(a), 72-1(c), 72-2(a), 82-1(a), 82-3, 83-1(a), 83-2(a), 83-2(b), 83-3(b), 83-4, 85-1, 85-2
2380	051705	Zinc 2-mercaptobenzothiazolate	61-2(a), 61-2(b), 62-3, 63-13, 71-1(a), 71-2(a), 72-1(c), 72-2(a), 82-1(a), 82-3, 83-3(a), 84-2(a), 84-2(b), 84-4
2395	013802	Disodium methanearsonate	61-1, 61-2(a), 61-2(b), 62-1, 62-2, 62-3, 63-5, 63-6, 63-7, 63-10, 63-11, 63-12, 63-13, 71-1(a), 71-2(a), 71-2(b), 72-1(a), 72-1(c), 72-2(a), 72-3(a), 72-3(b), 72-3(c), 81-1, 81-2, 81-3, 81-4, 81-5, 81-6, 82-1(b), 82-2, 83-2(b), 83-3(a), 83-4, 85-1, 123-1(a), 123-1(b), 123-2, 132-1(a), 133-3, 133-4, 141-1, 160-5, 161-1, 161-2, 161-3, 162-1, 162-3, 162-4, 164-1, 164-2, 164-3, 165-1, 165-3, 171-2, 171-4(a), 171-4(b), 171-4(c), 171-4(d), 171-4(e), 171-4(j), 171-4(k), 171-4(l), 201-1, 202-1, 231-x*, 232-x*
2395	013803	Monosodium methanearsonate	61-1, 61-2(a), 61-2(b), 62-2, 62-3, 63-2, 63-3, 63-4, 63-5, 63-6, 63-7, 63-8, 63-9, 63-11, 63-12, 63-13, 72-2(a), 72-3(a), 72-3(b), 72-3(c), 81-1, 81-2, 81-3, 81-4, 81-5, 81-6, 82-2, 83-1(b), 83-2(b), 83-3(a), 83-4, 85-1, 132-1(a), 132-1(b), 133-3, 133-4, 161-1, 161-2, 161-3, 162-1, 162-2, 162-3, 162-4, 164-1, 164-2, 164-3, 165-1, 165-3, 165-4, 171-4(a), 171-4(b), 171-4(c), 171-4(d), 171-4(e), 171-4(j), 171-4(k), 171-4(l), 201-1, 202-1, 231-x*, 232-x*
2395	013806	Calcium methanearsonate	61-1, 61-2(a), 61-2(b), 62-1, 62-2, 62-3, 63-2, 63-3, 63-4, 63-5, 63-6, 63-7, 63-8, 63-9, 63-10, 63-11, 63-12, 63-13, 71-1(a), 71-2(a), 71-2(b), 72-1(a), 72-1(c), 72-2(a), 81-1, 81-2, 81-3, 81-4, 81-5, 81-6, 82-2, 83-1(a), 83-1(b), 83-2(a), 83-2(b) 83-3(a), 85-1, 123-1(a), 123-1(b), 123-2, 132-1(a), 133-3, 133-4, 141-1, 160-5, 161-1, 161-2, 161-3, 162-1, 162-2, 162-3, 162-4, 164-1, 164-2, 164-3, 165-1, 165-4, 171-2, 171-4(a), 171-4(b), 171-4(c), 171-4(d), 171-4(e), 171-4(j), 201-1, 202-1, 231-x*, 232-x*
2400	106001	2-(3,4-Dichlorophenyl)-4-methyl-1,2,4-oxadiazolidine-3,5-dione	61-1, 61-2(a), 61-2(b), 62-1, 62-2, 62-3, 63-2, 63-3, 63-8, 63-9, 63-10, 63-11, 63-13, 72-3(a), 72-3(b), 72-3(c), 81-3, 83-1(a), 83-2(a), 83-3(a), 83-3(b), 83-4, 84-2(b), 160-5, 161-2, 161-3, 162-1, 162-3, 164-1, 165-1, 171-2, 171-4(a), 171-4(b), 171-4(c), 171-4(d), 171-4(e), 171-4(j), 171-4(k), 171-4(l), 201-1, 202-1
2450	103001	*N,N*-Diethyl-2-(1-naphthalenyloxy)propionamide	63-8, 71-4(a), 71-4(b), 81-3, 82-2, 83-1(a), 83-2(a), 83-2(b), 83-3(a), 83-3(b),

TABLE 2.—OUTSTANDING DATA REQUIREMENTS FOR LIST B ACTIVE INGREDIENTS—Continued

Case No.	Chemical No.	Chemical Name	Outstanding Data Requirements(By Guideline No.)
		.....	85-1, 161-1, 161-3, 162-1, 162-2, 162-3, 165-1, 165-2, 171-4(a), 171-4(b), 171-4(d), 171-4(e), 171-4(j), 171-4(k), 171-4(l)
2460	056702	Nicotine	63-2, 63-3, 63-4, 63-5, 63-6, 63-7, 63-8, 63-9, 63-10, 63-11, 63-12, 63-13, 71-1(a), 71-2(a), 72-1(c), 72-2(a), 81-2, 81-3, 81-4, 82-1(a), 82-1(b), 82-2, 83-3(a), 84-2(a), 84-2(b), 84-4, 132-1(a), 132-1(b), 133-3, 133-4, 161-1, 162-1, 163-1, 163-2, 171-4(a), 171-4(b), 171-4(c), 171-4(d), 171-4(e), 171-4(j), 171-4(k), 171-4(l), 233-x*, 234-x*
2460	056703	Nicotine sulfate	61-1, 61-2(a), 61-2(b), 62-1, 62-2, 62-3, 63-2, 63-3, 63-4, 63-5, 63-6, 63-7, 63-8, 63-9, 63-10, 63-11, 63-12, 63-13, 71-1(a), 71-2(a), 72-1(c), 72-2(a), 81-2, 81-3, 81-4, 82-1(a), 82-1(b), 82-2, 83-3(a), 84-2(a), 84-2(b), 84-4, 132-1(a), 132-1(b), 133-3, 133-4, 161-1, 161-2, 161-3, 162-1, 162-2, 163-1, 171-2, 171-4(a), 171-4(b), 171-4(c), 171-4(d), 171-4(e), 171-4(j), 171-4(k), 171-4(l)
2460	056704	Tobacco dust	61-1, 61-2(a), 61-2(b), 62-1, 62-2, 62-3, 63-2, 63-3, 63-4, 63-5, 63-7, 63-8, 63-9, 63-10, 63-11, 63-12, 63-13, 71-1(a), 71-2(a), 72-1(c), 72-2(a), 160-5, 171-2
2465	056301	4-Nitrophenol	61-2(a), 61-2(b), 63-13, 71-1(a), 71-2(a), 71-2(b), 72-1(a), 72-1(c), 72-2(a), 81-1, 81-2, 81-3, 81-4, 81-5, 81-6, 82-2, 82-3, 83-1(a), 83-2(b), 83-3(b), 83-4, 84-2(a), 84-2(b), 84-4, 85-1, 160-5, 171-2
2495	054101	6-Methyl-2,3-quinoxalinedithiol cyclic *S,S*-dithiocarbonate	61-1, 61-2(b), 71-1(b), 71-4(a), 71-4(b), 72-1(a), 72-1(c), 72-2(a), 72-2(b), 72-3(b), 72-4(a), 72-6, 81-1, 82-1(b), 82-2, 83-1(a), 83-1(b), 83-2(a), 83-2(b), 83-3(b), 85-1, 85-2, 122-1(a), 122-1(b), 122-2, 160-5, 162-3, 163-2, 164-1, 165-1, 165-4, 171-2, 171-4(b), 171-4(e), 171-4(j), 171-4(k), 171-4(l), 201-1, 202-1
2500	041403	*S*-Propyl butylethylthiocarbamate	71-1(a), 81-8*, 82-2, 83-2(b), 83-4, 85-1, 123-1(a), 123-1(b), 123-2, 132-1(a), 133-3, 133-4, 161-2, 161-3, 162-1, 162-2, 162-3, 163-2, 165-1, 171-2, 171-4(a), 171-4(b), 171-4(c), 171-4(j), 171-4(k), 171-4(l), 201-1, 202-1, 231-x*, 232-x*
2560	042501	Propylene oxide	61-2(a), 61-2(b), 62-1, 62-2, 62-3, 63-3, 63-4, 63-6, 63-7, 63-8, 63-9, 63-10, 63-11, 63-12, 63-13, 81-1, 81-2, 81-3, 82-1(a), 82-1(b), 82-4, 83-3(a), 83-3(b), 83-4, 84-2(a), 84-2(b), 84-4, 85-1, 171-2, 171-4(a), 171-4(e), 171-4(k), 171-4(l), 233-x*, 234-x*
2570	069601	5-Amino-4-chloro-2-phenyl-3(2H)-pyridazinone	61-1, 61-2(a), 61-2(b), 62-1, 62-2, 62-3, 63-7, 63-8, 63-10, 63-13, 82-2, 83-1(a), 83-1(b), 83-2(a), 83-2(b), 83-3(a), 83-4, 85-1, 161-2, 161-3, 162-1, 163-1, 164-1, 165-1, 165-2, 171-4(a), 171-4(b), 171-4(c), 171-4(d), 171-4(e), 171-4(j), 171-4(k), 171-4(l)
2610	009901	3-Chloro-*p*-toluidine hydrochloride	62-1, 63-11, 63-12, 71-1(a), 71-2(a), 72-1(a), 72-1(c), 72-2(a), 81-6, 82-3, 83-3(a), 84-4, 85-2, 161-2, 165-4, 171-4(b), 171-4(d), 171-4(e), 171-4(j)
2680	102001	Dimethyl ((1,2-phenylene)bis(iminocarbonothioyl))bis(carbamate).	71-2(b), 71-4(a), 71-4(b), 72-1(c), 72-2(a), 72-3(a), 72-3(b), 72-3(c), 82-1(a), 82-1(b), 82-2, 83-1(a), 83-1(b), 83-2(a), 83-2(b),

TABLE 2.—OUTSTANDING DATA REQUIREMENTS FOR LIST B ACTIVE INGREDIENTS—Continued

Case No.	Chemical No.	Chemical Name	Outstanding Data Requirements(By Guideline No.)
		.....	63–4, 85–1, 122–1(a), 122–1(b), 122–2, 161–3, 163–1, 164–1, 165–1, 165–4, 171–4(a), 171–4(b), 171–4(c), 171–4(d), 171–4(e), 171–4(j), 171–4(k), 171–4(l)
2700	109901	1-(4-Chlorophenoxy)-3,3-dimethyl-1-(1H-1,2,4-triazol-1-yl)-2-butanone.	61–2(a), 62–3, 63–11, 63–13, 71–1(a), 71–4(a), 71–4(b), 72–4(a), 72–4(b), 82–2, 83–1(a), 83–2(a), 84–4, 85–1, 132–1(a), 133–3, 133–4, 141–1, 161–1, 161–2, 161–3, 162–3, 163–1, 164–4, 165–1, 171–4(a), 171–4(b), 171–4(c), 171–4(e), 171–4(k), 171–4(l)
2735	041404	*S*-Propyl dipropylthiocarbamate	71–2(a), 71–2(b), 72–3(a), 72–3(b), 72–3(c), 81–8*, 82–7*, 83–3(b), 122–2, 132–1(a), 132–1(b), 133–3, 133–4, 161–2, 162–3, 163–2, 165–1, 171–4(a), 171–4(b), 171–4(d), 171–4(e), 171–4(j), 171–4(k), 171–4(l), 201–1, 202–1, 231–x*, 232–x*
2755	112701	3-(3-(4-Bromo-(1,1'-biphenyl)-4-yl)-1,2,3,4-tetrahydro-1-napthalenyl)-4-hydroxycoumarin.	63–2, 63–3, 63–4, 63–6, 63–7, 63–8, 63–9, 63–10, 63–11, 63–13, 71–3, 71–5(a), 71–5(b), 72–1(a), 72–1(b), 72–1(c), 72–1(d), 72–2(a), 72–2(b), 81–1, 81–2, 81–3, 81–4, 81–5, 82–2, 83–3(a), 83–3(b), 84–2(b), 85–1, 85–2, 86–1, 161–1, 162–1, 163–1, 164–1
2760	112001	3-(3-(4'-Bromo-(1,1'-biphenyl)-4-yl)-3-hydroxy-1-phenylpropyl)-4-hydroxycoumarin.	62–3, 63–2, 63–3, 63–4, 63–5, 63–7, 63–8, 63–9, 63–10, 63–11, 63–13, 81–1, 81–3, 81–4, 81–6, 82–1(a), 82–2, 85–1, 86–1, 160–5, 161–1, 162–1, 163–1, 171–2
2825	067706	Calcium 2-isovaleryl-1,3-indandione	62–1, 63–2, 63–3, 63–4, 63–5, 63–6, 63–7, 63–8, 63–9, 63–10, 63–11, 63–12, 63–13, 71–1(a), 71–2(a), 71–2(b), 71–3, 72–1(a), 72–1(c), 72–2(a), 81–1, 81–2, 81–3, 81–4, 81–5, 81–6, 82–1(a), 83–3(a), 84–2(a), 84–2(b), 84–4, 85–1, 86–1, 160–5, 161–1, 162–1, 163–1, 171–2

Key: * Special Studies; Guidelines for the following studies are presently being developed (for more information, contact the person named in the Notice):

81–8 Acute Neurotoxicity Screening-Rat.

82–7 90 Day Neurotoxicity Screening-Rat.

85–4 Ocular Toxicity Study-Dog.

231–x Estimation of Dermal Exposure, Outdoor Sites.

232–x Estimation of Respiratory Exposure, Outdoor Sites.

233–x Estimation of Dermal Exposure, Indoor Sites.

234–x Estimation of Respiratory Exposure, Indoor Sites.

This list contains the currently supported active ingredients reviewed between January 22 and May 21, 1991, and their outstanding data requirements identified as Guideline Reference Numbers. In a number of instances, registrants have already committed to satisfy many of these requirements, with the remaining requirements being subject to the recently issued Data Call-In notices. Of these, some may have been partially satisfied by studies that can be upgraded or supplemented with additional data. The data needs for specific crops are not presented here; instead the overall Guideline Reference Number is listed if any crop specific data are outstanding, even though some individual crop data requirements under it may be in fact satisfied.

IV. Phase 4 List B Data Call-In Notices

Under FIFRA section 3(c)(2)(B) the Agency has issued to affected registrants Phase 4 List B Data Call-In notices for the outstanding data requirements that registrants have not previously committed to satisfy for the active ingredients listed on Table 2 of this Notice. Registrants with unfilled data requirements for their active ingredients must respond to the Agency within 90 days of receipt of their Data Call-In Notice to express their intent to satisfy the remaining data requirements. The data requirements identified in the Data Call-In notices must be submitted within the time schedule specified in them. Additional Data Call-In notices for the remaining List B chemicals not covered by this followup Notice will be sent to the affected registrants, coinciding with the publication of one or more additional **Federal Register** notices in the next several months.

Dated: July 24, 1991.

Douglas D. Campt,

Director, Office of Pesticide Programs.3

[FR Doc. 91–18382 Filed 8–6–91; 8:45 am]

BILLING CODE 6560–50–F

federal register

Wednesday
August 7, 1991

Part III

Department of Education

Upward Bound Program, Math and Science Initiative, Proposed Funding Priority for Fiscal Year 1992; Notice

DEPARTMENT OF EDUCATION

Upward Bound Program

AGENCY: Department of Education.

ACTION: Notice of Proposed Funding Priority for Fiscal Year 1992.

SUMMARY: The Secretary proposes a funding priority for fiscal year 1992 for a special Math and Science Initiative to be supported under the Upward Bound program. The Secretary takes this action to focus Federal financial assistance on an identified national need. The priority is intended to increase the number of secondary school students who will consider pursuing postsecondary study in math and/or science.

DATES: Comments must be received on or before September 6, 1991.

ADDRESSES: Comments should be addressed to Jowava M. Leggett, Director, Division of Student Services, Office of Postsecondary Education, Room 3066, Regional Office Building #3, 400 Maryland Avenue, SW., Washington, DC 20202–5249. Telephone (202) 708–4804.

FOR FURTHER INFORMATION CONTACT: Goldia Hodgdon, Division of Student Services, U.S. Department of Education, 400 Maryland Avenue SW. (Room 3060 ROB–3), Washington, DC 20202–5249. Telephone (202) 708–4804. Deaf and hearing impaired individuals may call 1–800–877–8339 (in the Washington, DC 202 area code, telephone 708–9300) between 8 a.m. and 7 p.m., Eastern time.

SUPPLEMENTARY INFORMATION: The Upward Bound Program is designed to generate skills and motivation necessary for success in education beyond high school among low-income and potential first-generation college students who are enrolled in high school or who are veterans seeking to prepare themselves for entry into postsecondary programs.

The Secretary proposes to set aside a portion of the funds that will be available for the Upward Bound Program in fiscal year 1992 for a special Math and Science Initiative and to establish an absolute priority for the competition for funding under the initiative.

The Secretary will announce the final priority in a notice in the **Federal Register**. The final priority will be determined by responses to this notice, available funds, and other considerations of the Department. The Secretary particularly solicits comments from grantees with currently funded Upward Bound math and science projects. Funding of particular projects depends on the availability of funds, the nature of the final priority, and the quality of the applications received. The publication of this proposed priority does not preclude the Secretary from proposing additional priorities, nor does it limit the Secretary to funding only this priority, subject to meeting applicable rulemaking requirements.

Note: This notice of proposed priority does not solicit applications. A notice inviting applications under this competition will be published in the **Federal Register** concurrent with or following publication of the notice of final priority.

Authorization for the Upward Bound program is scheduled to expire at the end of the fiscal year 1991. Congress and the Administration are considering reauthorization, on which action may not be completed prior to fiscal year 1992. Absent substantive legislative changes in the Upward Bound program, and if funds are made available to the program, we propose the following priority.

Proposed Priority

Under 34 CFR 75.105(c)(3), the Secretary proposes to set aside funds and give an absolute preference to applications that meet the following proposed priority under the set aside for fiscal year 1992. The Secretary proposes to fund under the set aside only applications that meet this absolute priority:

Under the priority for the Math and Science Initiative competition, funds would be used to establish regional centers, each of which would offer an intensified math and science curriculum along with other curricula for a six-week period during the summer to students who meet the criteria for participation in Upward Bound, without regard to 34 CFR 645.10(b). Projects must establish a cooperative relationship with other Federal and non-Federal science and mathematics teaching and learning activities, if any, in their areas, including (1) activities funded under the Eisenhower Mathematics and Science Education programs, (2) activities and programs funded by the National Science Foundation (NSF), and (3) if there are any Federal laboratories or science facilities in the area, with those facilities participating in the Secretary of Energy's initiative to relate those facilities to elementary and secondary school science teaching. Examples of cooperative relationships include student identification and recruitment, combined staff and program enrichment activities, sharing of teaching strategies and approaches, and joint evaluation or project activities.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Invitation To Comment

Interested persons are invited to submit comments and recommendations regarding this priority.

All comments submitted in response to this notice will be available for public inspection, during and after the comment period, in room 3060, Regional Office Building 3, 7th and D Streets SW., Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Monday through Friday of each week except Federal holidays.

Applicable Program Regulations: 34 CFR part 645.

Authority: 20 U.S.C. 1070d–1a.

Dated: June 5, 1991.

Lamar Alexander,

Secretary of Education.

[FR Doc. 91–18710 Filed 8–6–91; 8:45 am]

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federal register

Wednesday
August 7, 1991

Part IV

Department of Health and Human Services

Food and Drug Administration

21 CFR Part 333

Topical Acne Drug Products for Over-the-Counter Human Use; Amendment of Tentative Final Monograph; Notice of Proposed Rulemaking

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 333

[Docket No. 81N-114A]

RIN 0905-AA06

Topical Acne Drug Products for Over-the-Counter Human Use; Amendment of Tentative Final Monograph

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Food and Drug Administration (FDA) is issuing a notice of proposed rulemaking amending the tentative final monograph (proposed rule) for over-the-counter (OTC) topical acne drug products. This amendment reclassifies the topical acne active ingredient benzoyl peroxide from its previously proposed monograph status (Category I) to "more-data-needed" (Category III) status. FDA is issuing this notice of proposed rulemaking after considering data and information on the safety of benzoyl peroxide. This proposal is part of the ongoing review of OTC drug products conducted by FDA.

DATES: Written comments, objections, or requests for oral hearing on the proposed regulation before the Commissioner of Food and Drugs by October 7, 1991. New Data by August 7, 1992. Comments on the new data by October 7, 1992. Written comments on the agency's economic impact determination by October 7, 1991.

ADDRESSES: Written comments, objections, new data, or requests for oral hearing to the Dockets Management Branch (HFA-305), Food and Drug Administration, Room 1-23, 12420 Parklawn Drive, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, Center for Drug Evaluation and Research (HFD-210), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8000.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of March 23, 1982 (47 FR 12430) FDA published, under § 330.10(a)(6) (21 CFR 330.10(a)(6)), an advance notice of proposed rulemaking to establish a monograph for OTC topical acne drug products, together with the recommendations of the Advisory Review Panel on OTC Antimicrobial (II) Drug Products (Antimicrobial II Panel), which was the advisory review panel responsible for evaluating data on the active ingredients in this drug class. Interested persons were invited to submit comments by June 21, 1982. Reply comments in response to comments filed in the initial comment period could be submitted by July 21, 1982.

In accordance with § 330.10(a)(10), the data and information considered by the Panel were placed on display in the Dockets Management Branch (address above), after deletion of a small amount of trade secret information.

The agency's proposed regulation, in the form of a tentative final monograph, for OTC topical acne drug products was published in the **Federal Register** of January 15, 1985 (50 FR 2172). Interested persons were invited to file by May 15, 1985 written comments, objections, or requests for oral hearing before the Commissioner of Food and drugs regarding the proposal. New data could have been submitted until January 15, 1986, and comments on the new data until March 17, 1986.

The OTC drug procedural regulations (21 CFR 330.10) now provide that any testing necessary to resolve the safety or effectiveness issues that formerly resulted in a Category III classification, and submission to FDA of the results of that testing or any other data, must be done during the OTC drug rulemaking process before the establishment of a final monograph. Accordingly, FDA will no longer use the terms "Category I" (generally recognized as safe and effective and not misbranded), "Category II" (not generally recognized as safe and effective or misbranded), and "Category III" (available data are insufficient to classify as safe and effective, and further testing is required) at the final monograph stage, but will use instead the terms "monograph conditions" (old Category I) and "nonmonograph conditions" (old Categories II and III). This document retains the concepts of Categories I, II, and III at this amended tentative final monograph stage.

In response to the proposed rule on OTC topical acne drug products, two drug manufacturers associations submitted comments on the safety of benzoyl peroxide. Copies of the comments received are on public display in the Dockets Management Branch (address above). Additional information on benzoyl peroxide that has come to the agency's attention since publication of the proposed rule is also on public display in the Dockets Management Branch.

The Antimicrobial II Panel in its advance notice of proposed rulemaking (47 FR 12430 at 12475) and the agency in its tentative final monograph (50 FR 2172 at 2181) proposed monograph status for the ingredient benzoyl peroxide for OTC topical use in the treatment of acne. However, subsequently the agency became aware of a 1981 study by Slage, et al. (Ref. 1) that raised a safety concern regarding benzoyl peroxide as a tumor promoter in mice and a 1984 study by Kurokawa, et al. (Ref. 2) that reported benzoyl peroxide to have tumor initiation potential. Neither of these studies was discussed by the Panel or by the agency in the **Federal Register** publications identified above.

Subsequently also, a drug manufacturers association submitted data and information in support of the safety of benzoyl peroxide (Refs. 3 through 6). FDA has evaluated these data and information and determined that the studies show that benzoyl peroxide is a skin tumor promoter in more than one strain of mice as well as in other laboratory animals tested. To date, topical studies (which have shown only tumor promotion) have been of short duration (about 52 weeks), which the agency considers insufficient to rule out the potential for carcinogenicity. Although extensive animal data and human epidemiology data are available, the agency is unable to state that benzoyl peroxide is generally recognized as safe at this time. The agency has determined that further study is necessary to adequately assess the tumorigenic potential of benzoyl peroxide. The agency believes that studies of 18 to 24 months in two species of animals (mouse and rat) are needed to rule out the possibility of carcinogenicity. While the agency finds that additional studies are needed to address concerns about benzoyl peroxide's possible tumor initiating and promotion potential, the agency is unable to state that this ingredient is unsafe for OTC use while these studies are being conducted. The agency acknowledges that it may take several years for these studies to be conducted and analyzed, and for a final determination to be made on benzoyl peroxide's safety. Because animal studies have shown that benzoyl peroxide is a skin tumor promoter and the relevance to humans is unknown, the agency is concerned about continued OTC marketing availability pending resolution of these unresolved safety issues. The agency specifically invites comments on this issue. The agency plans to discuss its concerns and comments received on the agency's conclusions on the data and on continued marketing of benzoyl peroxide with one of its advisory committees at a public meeting to be held in the near future. Notice of this

meeting will appear in a future issue of the **Federal Register.**

Based on the above, the agency is amending the tentative final monograph for OTC topical acne drug products to reclassify benzoyl peroxide from Category I to Category III. As a result, in subpart D, it is being proposed that the ingredient benzoyl peroxide be removed from § 333.310 (21 CFR 333.310) and that the warning proposed for products containing benzoyl peroxide in § 333.350(c)(2) (21 CFR 333.350(c)(2)) be removed. The agency will publish its final decision on benzoyl peroxide in a future issue of the **Federal Register.**

This amendment of the tentative final monograph concerns only the ingredient benzoyl peroxide and labeling related to this specific ingredient. It does not concern any other OTC topical acne active ingredients or the labeling of products containing such ingredients. The agency advises that a final decision on benzoyl peroxide, if it is included in the final monograph for OTC topical acne drug products at a later date, will be effective 12 months after the date of publication of the final decision in the **Federal Register.** If a safety problem is identified for benzoyl peroxide, resulting in it being a nonmonograph condition, a shorter deadline may be set for removal of that ingredient from OTC drug products. On or after the effective date of any final rule pertaining to benzoyl peroxide, no OTC drug product containing benzoyl peroxide may be initially introduced or initially delivered for introduction into interstate commerce unless benzoyl peroxide is included in the final monograph for OTC topical acne drug products or, alternatively, the product is the subject of an approved application, if one is required for marketing.

I. The Agency's Conclusions on the Data

Since publication of the tentative final monograph for OTC topical acne drug products on January 15, 1985, the agency has evaluated substantial additional data on benzoyl peroxide. The data included in vitro and in vivo studies, epidemiological studies, and studies published in the literature. The agency's evaluation of these data follows.

A. Initiation/Promotion Studies

In a study by Sharrat, et al. (Ref. 7) albino mice or rats, 25 per dose per sex (strain and age not specified), were fed 0, 28, 280, or 2,800 milligrams/kilograms (mg/kg) benzoyl peroxide in a commercial diet with a commercial flour bleach consisting of 18 percent benzoyl peroxide, 78 percent calcium sulfate, and 4 percent magnesium carbonate. Controls received untreated flour in the diet. Test diets were fed to mice and rats for 80 and 120 weeks, respectively.

At 104 weeks, the number of surviving male/female rats was 12/14, 12/7, 13/9, and 11/11, respectively. No significant intergroup difference in tumor incidence between groups was observed; however, the incidence of testicular atrophy was higher in the male rats receiving 2,800 mg/kg benzoyl peroxide. At study termination, the number of surviving male/female mice per dose was 3/9, 10/11, 0/9, and 2/11, respectively. No significant difference in tumor incidence between groups was observed.

Using another protocol, groups of albino mice, 25 per sex (strain and age not specified), were fed a diet containing 2,800 mg/kg benzoyl peroxide and received simultaneous subcutaneous injection of 50 mg benzoyl peroxide in 20 percent starch solution. Mice were also painted 6 days per week with approximately 50 mg benzoyl peroxide from a 50 percent suspension of benzoyl peroxide in flour paste. At study termination (80 weeks), 3 males and 11 females survived. No intergroup difference in tumor incidence was observed.

Additional groups of albino mice, 25 per sex (strain and age not specified), were fed a diet containing 2,800 mg/kg benzoyl peroxide and received simultaneous subcutaneous injections of 120 mg benzoyl peroxide in 20 percent starch solution for 120 weeks. At 104 weeks, 14 males and 10 females were surviving. The overall tumor incidence was similar in the control and benzoyl peroxide groups.

In another protocol, albino mice, 25 per sex (age and strain not specified), received a single subcutaneous injection of 50 mg of a 20 percent suspension of benzoyl peroxide in starch solution or starch solution alone. The mice were sacrificed at 80 weeks. Male/female survivors were 9/7 in the test group and 0/6 in the control group. There were no tumors found in any group.

In a similar protocol with albino rats, after a single subcutaneous injection of 120 mg benzoyl peroxide, animals were followed for 120 weeks and then sacrificed. Mortality was checked at 26, 52, 78, and 104 weeks. Survivors at 104 weeks included 10 males and 9 females in the test group and 16 males and 17 females in the control group. No intergroup differences were observed in tumor incidence.

Hueper (Ref. 8) performed a 24–month controlled study on Bethesda (National Institutes of Health) black rats (20 males and 15 females). Animals received a subcutaneous implantation of 50 mg benzoyl peroxide in a gelatin capsule at the nape of the neck. Controls (21 males and 14 females) received a silicone rubber implant without benzoyl peroxide. The rats were followed for 24 months. Tumors were found at the implantation site in 10 control animals but in none of the benzoyl-peroxide-treated animals. Tumors found at other sites in test and control rats were reported to be spontaneous and not dose-related.

A vehicle controlled study by Poirier, et al. (Ref. 9) included 20 male rats (age not specified) in each group. Intramuscular injections of 2.9 mg benzoyl peroxide in 0.2 milliliters (mL) trioctanoin were given into the right hind leg twice a week for 12 weeks. No mortality or tumors were found during the 14-month study.

Saffiotti and Shubik (Ref. 10) used 0.5 percent benzoyl peroxide in acetone applied dermally to 21 female Swiss mice (age not specified) twice a week for 80 weeks. A second group of mice received a similar dose of benzoyl peroxide for 3 weeks, and after 1 week the mice were treated with 5 percent croton oil (in mineral oil) twice a week for 67 weeks. No skin tumors were observed.

In a study by Van Duuren, et al. (Ref. 11) the backs of 30 male ICR/Ha mice (8 weeks old) were painted 3 times per week with approximately 1,000 mg benzoyl peroxide in 5 percent benzene. Controls consisted of 150 mice divided into 4 groups and treated with benzene alone. The median survival time for benzoyl-peroxide-treated animals was 292 days, and 262 to 412 days for the control groups. One test mouse developed a skin papilloma, while 11 skin neoplasma (including 1 carcinoma) were observed in control mice. No benzoyl-peroxide-related increase in skin tumors was observed.

Sharrat, et al. (Ref. 7) conducted a study in which albino mice, 25 per sex, received dermal application of a 50 percent benzoyl peroxide suspension in flour paste (approximately 50 mg benzoyl peroxide per application) on the back of the neck six times per week for 80 weeks. Controls were painted with flour paste only. No skin neoplasma were found and overall tumor incidence did not differ significantly among groups.

Slaga, et al. (Ref. 1) conducted a 52-week study using female SENCAR mice (7 to 9 weeks old). Thirty mice were used per dose of benzoyl peroxide. One group of animals received a single dermal painting of 10 nanomole 7, 12-methylbenz(a)anthracene in 0.2 mL acetone followed by topical application of 0, 1, 10, 20, or 40 mg benzoyl peroxide in acetone twice a week. A second

group of animals received only the various doses of benzoyl peroxide in acetone 2 times per week, while a third group received a single application of the 0 to 40 mg doses of benzoyl peroxide in acetone followed 1 week later by twice-weekly applications of 2 micrograms (μg) 12-O-tetradecanoylphorbol 13-acetate in acetone for 52 weeks.

In the first group, the incidence of papillomas at week 30 was as follows: Control (1/28), 1 mg benzoyl peroxide (9/29), 10 mg benzoyl peroxide (20/28), 20 mg benzoyl peroxide (21/27), 40 mg benzoyl peroxide (20/24). At the end of the study, the number of carcinomas was as follows: Control (0/28), 1 mg benzoyl peroxide (1/29), 10 mg benzoyl peroxide (6/28), 20 mg benzoyl peroxide (12/27), 40 mg benzoyl peroxide (10/24). In the second group studied, while no intergroup differences in papillomas or carcinomas were observed, the single application of benzoyl peroxide produced marked epidermal hyperplasia and a large number of dark basal keratinocytes. The group treated with only benzoyl peroxide showed no carcinomas or intergroup differences in the incidence of papillomas. It was inferred that benzoyl peroxide was not a complete carcinogen in SENCAR mice.

Klein-Szanto and Slaga (Ref. 12) gave female SENCAR mice (7 to 9 weeks old) a single topical application of 10, 20, or 40 mg of benzoyl peroxide in 0.2 mL acetone (16 to 20 mice per dose). Controls (12 mice) received only acetone. On days 1, 2, 4, 6, 8, and 10, groups of 2 to 4 mice were sacrificed. Skin sections were examined to count the number of darkly stained basal cells versus total number of basal cells. Beginning 48 hours after treatment, the mid- and high-level dosed animals demonstrated a marked incidence of epidermal hyperplasia characterized by acanthosis with hyperorthokeratinization. Within 2 to 4 days after application of benzoyl peroxide, the epidermis exhibited a 5-fold increase in dark cells. The agency considers these results as indicating a potent tumor-promoting ability of benzoyl peroxide.

Kurokawa, et al. (Ref. 2) conducted a 52-week study involving 15 to 20 female SENCAR mice (6 weeks old) that received a single application of 20 nanomole 7, 12-methylbenz(a)-anthracene in 0.2 mL acetone or acetone alone. One week later, the mice received an application of 10 percent benzoyl peroxide (20 mg), 12-O-tetradecanoylphorbol 13-acetate (2 μg), or acetone. These applications were continued for 51 weeks. Another group of animals received twice weekly applications of 10 percent benzoyl peroxide or acetone for 51 weeks. The frequency and distribution of neoplasms was as follows:

SKIN TUMOR PROMOTION TESTS IN FEMALE SENCAR MICE INITIATED WITH DMBA [1]

Group	Chemical	No. of effective mice	No. of mice with skin tumors at week				Maximum No. of skin tumors per mouse	No. of mice with squamous cell carcinoma (percent)	No. of mice with epidermal hyperplasia (percent)
			13	26	38	52			
2	Benzoyl peroxide	20	7	16	19	[2] 20	[2] 15.6	[2] [3] 18 (90)	[2] 20 (100)
7	TPA [4]	20	20	20	20	20	[2] 40.1	[2] [3] 20 (100)	[2] 20 (100)
8	Acetone	15	0	0	0	0	0	0	0

[1] 7, 12-methylbenz(a)anthracene.
[2] Significantly different from Group 8 ($p<0.01$).
[3] One lymph node metastasis.
[4] 12-O-tetradecanoylphorbol 13-acetate.

COMPETE SKIN CARCINOGENICITY TESTS IN FEMALE SENCAR MICE

Group	Chemical	No. of effective mice	No. of mice with skin tumors t week				Maximum No. of skin tumors per mouse	No. of mice with squamous cell carcinoma (percent)	No. of mice with epidermal hyperplasia (percent)
			13	26	38	51			
2	Benzoyl peroxide	20	0	2	6	[1] 8.	2.0	5 (25)	6(30)
7	Acetone	15	0	0	0	0	0	0	0

[1] Significantly different from Group 7 ($p < 0.05$).

Irrespective of the treatment protocol, a relatively high incidence of adenocarcinomas of the mammary gland and adenomas of the lung and uterus were observed in all groups. No intergroup differences in mean survival time were noted.

Reiners, et al. (Ref. 13) treated the shaved backs of female C57BL/6 and SENCAR mice (7 to 8 weeks old, 30 to 40 per group) with acetone, benzo (a) pyrene, or 7, 12-methylbenz (a) anthracene dissolved in acetone. One week after these treatments, the animals received twice-weekly applications of 2 μg (SENCAR) or 4 μg (C57BL/6) 12-O-tetradecanoylphorbol 13-acetate or 20 mg benzoyl peroxide. A large number of the benzoyl-peroxide-treated C57BL/6 mice developed skin carcinomas. The number of carcinomas following benzoyl peroxide promotion was greater compared to 12-O-tetradecanoylphorbol 13-acetate-promotion. Benzoyl peroxide significantly reduced the latency period for appearance of first skin tumor compared to 12-O-tetradecanoylphorbol 13-acetate.

The C57BL/6 mice promoted with benzoyl peroxide almost exclusively developed caracinomas, while SENCAR mice predominantly developed papillomas. However, 50 percent of the SENCAR mice did develop carcinomas by week 48 of the study.

In a study by Odukoya and Shklar (Ref. 14), 66 young adult Syrian golden hamsters (Lakeview strain) of both sexes were treated as follows:

Group 1: (8 pr sex) The left buccal pouches were painted 3 times per week for 10 weeks with a 0.1 percent solution of 7, 12-methylbenz (a) anthracene in heavy mineral oil. Two animals per sex

were sacrificed at weeks 22, 23, 24, and 25.

Group 2: (8 per sex) After 10 weeks of 7, 12-mehtylbenz (a) anthracene painting, a 6-week treatment-free period followed. During weeks 17 to 22, the left buccal pouches were painted 3 times per week with 40 percent (20 mg) benzoyl peroxide in acetone. Animals were sacrificed as in Group 1.

Group 3: (8 per sex) This protocol was similar to Group 2, except instead of benzoyl peroxide, the animals were painted with acetone.

Group 4: (3 per sex) After a 16-week treatment-free period, animals were painted 3 times per week with benzoylperoxide for 6 weeks and sacrificed in equal numbers at weeks 22 and 23.

Group 5: (3 per sex) This protocol was the same as in Group 4, except the animals were painted with acetone.

Group 6: (3 per sex) Untreated controls, sacrificed in equal numbers at weeks 22 and 23.

At termination of the study, no tumors in buccal pouches were found in Groups 1, 3, 4, 5, and 6. In Group 2, where carcinogenesis was initiated with 7, 12-methylbenz(a)anthracene and promoted with benzoyl peroxide, animals rapidly developed cincinomas. The subthreshold of 7, 12-methylbenz(a)anthracene in itself was sufficient to result in carcinoma.

O'Connell, et al. (Ref. 15) induced skin tumors (papillomas) in female SENCAR (5 to 7 weeks old) mice using a single topical application of 10 nanomole 7, 12-methylbenz(a)anthracene as the initiator on the shaved backs of the animals. Two weeks after initiation, promotion was accomplished by twice weekly application of 1 μg 12-O-tetradecanoylphorbol 13-acetate. At study week 21, 21 papilloma-bearing mice were continued on the biweekly 12-O-tetradecanoylphorbol 13-acetate treatments, while 20 other mice received an application of 20 mg benzoyl peroxide twice a week. These treatments were continued until week 40. Prior to the benzoyl peroxide applications, the papilloma incidence was similar in both groups of mice designated for 12-O-tetradecanoylphorbol 13-acetate and benzoyl peroxide applications. However, at week 40, benzoyl-peroxide-treated mice compared to 12-O-tetradecanoylphorbol 13-acetate-control mice showed 54 and 325 percent higher incidences of carcinoma and cumulative carcinoma, respectively. Histopathologic examinations revealed that 44 percent of skin tunors in benzoyl-peroxide-treated mice were keratoacanthomas and that 59 percent of these showed y-glutamyltransferase foci. The agency considers the presence of these foci in the keratocanthomas as suggesting a possible role for these lesions as precursors of squamous cell carcinomas. Results indicate the benzoyl peroxide enhanced the progression of pre-existing papillomas.

Iverson (Ref. 16) conducted a 60-week study using 11 groups of hairless hr/hr Oslo mice (16 per sex per group; age and weight not specified). Six of the groups received a single application of 51.2 μg, 12-methylbenz(a)anthracene (in 100 microliters (μl) acetone) prior to one of the following treatments: No other treatment, the gel vehicle (without benzoyl peroxide) twice a week, 5 percent benzoyl peroxide in a gel twice a week, ultraviolet radiation twice a week, or 5 percent benzoyl peroxide in a gel before ultraviolet radiation twice a week. The other five groups received one of the following treatments: Gel vehicle followed by ultraviolet radiation twice a week, 5 percent benzoyl peroxide in a gel followed by ultraviolet radiation twice a week, ultraviolet radiation twice a week, 5 percent benzoyl peroxide in a gel twice a week, or gradually increased ultraviolet radiation followed by 5 percent benzoyl peroxide in a gel twice a week. Reportedly, no spontaneous skin tumors have been observed in this strain of mice. Two mice (sex not specified) that received 5 percent benzoyl peroxide in a gel alone twice a week developed squamous cell carcinoma near the tail root, far from the site of drug application. This incidence was reported to be a "random event." None of the mice in this group developed papillomas.

In a study by Rotstein, et al. (Ref. 17), female SENCAR mice (7 to 9 weeks old) received a single application of 10 nanomole 7, 12-methylbenz(a)anthracene. Two weeks later, the mice received applications of 2 μg 12-O-tetradecanoylphorbol 13-acetate twice a week for 16 weeks, followed by a 4-week treatment-free period. Groups of at least 30 papilloma-bearing mice received 20 μl acetone or 20 mg benzoyl peroxide (in acetone) twice a week for 12 weeks beginning week 21 of the study. One group received benzoyl peroxide for only 4 weeks, followed by acetone treatment for 8 weeks.

Twelve weeks after the benzoyl peroxide treatment, all benzoyl-peroxide-treated mice showed a significantly greater incidence of carcinoma than controls (37 versus 16 percent). All carcinomas arose from pre-existing papillomas. Animals treated for 4 weeks with benzoyl peroxide showed a similar incidence of carcinoma as the 12-week treated animals. The agency believes that this result infers that free-radical generating promoters can enhance tumor progression within a short period.

A study conducted by the National Toxicology Program (Ref. 18) involved comparing the sensitivity of SENCAR, Swiss CD–1, and B6C3F1 strains of mice in a dermal initiation-promotion protocol using different combinations of initiators and promoters (i.e., 7, 12-methylbenz(a)anthracene, benzoyl peroxide, and N-methyl-N-nitro-N-nitrosoguanidine). After a single dose of 7, 12-methylbenz(a)anthracene (0.25, 2.5, or 25.0 μg) or N-methyl-N-nitro-N-nitrosoguanidine (100, 500, or 1,000 μg), groups of 30 male/female of each strain of mice received topical applications of 20 mg benzoyl peroxide in acetone, once a week for 52 weeks. Animals for complete carcinogen testing received 20 mg benzoyl peroxide throughout the study. Controls received two dose levels of initiators once and only acetone thereafter, and the vehicle control received only applications of acetone.

The gross incidence of papilloma was more prevalent in 7, 12-methylbenz(a)anthracene-initiated/12-O-tetradecanoylphorbol 13-acetate-promoted SENCAR and Swiss mice; however, all strains were equally sensitive to carcinoma induction. The 7, 12-methylbenz(a)anthracene-initiated/benzoyl-peroxide-promoted SENCAR mice were comparatively much more sensitive to papilloma induction. Gross incidence of carcinoma was observed only in SENCAR mice. The mean time to papilloma induction in 7, 12-methylbenz(a)anthracene/12-O-tetradecanoylphorbol 13-acetate groups was shorter in SENCAR and Swiss strains. In the 7, 12-methylbenz(a)anthracene-benzoyl peroxide groups, the induction time was much shorter in SENCAR mice. In 7, 12-methylbenz(a)anthracene/12-O-tetradecanoylphorbol 13-acetate groups, papillomas appeared in both sexes of SENCAR and Swiss mice by 10 weeks, and by 20 in B6C3F1 male mice. In 7, 12-methylbenz(a)anthracene/benzoyl peroxide groups, papillomas appeared in SENCAR mice at week 20, and at week 30 in both sexes of the 2 other strains.

A majority of mice in the 7, 12-methylbenz(a)anthracene/7, 12-methylbenz(a)anthracene groups developed papillomas. Neoplasm multiplicity was comparable in the 3 strains. The induction of papilloma in 12-O-tetradecanoylphorbol 13-acetate/12-O-tetradecanoylphorbol 13-acetate groups was observed in both sexes of

Swiss mice only. Regarding tumor induction, no one strain responded to benzoyl peroxide/benzoyl peroxide, 7, 12-methylbenz(a)anthracene/acetone combinations, or repeated application of acetone.

In N-methyl-N-nitro-N-nitrosoguanidine-initiated/12-O-tetradecanoylphorbol 13-acetate-promoted groups, SENCAR and Swiss strains were more sensitive to papilloma incidence and multiplicity of tumors. However, on gross examination, all strains were found to be equally sensitive to carcinoma incidence. The sensitivity in the N-methyl-N-nitro-N-nitrosoguanidine/benzoyl peroxide groups, when compared for gross incidence of papilloma, decreased in this order: SENCAR, Swiss, B6C3F1. Carcinoma incidence was similar in females, while in males sensitivity decreased in this order: SENCAR, Swiss, B6C3F1. The papillomas response time in the N-methyl-N-nitro-N-nitroso-guanidine/12-O-tetradecanoylphorbol 13-acetate groups decreased in the same order. In N-methyl-N-nitro-N-nitroso-guanidine/benzoyl peroxide groups, SENCAR and Swiss mice showed similar papilloma-response time. All strains were positive for papilloma and carcinoma induction in 100 μg N-methyl-N-nitro-N-nitrosoguanidine-initiated-100 mg N-methyl-N-nitro-N-nitrosoguanidine-promoted groups. SENCAR mice were found to be much more sensitive with benzoyl peroxide promotion and with 7, 12-methylbenz(a)anthracene or N-methyl-N-nitro-N-nitrosoguanidine initiation. On the whole, the SENCAR strain proved to be the most sensitive in two-stage tumorigenesis.

Iverson (Ref. 19) look at equal numbers of male and female SENCAR and hr/hr Oslo mice in a 52-week study. Where applicable, a single 51.2 μg dose of 7, 12-methylbenz(a)anthracene was used as an initiator. Skin tumors were subjected to histopathologic examination. The following groups were studies:

Group A: (32 hr/hr) 5 percent benzoyl peroxide in a gel vehicle twice per week in the evening of 1 day, followed by ultraviolet exposure the next morning.

Group B: (32 hr/hr) twice per week ultraviolet radiation.

Group C: (32 hr/hr) Gel vehicle twice per week in the afternoon of one day, ultraviolet exposure next morning.

Group D: (32 hr/hr) twice per week ultraviolet exposure followed 5 minutes later by 5 percent benzoyl peroxide in a gel vehicle.

Group E: (32 hr/hr) twice per week ultraviolet exposure followed 5 minutes later by gel vehicle.

Group F: (32 hr/hr) Single dose of 7, 12-methylbenz (a)–anthracene; starting 1 week later, twice per week application of gel vehicle.

Group G: (32 Sencar) Single application of 100 μl acetone.

Group H: (32 Sencar) Gel vehicle twice per week.

Group I: (32 Sencar) 5 percent benzoyl peroxide in a gel vehicle twice per week.

Group J: (32 Sencar) 7, 12-methylbenz (a) anthracene, followed by continuous treatment with 5 percent benzoyl peroxide in a gel vehicle twice per week.

Group K: (32 Sencar) 7, 12-methylbenz (a) anthracene, followed by continuous treatment with gel vehicle twice per week.

Group L: (48 Sencar) One application of 7, 12-methylbenz (a) anthracene.

Group M: (176 Sencar) One application of 7, 12-methylbenz (a) anthracene (historical control group).

Group N: (32 hr/hr) 7, 12-methylbenz (a) anthracene and gel vehicle.

There were no significant intergroup differences in survival rate (73 to 91 percent) observed in the SENCAR mice; however, in the hr/hr Oslo mice survival rate was very low (19 to 41 percent) due to radiation effects. Group B (ultraviolet radiation twice a week in hr/hr Oslo mice) had the highest number of tumor-bearing mice and total number of carcinomas, indicating that neither the gel vehicle nor 5 percent benzoyl peroxide promoted tumorigenesis. The 7, 12-methylbenz (a) anthracene treatment produced more tumors in SENCAR mice with 3 low-grade fibrosarcomas in Group G and squamous cell carcinomas as follows: four in Group L (the highest number observed), two in Group J, and one each in Group H and I.

Schweizer, et al. (Ref. 20) conducted a 16-month study using 12-week old, pathogen-free Syrian golden hamsters (weighing about 100 grams (g)). The hamsters were randomly assigned to 1 of 5 test groups, each containing 20 animals. All animals received the following application and were examined for skin lesions.

Group I: (Control) Application of 1 mL acetone 3 times per week on the shaved dorsal area.

Group II: Initiation with a single dose of 10 mg/kg 7, 12-methylbenz (a) anthracene.

Group III: Topical application, 3 times per week, with 160 mg benzoyl peroxide in 1 mL acetone.

Group IV: Initiation with 7, 12-methylbenz (a) anthracene (Group II) and promotion with 80 mg benzoyl peroxide 3 times per week.

Group V: Repetitive applications of benzoyl peroxide after 7, 12-methylbenz (a) anthracene initiation.

Benzoyl peroxide alone increased generalized hyperpigmentation and scaling, but no tumors were observed. The 7, 12-methylbenz (a) anthracene alone induced a moderate number of melanotic foci and a small number of palpable melanotic tumors, both in the dermis. Papillomas were found in the epithelia of the tongue, esophagus, and forestomach. The 7, 12-methylbenz (a) anthracene and benzoyl peroxide at both dose levels drastically increased the number of melanotic foci and the incidence of tumors at later stages, implying that benzoyl peroxide promoted the incidence of papilloma, carcinoma, and melanotic tumors.

Hergenhahn (Ref. 21) conducted a study in which NMRI mice (age and sex not specified) received a single dose of 7, 12-methylbenz (a) anthracene followed by dermal applications of 40 mg benzoyl peroxide (in acetone) twice a week for 24 weeks. This treatment was followed by application of a second promoter, retinoyl phorbol acetate, for another 24 weeks. In the second experiment, mice received 20 mg benzoyl peroxide (in acetone) twice a week for 16 weeks. All animals in both groups were observed for 48 weeks. No results were provided except for a comment that benzoyl peroxide did not induce skin tumors in any group.

B. Promotional Studies

Slaga, et al. (Ref. 1) assessed the intercellular communication between Chinese hamster V79 (6-thioguanine-sensitive) cells measured by evaluating the metabolic cooperation between hypoxanthine-guanine phosphoribosyl transferase positive and hypoxanthine-guanine phosphoribosyl transferase negative cells. Inhibition of metabolic cooperation in these cells is a property of many structurally diverse tumor promoters. Benzoyl peroxide inhibited the intercellular communication between the cells.

Yuspa, et al. (Ref. 22) used benzoyl peroxide in 10 to 20 mg concentration incubated with epidermal cells prepared from newborn BALB/c mice. The induction of epidermal transglutaminase has been used as an indication for terminal differentiation in cultured epidermal cells. The phorbol esters are potent inducers of transglutaminase in vivo and in vitro. The high concentration of benzoyl peroxide used did not induce transglutaminase but was significantly cytotoxic to the cells.

In a study by Lawrence, et al. (Ref. 23) human epidermal keratinocytes (strain R), derived from a young donor's skin, were used to assess the effect of benzoyl peroxide on the cellular

metabolic cooperation compared to acetone-treated control cells. Benzoyl peroxide at 0.5 μg/mL exhibited a small but significant effect, while doses between 1.0 and 3.6 μg/mL strongly inhibited metabolic cooperation. At the 3.6 μg/mL dose of benzoyl peroxide, the extent of nucleotide transfer compared to controls was only 31 percent. However, benzoyl peroxide showed no effect on cell survival, attachment, or keratinocyte morphology.

Armato, et al. (Ref. 24) tested on the activity of many tumor promoters by using primary liver cultures (with 40 to 50 percent hepatocytes) prepared from male and female Wistar rats (4 days old). Benzoyl peroxide was tested at 10^{-10} moles/liter (mol/L) dose. At this dose, benzoyl peroxide significantly stimulated the hepatocellular 24-hour deoxyribonucleic acid synthesis. The simulatory activity was inhibited by simultaneous addition of exogenous superoxide dismutase.

Fey and Sheldon (Ref. 25) incubated promoters with the Madin-Darby Canine Kidney cell line, which when injected into nude mice form highly differentiated epithelial colonies that are nontumorigenic. The epitheloid nature of these cuboidal cell colonies is altered on incubation with subnanomolar levels of promoters (i.e., individual cells become mobile, flattened, and elongated). Five structurally dissimilar complete or second-stage tumor promoters, including benzoyl peroxide, were shown to induce identical morphological changes (signatures) after 2 hours incubation with the Madin-Darby Canine Kidney cells.

Mass, et al. (Ref. 26) used tracheal cell cultures prepared from young pathogen-free male Fisher 344 rats to examine their proliferative response to a spectrum of known promoters. It has been observed that tumor promoters can induce terminal differentiation in a variety of cell types. This preneoplastic phenotype is characterized by the capacity of cells to grow in semi-solid medium, i.e., colony forming efficiency. It has also been reported that initiated mouse skin contains keratinocytes resistant to induction of terminal differentiation. Benzoyl peroxide neither stimulated nor diminished colony forming efficiency over the wide concentration range tested. It was inferred that benzoyl peroxide does not bind to the phorbol receptor and thus probably acts as a skin tumor promoter by a different mechanism than 12-O-tetradecanoyl-phorbol 13-acetate.

Gindhart, et al. (Ref. 27) used JB6 mouse epidermal cells (which are initiated and sensitive to further transformation by tumor promoters) to test the tumor promoting activity of benzoyl peroxide. In a dose-dependent fashion (10^{-9} to 10^{-5} Molar), benzoyl peroxide promoted further transformation of JB6 cells and caused a decrease in the net synthesis of the major ganglioside of epidermal cells, trisialoganglioside GT.

C. Reproductive and Developmental Toxicology Studies

Korhonen, et al. (Ref. 28) used various doses (0.05 to 1.7 micromole) of benzoyl peroxide in acetone injected into the inner shell membrane in the air chamber of 3-day old white Leghorn chicken eggs. Except for the lowest dose level tested, there was a dose-related increase in early embryonic deaths, with an estimated LD_{50} of 0.99 micromole per egg. At all dose levels, benzoyl peroxide increased malformation at a moderate frequency. The calculated median effective dose for mortality and malformations was 0.27 micromole per egg.

D. Genotoxicity Studies

Epstein, et al. (Ref. 29) used benzoyl peroxide given intraperitoneally at 52 and 64 mg/kg to 7 and 9 male ICR/Ha Swiss mice, respectively, in a dominant lethal assay evaluation. Each male was caged with three untreated virgin female mice for 1 week. Dams were replaced every week for 8 weeks, sacrificed, and examined for total implants, and early and late fetal deaths. Late fetal deaths were rare, while early fetal deaths and pre-implantation losses were within the control limits.

Litton Bionetics (Ref. 30) conducted a modified Ames assay using *Salmonella* strains TA 1535, 1537, and 1538, and *Saccharomyces cerevisiae* strain D–4 for a gene conversion assay. Benzoyl peroxide was evaluated at two concentration levels, one of which was half of the medium lethal concentration (1.8 mg/mL) value. All bacterial assays were performed with S–9 metabolic activation systems prepared from the lung, liver, and testes of mice, rats, and monkeys. Benzoyl peroxide was found to be nonmutagenic. The yeast assay performed in the presence/absence of S–9 fractions also gave negative results.

In another study, Yamaguchi and Yamashita (Ref. 31) conducted a slightly modified Ames assay using *Salmonella* strains TA 98 and 100. Benzoyl peroxide was tested in Tween 20T at a high dose of 300 μg per plate in the presence of a rat S–9 metabolic activation system. It was found to be nonmutagenic.

DeFlora, et al. (Ref. 32) evaluated benzoyl peroxide in the Ames test using *Salmonella typhimurium (S. typhimurium)* strains TA 1535, 1537, 1538, 98, and 100, and several isogenic strains of *Escherichia coli* (*E. coli*) (WP–2 wild type (repair-proficient), WP67–UVrA–, Pol A–, CM871–UVrA–, recA–, and lexA–). The names of the solvent used and the highest concentration tested were not given. Benzoyl peroxide was nonmutagenic but caused deoxyribonucleic acid damage in *E. coli* and was more toxic to deoxyribonucleic acid repair-deficient than to repair-proficient strains. It was lethal to WP–2 and WP 67 at 1,000 μg/mL and to CM 871 at 250 μg/mL, in both the absence and presence of S–9 fraction. In the presence of S–9 fraction, benzoyl peroxide was lethal to WP–2 (750 μg/mL) and to both repair-deficient strains (500 μg/mL).

Ishidate, et al. (Ref. 33) evaluated benzoyl peroxide in dimethyl sulfoxide (5 mg per plate) in *Salmonella* strains TA 1535, 1537, 92, 94, 98, and 100 in the presence and absence of S–9 fraction. In a second set of experiments, benzoyl peroxide in dimethyl sulfoxide (0.2 mg/mL) was tested for chromosomal aberrations in Chinese hamster fibroblasts. All assays gave negative results.

Jarventaus, et al. (Ref. 34) used Chinese hamster ovary cells to evaluate the effect of benzoyl peroxide on the incidence of sister chromatid exchange. Benzoyl peroxide induced a dose-dependent increase in the incidence of sister chromatid exchange only in the presence of S–9 fraction. At 1.0 millimole benzoyl peroxide concentration, sister chromatid exchange doubled.

Tainer (Ref. 35) reported benzoyl peroxide (in acetone or dimethyl sulfoxide) to be nonmutagenic, with or without hamster and rat liver S–9 fraction in *S. typhimurium* strain TA 1535, 97, 98, and 100.

Matula, et al. (Ref. 36) reported benzoyl peroxide (in acetone) was nonmutagenic with or without S–9 activating system in *S. typhimurium* strain TA 1535, 98, 100, and 102; however, it produced a dose-dependent increase in mutation with strain TA 97 in the absence of metabolic activation. Reportedly, these results were erratic due to high cell toxicity (dependent on the volume of acetone per plate). However, results were reconfirmed in a liposome vehicle with a commerical preparation in strain TA 97. Benzoyl peroxide (in acetone and a commerical lotion) also damaged deoxyribonucleic acid in the *E. coli* SOS test; however, a dose-dependent relationship was not observed. Weak mutagenic activity of

benzoyl peroxide was inferred from these results.

Swierenga (Ref. 37) investigated the cytotoxicity and genotoxicity of benzoyl peroxide for epithelial cells by using proliferating T–51–B cells or rat hepatocytes. Benzoyl peroxide was extremely toxic to these cells. Depending on cell density, exposure duration, and media composition, the median lethal concentration of benzoyl peroxide varied from 5 to 50 μg/mL. Deoxyribonucleic acid strand breaks, but no mutations, were observed at these concentrations. Hepatocytes tolerated up to 300 micromole benzoyl peroxide over a 24-hour period. Latent random cell death was observed in all cultures. When the assay conditions were adjusted to enhance cell survival, both strand breaks and mutation were observed. In addition, benzoyl peroxide showed some ability to induce deoxyribonucleic acid repair in hepatocytes and sister chromatid exchange in V79 cells. It was inferred that benzoyl peroxide showed weak genotoxicity at concentrations 10^4 fold lower than present in the commercial preparations.

Birnboim (Ref. 38) studied a spectrum of phorbol and nonphorbol promoters incubated with white blood cells isolated from human blood. Cells were examined for deoxyribonucleic acid strand breaks. Benzoyl peroxide induced a dose-dependent break in deoxyribonucleic acid strands.

Gensler and Bowden (Ref. 39) evaluated initiated epidermal JB6 cells for clastogenic events after a single treatment with a noncytotoxic dose (50 micromole) of benzoyl peroxide. Deoxyribonucleic acid single-strand scissions did not occur, suggesting a dissociation between the induction of deoxyribonucleic acid strand breaks and late-stage promotion.

Saladino, et al. (Ref. 40) assessed the effect of benzoyl peroxide and other drugs on clonal growth rate, squamous differentiation, deoxyribonucleic acid damage, ornithine decarboxylase activity, nucleic acid synthesis, aryl hydrocarbon hydroxide activity, and arachidonic acid and choline release measured in normal human bronchial epithelial cells. Benzoyl peroxide increased the promotion of cross-linked envelopes and depressed ribonucleic acid synthesis more than deoxyribonucleic acid synthesis. In addition, it produced detectable amounts of both single-strand breaks and deoxyribonucleic acid-protein cross links, and inhibited growth.

Hartley, et al. (Ref. 41) investigated the degree of deoxyribonucleic acid strand break in cultured keratinocytes (BALB/c mice) and the cell lines D, F, and 308 (derived from primary mouse epidermal cultures by carcinogen treatment) after exposure to phorbol esters and benzoyl peroxide. Benzoyl peroxide at 10^{-4} Molar concentration induced single strand breaks in basal keratinocytes within 1 hour, and attached cells exhibited extensive single strand breaks by 12 hours. It was inferred that benzoyl peroxide-produced breaks were due to a direct mechanism of deoxyribonucleic acid damage.

Birnboim (Ref. 42) reported that deoxyribonucleic acid strand breaks produced in human leukocytes by benzoyl peroxide (50 micromole), anthralin and 12–O–tetradecanoylphorbol 13–acetate were not repaired during a 30-minute period following treatment. However, under the same assay conditions, substantial repair of ionizing radiation-induced breaks was observed.

An abstract by Swierenga (Ref. 37) inferred that in vitro benzoyl peroxide induced deoxyribonucleic acid strand breaks in rat hepatocytes.

E. Biochemistry Studies

Molloy, et al. (Ref. 43) conducted a study in which the dorsal skins of female CD–1 (7 to 10 weeks old) mice were painted with benzoyl peroxide (in acetone) or acetone alone. Skins were excised, cultured, and pulse-labeled with ^{35}S-methionine 24 hours after treatment. Qualitative changes in synthesized epidermal proteins were examined using one- and two-dimensional gel electrophoresis. Benzoyl peroxide-treated epidermal proteins resembled those of controls compared to 12-O-tetradecanoyl-phorbol 13-acetate- and anthralin-treated skins. It was inferred that benzoyl peroxide may act by a mechanism distinct from the other two promoters.

Binder and Volpenhein (Ref. 44) investigated the induction of ornithine decarboxylase activity by 12-O-tetradecanoyl-phorbol 13-acetate and benzoyl peroxide in female SENCAR mice. The 12-O-tetradecanoylphorbol 13-acetate (2 μg) caused induction of ornithine decarboxylase activity 30 times greater than benzoyl peroxide (20 mg, in acetone) applied once to dorsal skin. The activity level was 10 percent greater after 3 or more doses of benzoyl peroxide (20 mg) applied 2 to 7 days apart. However, the additive effect of doses was reported as not responsible for the enhanced induction because ornithine decarboxylase activity was at the basal level at the time of the last dose. Benzoyl peroxide applied once a day for 5 consecutive days resulted in only one-tenth the enzyme activity by the same number of doses given 2 or more days apart. Pretreatment with benzoyl peroxide (20 mg) once a day for 4 days greatly enhanced the ornithine decarboxylase activity by a one-time application of 12-O-tetradecanoylphorbol 13-acetate (2 μg) 24 hours after the last benzoyl peroxide dose. It was inferred that while the 2 promoters operate through different mechanisms, their promotional effects are synergistic.

Kensler, et al. (Ref. 45) used skin-trapping and electron skin resonance techniques to characterize free-radical metabolites of benzoyl peroxide in target keratinocytes isolated from neonatal SENCAR mice. Cell incubation with benzoyl peroxide gave an electron skin resonance spectrum characteristic of alkyl radical adducts. No detectable electron skin resonance spectrum were observed in heat denatured cells or in the absence of benzoyl peroxide. It was inferred that the peroxide bond undergoes cleavage to yield benzoyloxyl radicals, which then break to form a phenyl radical (skin trapped species).

In another experiment, liposome-containing ^{14}C ring-labeled benzoyl peroxide was incubated with keratinocytes for 1 hour, and covalent binding to macromolecules was determined. Substantial covalent binding of radioactivity with proteins, but not deoxyribonucleic acid, was detected. The assumed limit of detection was in the range of 1.5 picomole/mg deoxyribonucleic acid. The results were consistent with the reported nil/low mutagenic, initiating and complete carcinogenic activity of benzoyl peroxide.

F. Absorption, Distribution, and Excretion Studies

Nacht, et al. (Ref. 46) assessed absorption and biodisposition of ^{14}C-benzoyl peroxide both in vitro (excised human skin) and in vivo (rhesus monkeys). In vitro, benzoyl peroxide penetrated through the stratum corneum, follicular openings, or both, and was recovered on the dermal side of the skin as benzoic acid. In vivo, following topical and intramuscular administration of ^{14}C-benzoyl peroxide, 45 and 98 percent, respectively, of the radioactivity was found in the benzoic acid in urine. Benzoyl peroxide penetrated into skin layers, was metabolized to benzoic acid, and then absorbed into the systemic circulation. No hippuric acid was found in monkey urine, implying that renal clearance of benzoyl peroxide metabolites was sufficiently rapid which precluded its hepatic conjugation with glycine.

Morsches and Holzmann (Ref. 47) used in vitro and in vivo methods to assess percutaneous penetration and metabolism of benzoyl peroxide in human skin and five patients with leg ulcers. Benzoyl peroxide absorbed in vitro was metabolized (preferably in the dermis) to benzoic acid. The portion which penetrated the intact skin was benzoic acid only.

In a study by Wepierre, et al. (Ref. 48), hairless Spraque Dawley male rats received topical application of ^{14}C-benzoyl peroxide 10 percent gel. Distribution and dissociation were studied at 3, 8, and 24 hours. Most of the applied dose was retained in the horny layer, where metabolic conversion to benzoic acid was low. In the dermis, conversion to benzoic acid increased sharply, and the metabolite was taken up by the systemic circulation.

G. Epidemiological Studies

Sakabe and Fukuda (Ref. 49) reported two cases of lung cancer in industrial workers in a small plant in Japan where benzoyl peroxide and benzoyl chloride were produced. The number of workers in the factory varied from 13 in 1952 to 40 in 1963. The first worker was a 40-year-old male smoker with 17 years of service in the manufacture of benzoyl peroxide and intermittent exposure to benzoyl chloride; the second was a 35-year-old male nonsmoker with squamous-cell carcinoma, who had had about 4 years of exposure to benzoyl peroxide production starting about 15 years prior to detection, and had worked for 1 year in benzoyl chloride production. Both workers would also have been exposed to a number of precursors in the production process, including benzotrichloride.

Wright, et al. (Ref. 50) reviewed 43 cases of cancer, grouped by occupation for unusual risk for melanoma. Eleven subjects had melanomas and 32 had other cancers. Cases included all white male chemists with cutaneous malignant melanoma diagnosed between 1972 and 1979. The control group included all white male chemists with other cancers diagnosed during the same period. Patients with melanoma were supposed to have been exposed to more individual chemicals than controls and reported more work with solvents, pesticides, plastics, ionizing radiation, and benzoyl peroxide. There was little difference between cases and controls for other chemical exposures.

Hogan (Ref. 51) reviewed 870 subjects and 1,250 age, sex- and location-matched controls for skin cancer. Analysis was performed for cases of basal cell carcinoma, squamous cell carcinoma of the lip, and cutaneous malignant melanoma. A family history of skin cancer and exposure to agro-chemicals were the most significant risk factors analyzed for skin cancer. Other factors included prominent freckles during childhood, history of severe sunburn, light skin color, and skin types 1 and 2. The strongest risk factor for basal cell carcinoma was a family history of skin cancer. The past history of acne was the second strongest correlate with subsequent development of basal cell carcinoma in over 600 patients. However, the study failed to trace the treatment of patients to determine if they had applied benzoyl peroxide.

Elwood, et al. (Ref. 52) analyzed case histories of 651 patients with cutaneous malignant melanoma and matched controls. The distribution of pathologic lesions was as follows: 415 individuals exhibited superficial spreading melanoma, 128 nodular melanoma, 52 unclassified or borderline melanoma, and 56 lentigo maligna melanoma. Subjects more frequently used soaps and sulfur or resorcinol compounds; benzoyl peroxide preparations were used by very few subjects, and there were no differences in the types of drugs used by cases and controls. It was inferred that reported frequencies of acne and psoriasis were not related to any substantial increase or decrease in melanoma formation. Because benzoyl peroxide preparations were not used very extensively in these patients, no definite correlation was visible between benzoyl peroxide and melanoma risk.

Cartwright, et al. (Ref. 53) investigated cases of malignant skin melanoma in subjects under the age of 45, reported between 1984 and 1986 inclusive, from hospital and general practitioners' patient records. Data were compared with subjects of the same age and sex without malignant disease. The analyzed risk factors included acne, any skin medication, and prolonged exposure to sunlight. Of 213 identified melanomas, 159 (75 percent) were investigated further. The incidences of clinical and physiological acne were 15 and 85 percent, respectively. Reportedly, the study had several limitations. The number of subjects was limited, and no direct contact was made to trace whether they had purchased benzoyl peroxide without prescription. Irrespective of these limitations, the study authors concluded that benzoyl peroxide posed no major risk of an association with malignant melanoma.

Ewing, et al. (Ref. 54) designed a study to determine whether Stage I promotion could occur prior to initiation and to examine its role in carcinoma development. SENCAR mice received two applications of various complete, first, and second stage promoters prior to being initiated with 7, 12-methylbenz(a)-anthracene (2μg). Two weeks later animals received twice-weekly applications of mezerein (2μg). Benzoyl peroxide (20 mg) given either 2, 5, or 10 weeks prior to initiation had no effect on the subsequent promoting activity of mezerein.

In a 62-week study, Epstein (Ref. 55) examined the effect of benzoyl peroxide on ultraviolet-radiation-initiated tumor formation. Uscd strain albino hairless mice (4 months old) received 270 millijoule/square centimeter of ultraviolet (280 to 320 nanometer) radiation 3 times a week for 8 weeks to the posterior halves of their backs. Four weeks later, mice were treated with one of the following: Croton oil (in acetone) 5 times per week for 50 weeks; acetone alone; benzoyl peroxide in an aqueous diluent 5 times per week for 50 weeks, or benzoyl peroxide diluent alone. Results demonstrated that croton oil promoted ultraviolet-initiated tumor formation, but benzoyl peroxide did not.

In another 62-week study, Epstein (Ref. 56) compared the effects of chronic applications of croton oil and benzoyl peroxide on epidermal deoxyribonucleic acid synthesis in ultraviolet-initiated skin. Uscd strain albino hairless mice (3 to 4 months old) were irradiated with 125 millijoule/square centimeter of ultraviolet (280 to 320 nanometer) radiation energy 3 times a week for 8 weeks. Four weeks later, animals were treated with one of the following: 0.1 mL croton oil solution 5 times per week; acetone alone; 5 percent benzoyl peroxide; or aqueous base solution. Treatment continued for 50 weeks. Results indicated that croton oil applications stimulated a deoxyribonucleic acid synthesis level that was significantly greater than all other groups, including the mice receiving benzoyl peroxide. The mechanism of the promoting effects or croton oil and benzoyl peroxide to be different.

Naito, et al. (Ref. 57) examined histogolical effects of multiple applications of 12-O-tetradecanoylphorbol 13-acetate (6.8 nanomole), teleocidin (6.8 nanomole), chrysarobin (220 nanomole), mezerein (6.8 nanomole), 4-O-Methyl-12-O-tetrade-canoylphorbol 13-acetate (150 μg), and benzoyl peroxide (20 mg) on the skin of DBA/2 and C57BL/6 mice. Benzoyl peroxide and 4-O-Methyl-12-O-tetradecanoylphorbol 13-acetate (given twice a week for 2 weeks) induced only a week sustained epidermal hyperplasia, dark basal keratinocyte

response, and labeling index of similar magnitude in both strains of mice. No other morphological changes were attributed to benzoyl peroxide treatment.

Hartley, et al. (Ref. 58) used alkaline elution to examine deoxyribonucleic acid single-strand breaks in cultured normal and carcinogen-altered mouse keratinocytes exposed to 12-O-tetradecanoylphorbol 13-acetate and benzoyl peroxide. Benzoyl peroxide induced extensive strand breaks in normal keratinocytes at both 6 and 24 hours, and was associated with marked cytoxicity. Nine of 10 cell lines showed complete or partial resistance to strand breaks following benzoyl peroxide exposure. The differential resistance to deoxyribonucleic acid strand breaks and cytotoxicity among normal and carcinogen altered cells suggest a biological basis for the promoting action of benzoyl peroxide.

In a study by Pelling, et al. (Ref. 59), papillomas were induced in 7, 12-methylbenz (a) anthracene-initiated SENCAR mouse epidermis by complete promotion with benzoyl peroxide or 12-O-tetradecanoylphorbal 13-acetate and two-state promotion with 12-O-tetradecanoylphorbol 13-acetate for 2 weeks followed by mezerein for 9 weeks. Results of Northern blot hybridization analyses showed that early papillomas in 7, 12-methylbenz(a)-anthracene-initiated epidermis contained elevated levels of Ha-ras specific polyadenylated transfer ribonucleic acid irrespective of the tumor promoter regimen used.

The agency's detailed comments and evaluations on the data are on file in the Dockets Management Branch (Refs. 60 and 61).

H. Tumor Promoters

The agency notes that a prominent feature of skin tumor promoters is that they all cause release of free oxygen radicals. These species stimulate cells to produce active forms of oxygen (Ref. 62). The agency believes that evidence that promotion involves free radicals is supported by the following observations: Free-radical generating compounds are promoters; 12-O-tetradecanoylphorbol 13-acetate-type promoters have been shown to stimulate formation of oxyradicals; promoters can modulate the anti-oxidant defense mechanisms; and antioxidants are antipromoters. Presumably, promotion of mouse skin transformation occurs in two stages, both of which involve active oxygen (Ref. 63). Free radicals, especially peroxyl radicals, may be involved in both the initiation and promotion stages of multistage carcinogenesis (Ref. 64). A second characteristic of skin tumor promoters is that they all induce epidermal hyperplasia, i.e., the appearance of dark basal cells in the epidermis (Ref. 1). The agency points out that these dark basal cells are normally present in large numbers in embryonic skin, papillomas, and carcinomas and are considered a reliable marker of stage I promotion (Refs. 63, 65, 66, and 67). Stage II promotion is accompanied by various biochemical changes, many of which are related to the stimulation of cell proliferation.

These include increased levels of polyamines, prostaglandins, and induction of some embryonic conditions; decreased activity of two detoxifying enzymes (i.e., superoxide dismutase and catalase); and increased activity of ornithine decarboxylase in the skin (Refs. 68 and 69). The agency notes that the induction of ornithine decarboxylase activity and increased levels of polyamines are considered necessary indicators for tumor promotion by phorbol esters. It is also noted that another enzyme activated by the tumor promoter 12-O-tetradecanoylphorbol 13-acetate is protein kinase C, which is generally regarded as being synonymous with the phorbol ester receptor (Refs. 70, 71, and 72).

I. Conclusions

A significant amount of research has been conducted on benzoyl peroxide since the Panel's deliberations were completed in 1980. Some of this research was conducted after the 1985 tentative final monograph for OTC topical acne drug products (50 FR 2172) was published. The agency has determined from its evaluation of the data that some of the studies contained procedural deficiencies including the following: Inadequate numbers of animals, low doses, inadequate data on animal survival, and lack of adequate controls. In addition body weight, age, strain, and sex of the animals were not provided for some studies and, in certain other studies, data for both sexes of the animals were pooled. The agency finds that, despite all the research conducted to date, a definitive study to assess the complete carcinogenicity of benzoyl peroxide has not, as yet, been conducted.

Benzoyl peroxide was initially shown to be a promoter in a two-stage, initiation-promotion skin carcinogenesis study in mice (Ref. 1). Because mouse skin is responsive to the two-stage system of tumor promotion, it has been widely used for initiation-promotion studies. In fact, the agency notes that all national and international regulatory agencies have accepted mice as a standard model for testing potential carcinogens. The agency's position is that because many of the known human tumor initiators, promoters, and carcinogens have initially been identified in rodents, positive results in this species would suggest the need for further investigation.

The agency considers the status of benzoyl peroxide as a free-radical-generating compound to be well established (Ref. 45). The agency believes that there is strong evidence to suggest that the free-radical generating ability of benzoyl peroxide is responsible for its promotional effects. These include an increase in dark basal keratinocytes and epidermal hyperplasia, increased terminal differentiation and ornithine decarboxylase levels, and inhibition of intracellular communication in mouse, hamster, and human cells (Refs. 1, 12, 23, 40, and 44). In addition, benzoyl peroxide activates protein kinase C (Ref. 73), and promotes chemically-initated transformation of mouse epidermal cells (Refs. 1, 11, 27, 74, 75, and 76).

The agency notes that most of the topical studies with benzoyl peroxide have been conducted in mice. While promotion was observed in almost all studies, carcinogenesis was observed in a select few that primarily used SENCAR (i.e., sensitive to carcinogens) mice, bred to have a unique sensitivity to cancer. Benzoyl peroxide has also promoted tumor development in C57BL/6 mice (Ref. 75) and demonstrated tumor-promoting activity in another species, the Syrian golden hamster (Ref. 14).

The agency contends that benzoyl peroxide not only shares most of the tumor-promoting features of 12-O-tetradecanoyl-phorbol 13-acetate, but also exhibits several properties of complete carcinogenesis not shared by 12-O-tetradecanoylphorbol 13-acetate. Included among these are resistance to inhibition by retinoic acid and induction of a high ratio of papillomas to carcinomas (Refs. 12, 75, and 77). In addition, benzoyl peroxide characteristically induced single-strand breaks in deoxyribonucleic acid, and it increased the rate of malignant progression of benign epidermal papillomas to squamous cell carcinomas (Refs. 15 and 39).

The agency considers benzoyl peroxide to have exhibited weak mutagenic activity in the Ames test (with adequate dissolution) (Ref. 36). It has been shown to produce single-strand deoxyribonucleic acid breaks in human bronchial epithelial and mouse

epidermal cells, deoxyribonucleic acid-protein cross-linking in human cells, neoplastic transformation in mouse epidermal cells, and sister chromatid exchange (Refs. 27, 34, 39, 40, and 41). Also, the agency notes that a single teratology study in white Leghorn chicken eggs indicated that benzoyl peroxide increased malformations at a moderate frequency and, except for the lowest dose level, there was a dose-related increase in embryonic deaths (Ref. 28).

The agency concludes that the evidence (as described above) is substantial to establish benzoyl peroxide as a potent skin tumor promoter in more than one strain of mice and other laboratory animals tested. In addition, it appears that benzoyl peroxide shares a spectrum of characteristic features with the true (complete carcinogen) initiators. The most critical of these features is that benzoyl peroxide increased the rate of malignant progression of benign epidermal papillomas to squamous cell carcinomas in mice. While the promotional activity of benzoyl peroxide appears to predominate over initiator activity, the agency believes that it is possible that benzoyl peroxide could have a longer latency period as an initiator. The agency finds that initiation and complete carcinogenicity have not been evaluated in adequate studies of sufficient duration.

To date, benzoyl peroxide has not been subjected to the normally expected long-term (18 to 24 months) carcinogenicity studies in rodents. The agency considers the short duration (about 52 weeks) of topical studies which have shown only "promotion" to be insufficient to rule out the possibility of "initiation." In a complete carcinogenicity test by Kurokawa, et al. (Ref. 2) using female SENCAR mice, treatment with benzoyl peroxide alone resulted in two mice with skin tumors at 6 months. There were six mice with skin tumors at 9 months and eight mice with skin tumors at 12 months, a three- and four-fold increase, respectively.

Because of the general observation that most chemically-induced tumors have not become apparent until 18 months, the agency has extended the duration of bioassay for potential carcinogens to 24 months. In addition, current agency criteria are that a carcinogenicity study must cover a major part of an animal's lifespan (i.e., 18 months in the mouse, and 24 months in the rat).

In view of these findings, the agency concludes that it is unable to state, at this time, that benzoyl peroxide is generally recognized as safe. The agency's position is that long-term topical studies (18 to 24 months) in two species (mouse and rat) need to be conducted to adequately address the issue of benzoyl peroxide's safety as an OTC topical acne ingredient. Accordingly, the agency is amending the tentative final monograph for OTC topical acne drug products to reclassify benzoyl peroxide from Category I to Category III.

On May 18, 1990, the agency received a submission (Ref. 78) from a drug manufacturers association in response to the agency's letter of February 1, 1990 (Ref. 60). The drug manufacturers association stated that it had carefully considered the agency's evaluations of the data and information regarding the safety of benzoyl peroxide, but it did not agree with all of the agency's interpretations of the data. The drug manufacturers association remains convinced that benzoyl peroxide fulfills monograph conditions (i.e., generally recognized as safe and effective). However, the association agreed (as previously stated in a letter to the agency dated January 10, 1990 (Ref. 79)) that an additional animal study would be appropriate to more fully confirm benzoyl peroxide's safety. In addition, the association included in its response new data (an abstract of a recently completed epidemiologic study (Ref. 78) on benzoyl peroxide). The association mentioned that the results from this study indicate that there is no statistically significant association between benzoyl peroxide use and the subsequent development of skin cancer in humans.

The agency met with industry representatives on June 28, 1990 (Ref. 61) to discuss its evaluation of the benzoyl peroxide data and the additional long-term studies that need to be conducted. This meeting did not change the agency's position that additional long-term studies in animals are needed before benzoyl peroxide can be declared generally recognized as safe as an OTC topical acne active ingredient, as stated above in this amended tentative final monograph.

J. Labeling

One comment addressed a warning that the agency had proposed in the tentative final monograph of January 15, 1985 for products containing benzoyl peroxide. That warning in proposed § 333.350(c)(2) (50 FR 2172 at 2181) read as follows:

Do not use this medication if you have very sensitive skin or if you are sensitive to benzoyl peroxide. This product may cause irritation, characterized by redness, burning, itching, peeling, or possibly swelling. More frequent use or higher concentrations may aggravate such irritation. Mild irritation may be reduced by using the product less frequently or in a lower concentration. If irritation becomes severe, discontinue use; if irritation still continues, consult a doctor. Keep away from eyes, lips, and mouth. This product may bleach hair or dyed fabrics.

One comment contended this proposed warning was overly lengthy and, thus, might discourage consumers from reading it. The comment added that the language used could be ambiguous and confusing to consumers. Therefore, the comment proposed an alternative warning, which it felt was more direct and more easily understood, as follows:

This product may cause irritation if you have very sensitive skin or are sensitive to benzoyl peroxide. Should your skin become red and you experience itching, burning, peeling or swelling, discontinue use. If these symptoms persist, consult a physician. Mild irritation may be reduced by using the product less frequently or in a lower concentration. Keep away from eyes, lips and mouth. This product may bleach hair or dyed fabrics.

The agency's and the comment's proposed warnings differ in several ways. The agency's warning alerts individuals who have very sensitive skin or who are sensitive to benzoyl peroxide not to use acne preparations containing this ingredient. The Panel noted that certain types of complexion are more sensitive to environmental factors as well as topical drugs and that people with an atopic background (an inherited tendency to develop allergy) may also be more easily irritated by certain topical preparations (47 FR 12430 at 12444). Benzoyl peroxide is known to produce a primary irritant dermatitis in certain people with sensitive skin. There is evidence that the higher the concentration of benzoyl peroxide, the greater the irritation. Therefore, the Panel believed people should be warned that if they have excessive irritation or allergic reaction to benzoyl peroxide, they should not use this ingredient (Ref. 80). The alternative warning recommended by the comment only indicates that individuals with one or the other of these sensitivities may experience irritation from use of products containing benzoyl peroxide. It does not state that these individuals should not use the product but only tells them to discontinue use if symptoms of irritation occur. The agency does not find this approach to be adequate because some individuals should not use the ingredient under any conditions. Therefore, the agency cannot agree with the comment's suggestion.

The agency considers its proposed warning as more clearly describing the characteristics of a potential irritant type skin reaction than the comment's proposed alternative. The agency's proposed warning emphasizes irritation as the main side effect that may occur and then describes the nature of that irritation, whereas the comment's proposed warning does not as clearly link the irritation that may occur with the descriptive symptoms. However, the agency agrees with the comment's argument regarding the ambiguity of some of the language (i.e., "more frequent use or higher concentrations may aggravate such irritation") included in its proposed warning. The agency believes that the sentence "mild irritation may be reduced by using the product less frequently or in a lower concentration," contained in both warnings, clearly conveys the agency's intended message, and that the sentence "more frequent use or higher concentrations may aggravate such irritation," in the agency's proposal, is duplicative and not needed. Accordingly, the proposed warning in § 333.350 for products containing benzoyl peroxide would be revised to state:

Do not use this medication if you have very sensitive skin or if you are sensitive to benzoyl peroxide. This product may cause irritation, characterized by redness, burning, itching, peeling, or possibly swelling. Mild irritation may be reduced by using the product less frequently or in a lower concentration. If irritation becomes severe, discontinue use; if irritation still continues, consult a doctor. Keep away from eyes, lips, and mouth. This product may bleach hair or dyed fabrics.

This revised warning will be added to the final monograph for OTC topical acne drug products if benzoyl peroxide is determined to be generally recognized as safe in the final rule pertaining to this ingredient, which will be published in a future issue of the **Federal Register**. Other general labeling issues for OTC topical acne drug products will be discussed in the final rule for these products, which will be published in a future issue of the **Federal Register**. That final rule will represent final agency action on all conditions in this rulemaking except for the ingredient benzoyl peroxide.

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II. Summary of the Agency's Changes to the Proposed Rule

A. Ingredient Changes

1. The agency is reclassifying the ingredient benzoyl peroxide from Category I to Category III. Based on new data and information, the agency has determined that additional information is needed to adequately assess the tumor initiation potential of benzoyl peroxide. To date, topical studies have been of short duration (about 52 weeks).

The agency has determined that studies of 18 to 24 months duration in two species of animals (mouse and rat) are needed to definitively address the safety status of benzoyl peroxide for the topical treatment of acne. (See section I. paragraph I. above.)

2. The agency is removing benzoyl peroxide from the proposed list of Category I active ingredients in § 333.310(a) and redesignating paragraphs (b) through (f) as paragraphs (a) through (e) in § 333.310 of this amended tentative final monograph.

3. The agency is revising the § 333.310 cross-references that appear in § 333.320 to reflect the redesignations that have occurred in § 333.310.

B. Labeling Changes

1. The agency is deleting the warning proposed in § 333.350(c)(2) of the previous tentative final monograph. This warning was proposed specifically for products containing benzoyl peroxide. Should benzoyl peroxide be included in the final monograph, the agency will slightly modify the previously proposed warning. (See section I. paragraph J. above.)

2. The warnings in § 333.350 (c)(3) and (c)(4) are redesignated (c)(2) and (c)(3), respectively.

The agency has examined the economic consequences of this proposed rulemaking in conjunction with other rules resulting from the OTC drug review. In a notice published in the **Federal Register** of February 8, 1983 (48 FR 5806), the agency announced the availability of an assessment of these economic impacts. The assessment determined that the combined impacts of all the rules resulting from the OTC drug review do not constitute a major rule according to the criteria established by Executive Order 12291. The agency therefore concludes that not one of these rules, including this amendment of the tentative final monograph for OTC topical acne drug products, is a major rule.

In the economic assessment, the agency also concluded that the overall OTC drug review was not likely to have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (Pub. L. 96–354). That assessment included a discretionary regulatory flexibility analysis in the event that an individual rule might impose an unusual or disproportionate impact on small entities. However, this particular rulemaking for OTC topical acne drug products is not expected to pose such an impact on small businesses. Therefore, the agency certifies that this proposed rule, if implemented, will not have a significant economic impact on a substantial number of small entities.

The agency invites public comment regarding any substantial or significant economic impact that this rulemaking would have on OTC topical acne drug products. Types of impact may include, but are not limited to, costs associated with product testing, relabeling, repackaging, or reformulating. Comments regarding the impact of this rulemaking on OTC topical acne drug products should be accompanied by appropriate documentation. A period of 60 days from the date of publication of this proposed rulemaking in the **Federal Register** will be provided for comments on this subject to be developed and submitted. The agency will evaluate any comments and supporting data that are received and will reassess the economic impact of this rulemaking in the preamble to the final rule on benzoyl peroxide in OTC topical acne drug products.

The agency has determined under 21 CFR 25.24(c)(6) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Interested persons may, on or before October 7, 1991, submit to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, written comments, objections, or requests for oral hearing before the Commissioner on the proposed regulation. A request for an oral hearing must specify points to be covered and time requested. Written comments on the agency's economic impact determination may be submitted on or before October 7, 1991. Three copies of all comments, objections, and requests are to be submitted, except that individuals may submit one copy. Comments, objections, and requests are to be identified with the docket number found in brackets in the heading of this document and may be accompanied by a supporting memorandum or brief. Comments, objections, and requests may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. Any scheduled oral hearing will be announced in the **Federal Register**.

Interested persons, on or before August 7, 1992, may also submit in writing new data demonstrating the safety of those conditions not classified in Category I. Written comments on the new data may be submitted on or before October 7, 1992. These dates are consistent with the time periods specified in the agency's final rule revising the procedural regulations for reviewing and classifying OTC drugs, published in the **Federal Register** of September 29, 1981 (46 FR 47730). Three copies of all data and comments on the data are to be submitted, except that individuals may submit one copy, and all data and comments are to be identified with the docket number found in brackets in the heading of this document. Data and comments should be addressed to the Dockets Management Branch (HFA–305) (address above). Received data and comments may also be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

In establishing a final monograph, the agency will ordinarily consider only data submitted prior to the closing of the administrative record on October 7, 1992. Data submitted after the closing of the administrative record will be reviewed by the agency only after a final monograph is published in the **Federal Register**, unless the Commissioner finds good cause has been shown that warrants earlier consideration.

List of Subjects in 21 CFR Part 333

Labeling, Over-the-counter drugs, Topical acne drug products.

Therefore, under the Federal Food, Drug, and Cosmetic Act, it is proposed that part 333 of subchapter D of chapter I of title 21 of the Code of Federal Regulations (as proposed in the **Federal Register** of January 15, 1985; 50 FR 2172) be amended as follows:

PART 333—TOPICAL ANTIMICROBIAL DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

1. The authority citation for 21 CFR part 333 continues to read as follows:

Authority: Secs. 201, 501, 502, 503, 505, 510, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 351, 352, 353, 355, 360, 371).

§ 333.310 [Amended]

2. Section 333.310 *Acne active ingredients* is amended by removing paragraph (a) and redesignating paragraphs (b) through (f) as paragraphs (a) through (e).

3. Section 333.320 is revised to read as follows:

§ 333.320 Permitted combinations of active ingredients.

(a) Resorcinol identified in § 333.310(a) when combined with sulfur identified in § 333.310(e) provided the product is labeled according to § 333.350.

(b) Resorcinol monoacetate identified in § 333.310(b) when combined with sulfur identified in § 333.310(e) provided

the product is labeled according to § 333.350.

§ 333.350 [Amended]

4. Section 333.350 *Labeling of acne drug products* is amended by removing paragraph (c)(2) and redesignating paragraphs (c)(3) and (c)(4) as paragraphs (c)(2) and (c)(3).

Dated: June 4, 1991.

David A. Kessler,

Commissioner of Food and Drugs.

[FR Doc. 91-18696 Filed 8-6-91; 8:45 am]

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federal register

Wednesday
August 7, 1991

Part V

Department of Transportation

Office of Hearings

U.S.-Brazil Combination Service Case; Notice

DEPARTMENT OF TRANSPORTATION

Office of Hearings

[Docket 47676]

Combination Service Case; U.S.-Brazil

In the matter of prehearing conference order of Administrative Law Judge Robert L. Barton, Jr.

In Order 91–8–4, hereinafter referred to as the Instituting Order or the I.O., the Department has required that the Recommended Decision (R.D.) be rendered no later than November 22, 1991. Given that this date is approximately three and a half months from now, I must proceed to set the procedural dates for this case without waiting for a prehearing conference. While I realize that the dates are extremely stringent, and that the parties also may be participating in the U.S.-Italy Service Case, Docket 47654, given the very short time period set by the Department for the R.D. in this case, I do not intend to consider requests for modifications of the procedural dates unless there is a compelling reason for change. Therefore, the following procedural dates are hereby set:

Information Responses (see appendix B, IIIA of I.O.) [1] and Submission of Service Proposals:	August 13, 1991.
Prehearing Conference:	August 15, 1991.
Direct Exhibits:	August 19, 1991.
Rebuttal Exhibits:	September 16, 1991.
Commencement of Hearing: [2]	September 23, 1991.
Public Counsel's Statement of Position:	September 30, 1991.
Briefs:	October 15, 1991.[3]
Recommended Decision:	November 22, 1991.

[1] Appendix B, IIIA of the Instituting Order requires certain information responses from Public Counsel and incumbent carriers. These information responses shall be submitted no later than August 13, 1991, and three copies shall be submitted to the Judge in addition to the copy made available to the parties in room 4201 at the Department of Transportation, 400 7th Street, SW., Washington, DC. See Order 91–8–4, appendix B. On August 13, 1991 the applicants also shall serve the Judge and all parties with a statement of their service proposals, including routing, frequency, aircraft, equivalent frequencies, and proposed startup date. After August 13, the applicants will be permitted to change their service proposals only with the prior permission of the judge, and only upon a showing of exceptional circumstances warranting such a change. See 14 CFR 302.5 and 302.18.

[2] Because the Recommended Decision in the proceeding must be issued no later than November 22, 1991, only one week will be allotted for the hearing. If necessary, therefore, the hearing will include evening and weekend sessions. Moreover, strict limitations on direct and cross-examination will be set.

[3] Due to the short deadline for the R.D., reply briefs will not be permitted.

The prehearing conference will be held on August 15, 1991 at 10 a.m. in room 5332, 400 Seventh St. SW., Washington, DC. In order to facilitate the conduct of the conference, all parties shall submit, by August 12, 1991, one copy to each party and three copies to the judge of (1) a proposed statement of the issues or matters to be addressed at the conference; (2) any proposed stipulations; and (3) any additional requests for information other than those set forth in the Instituting Order. If no such submissions are received from the parties by August 12, I may cancel the prehearing conference.

Some civic parties may wish to file petitions to intervene. See 14 CFR 302.15. Any such motions to intervene must be filed no later than August 19, 1991, and their direct exhibits will be due that date as well. Such presentations usually do not require extensive direct or cross-examination. All parties in the proceeding will be required to indicate in advance of the hearing which witnesses they intend to cross-examine. If no parties wish to cross, the written statements may be offered in evidence without oral testimony. See attached ground rules.

Absent prior permission by the judge, Rule 14 participants, see 14 CFR 302.14, who wish to participate will be required to offer written presentations without oral testimony. Such statements must be submitted no later than 5 p.m. on the first day of the hearing in this case. Moreover, they must be served on the parties, the Judge, and the hearing docket in the same manner required for exhibits submitted by the parties. *Ex parte* submissions to the Judge will be rejected and returned to the sender.

The ground rules for the conduct of the preceeding are contained in appendix A and will govern unless modified as exigencies warrant. Exhibits which do not comply with these rules may be rejected.

Any questions about this order should be raised at the prehearing conference or presented as motions and served on all parties. *Ex parte* inquiries will not be considered.

A service list, which is derived from the Instituting Order, is included as appendix B. If not already contained therein, the parties should provide each other and the Judge with their full address, including room number, telephone number and fax number.

Robert L. Barton, Jr.,

Administrative Law Judge.

Ground Rules

1. *Evidence*

Evidence shall be prepared in written exhibit form and shall be served on the dates set forth in this order. Evidence as to events occurring after the exhibit-exchange dates shall be presented by revised exhibits.

The evidentiary record shall be limited to factual material. Argument shall be presented in briefs and not submitted as evidence.

Since the burden of showing the relevance and the probative value of evidence is on the proponent, any parties presenting econometric analyses will bear the burden of showing the relevance and value of such evidence in this proceeding. See U.S.–Japan Service Case, Docket 46438, Recommended Decision of Judge Ronnie A. Yoder, p. 71, n. 74, February 8, 1990.

Further, advertising or promotional materials generally will not be considered relevant.

However, as indicated at the prehearing conference, the parties are strongly encouraged to submit evidence relating to the comparative performance of the carriers at the proposed gateways. This would include specific information as to the on-time performance and passenger complaint rates of each carrier.

2. *Format of Exhibits*

The direct exhibits and rebuttal exhibits each shall contain a table of contents. The principal title of each exhibit should state precisely what it contains and should indicate the purpose for which the exhibit is offered. However, such statements will not be considered part of the evidentiary record.

The exhibits shall be numbered sequentially, and shall be on 8½×11 paper, unless otherwise ordered. Three copies of the exhibits (all of which are tabbed) shall be filed with the judge and copies shall be sent to the parties in accordance with the exhibit exchange list attached to this report. The tabs should be typed or printed in black letters on white tabs or dividers. Rebuttal exhibits shall refer specifically to the exhibits being rebutted.

Where one part of a multi-page exhibit is based on another part, appropriate cross-reference shall be made. For example, a profit-and-loss forecast based on detailed estimates appearing on other pages should contain specific references showing which pages support the different individual items of the forecast. Such exhibits shall be arranged in an organized manner in accordance with the party's theory of the case.

3. *Requirement for Submission of Corrected Copies of Exhibits*

Each party shall provide an original and three fully corrected copies of its exhibits received in evidence. If submitted at the hearing, the original is presented to the reporter and ultimately is transmitted to the Department for inclusion in the original docket of this proceeding. A revision date should be shown on all revised exhibits, and the submitting party should ensure that the revisions are physically inserted in the record copies.

4. *Authenticity of Documents*

The authenticity of all documents submitted as proposed exhibits in advance of the hearing shall be deemed admitted unless written objection is filed prior to the hearing, except that a party will be permitted to challenge authenticity at a later time by

showing good cause for having failed to file a written objection (*e.g.*, absent objection, if an exhibit purporting to be a copy of a letter mailed on a certain date were submitted, it would not be necessary to prove such mailing or the accuracy of the copy).

5. *Hearing*

A. *Direct Examination*

The applicant's direct exhibits shall describe its service proposal *in detail*, including the proposed routing, frequency, aircraft, frequencies, and startup date. However, the service proposal in the direct exhibits shall not deviate from the service proposal presented with the Information Responses without prior permission of the Judge.

A party that believes it has evidence which is appropriate for receipt in evidence without a sponsoring witness may present, with its exhibits, (1) an affidavit, by the person or persons who prepared the exhibits stating that the exhibits were prepared by them, or under their direction, and are true and correct; and (2) a request that the exhibits be received in evidence without a witness at the hearing. Any party who desires to cross-examine and, therefore, objects to such a request, shall advise the requesting party in writing, with a copy to the judge, setting forth those objections and specifying the witness or witnesses it intends to cross-examine. If no objections are received, the exhibit will be received without a sponsoring witness at the hearing, subject to the right of objection on other grounds.

Further, any other witness who has submitted testimony in written form need not appear at the hearing unless a party states that it wishes to cross-examine the witness. The parties must indicate witnesses they wish to cross-examine no later than November 29, 1990.

Civic parties will proceed first, followed by the carriers, each proceeding in the same alphabetical order as shown in the service list. Parties are expected to present their cases in order. Witnesses will be taken out of order for good cause, such as illness, severe family crisis, or other unavoidable and unforeseen circumstances.

Direct oral examination of witnesses for the purpose of responding to rebuttal exhibits shall be strictly limited. General questions will not be permitted. Such examination shall be specific in nature and not lengthy. Witnesses shall state in precise terms their disagreement with the rebuttal exhibit and not read from prepared statements or merely restate information contained in other exhibits.

B. *Cross-Examination*

Cross-examination shall be limited to the scope of the direct examination and to witnesses whose testimony is adverse to the party desiring to cross-examine. Thus, "friendly cross-examination" will not be permitted. Parties with common interests will be aligned for purposes of the hearing. See 14 CFR 399.61. If the parties do not formally align, I may consider them aligned in any event to the extent they have common interests.

Cross will not be permitted on the same areas of testimony of a party with a common interest. Where carriers and civic parties are aligned or have common interests, they should consult before beginning cross of a particular witness and determine who is going to conduct the cross-examination of that witness.

Even to the extent that parties do not have related interests, they still will not be allowed to engage in duplicative cross-examination. I will prohibit, either on objection of a party or on my own, cross-examination of areas which have already been covered by another party.

Unless the parties agree otherwise, the order of cross-examination will be in alphabetical order, with carriers first.

Cross-examination generally will be limited to fifteen minutes per party. I may allow additional time if a party advises me prior to the beginning of the cross of the need for extra time, demonstrates good cause for a longer examination, and states how much time is needed. Recross normally will not be permitted.

C. *Motions and Objections*

Oral argument on any motion or objection may be limited to the party or parties making the motion or objection and to the party or parties against which the motion or objection is directed.

6. *Withdrawal of an Applicant*

If a party decides at some point in the proceeding not to prosecute its application, I expect it promptly to notify me and to withdraw its application. If it fails to do so, I may dismiss the application on my own initiative.

7. *Exceptions to the Rules*

These rules are deemed consistent with the orderly conduct of this proceeding but exceptions may be made by the judge, either in response to a party's motion or on his own initiative.

Service List

U.S.-Brazil Combination Service Case

American Airlines, Inc.

Carl B. Nelson, Jr., Esq., American Airlines, Inc., 1101 17th Street, NW., Suite 600, Washington, DC 20036, TEL: (202) 857–4228, FAX: (202) 857–4246.

Delta Air Lines, Inc.

Robert E. Cohn, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Fifth Floor, Washington, DC 20037, TEL: (202) 663–8060, FAX: (202) 663–8007.

Northwest Airlines, Inc.

Mr. Elliott Seiden, Northwest Airlines, Inc., 901 15 Street, NW., suite 500, Washington, DC 20005.

Pan American World Airways, Inc.

Richard Mathias, Esq., Pan American World Airways, Inc., 1200 17th Street, NW., suite 500, Washington, DC 20036, TEL: (202) 659–7722.

United Air Lines, Inc.

Joel Stephen Burton, Esq., Ginsburg, Feldman & Bress, Chartered, 1250 Connecticut Avenue, NW., suite 800, Washington, DC 20036, TEL: (202) 637–9130, FAX: (202) 637–6776.

California Parties

Mr. Douglas H. Gordon, Vice President-Corporate Affairs, California Chamber of Commerce, 1201 K Street, 12th Floor, P.O. Box 1736, Sacramento, California 95812–1736.

Mr. James K. Hahn, City Attorney's Office, Department of Airports, 1 World Way, room 104, P.O. Box 92216, Los Angeles, California 90009–2216.

Mr. Donald D. Doyle, President, San Francisco Chamber of Commerce, 465 California Street, Ninth Floor, San Francisco, California 94104.

Georgia & Atlanta Parties

Bill Alberger, Esq., Stoel Rives Boley Jones & Grey, 1275 K Street, NW., suite 1100, Washington, DC 20005.

Brazil

Embassy of Brazil, 3006 Massachusetts Avenue, NW., Washington, DC 20016.

U.S. State Department

Mr. Charles Angevine, Deputy Assistant Secretary for Transportation Affairs, U.S. Department of State, 2201 C Street, NW., room 5830, Washington, DC 20520.

U.S. Department of Transportation

The Honorable Robert L. Barton, Jr., Administration Law Judge, Office of Hearings, M–50, room 9228, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, TEL: (202) 366–2140, FAX: (202) 366–7536.

Mr. Robert S. Goldner, Office of the Deputy Assistant Secretary for Policy & International Affairs, room 9216, P–7, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, TEL: (202) 366–4826.

Docket Section, room 4107, C–55, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590.

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Reader Aids

Federal Register

Vol. 56, No. 152

Wednesday, August 7, 1991

INFORMATION AND ASSISTANCE

Federal Register

Index, finding aids & general information	523-5227
Public inspection desk	523-5215
Corrections to published documents	523-5237
Document drafting information	523-5237
Machine readable documents	523-3447

Code of Federal Regulations

Index, finding aids & general information	523-5227
Printing schedules	523-3419

Laws

Public Laws Update Service (numbers, dates, etc.)	523-6641
Additional information	523-5230

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the Presidents	523-5230
Weekly Compilation of Presidential Documents	523-5230

The United States Government Manual

General information	523-5230

Other Services

Data base and machine readable specifications	523-3408
Guide to Record Retention Requirements	523-3187
Legal staff	523-4534
Privacy Act Compilation	523-3187
Public Laws Update Service (PLUS)	523-6641
TDD for the hearing impaired	523-5229

FEDERAL REGISTER PAGES AND DATES, AUGUST

36723-36996.....1
36997-37138.....2
37139-37266.....5
37267-37452.....6
37453-37640.....7

CFR PARTS AFFECTED DURING AUGUST

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
6319.....37135
6320.....37407

5 CFR

581.....36723
Proposed Rules:
333.....36741
733.....37480

7 CFR

301.....37606
318.....36724
354.....36724
401.....36724
1240.....37453
1786.....37267
Proposed Rules:
354.....37481
701.....37499
800.....37302
967.....36742
985.....37500

9 CFR

50.....36997
Proposed Rules:
92.....37025
130.....37481

10 CFR

2.....36998
Proposed Rules:
1049.....36743

12 CFR

32.....37272
701.....37276
741.....37276
Proposed Rules:
574.....37162
922.....37303
931.....37303
932.....37303

13 CFR

107.....37459
121.....37276

14 CFR

21.....37279
25.....37279
39.....37139-37144, 37282, 37462-37470
73.....37607
158.....37127
Proposed Rules:
21.....36972-36976
36.....36976
39.....36747, 36748, 37167-37169, 37317-37320
43.....36976
91.....36976
141.....36976
147.....36976

15 CFR

Proposed Rules:
801.....37170

16 CFR

Proposed Rules:
Ch.1.....37026

17 CFR

211.....36999
231.....36999
241.....36999
Proposed Rules:
1.....37026
3.....37026
150.....37049

18 CFR

271.....37145

19 CFR

200.....36725

20 CFR

404.....36932
416.....36932
Proposed Rules:
655.....37145

21 CFR

510.....37472, 37473
520.....37473
524.....37473
878.....36871
1301.....36726, 36727
Proposed Rules:
333.....37622

23 CFR

635.....37000

24 CFR

201.....36980
203.....36980
234.....36980
235.....37147
888.....37148
889.....36728

27 CFR

Proposed Rules:
9.....37501

29 CFR

Proposed Rules:
507.....37175

2510.....36750
2617.....36750

30 CFR

913.....37011
914.....37013-37016
946.....37153
Proposed Rules:
784.....37194
817.....37194
931.....37051

31 CFR

550.....37156

32 CFR

552.....37130
626.....37019
627.....37019
706.....37284

33 CFR

117.....37474
161.....37475
Proposed Rules:
117.....37504
161.....36910
165.....37052

36 CFR

7.....37158
Proposed Rules:
13.....37262

37 CFR

Proposed Rules:
1.....37321
10.....37321

38 CFR

Proposed Rules:
4.....37053

39 CFR

111.....36729
Proposed Rules:
111.....36750

40 CFR

52.....37475
61.....37158
80.....37020
81.....37285, 37288
271.....37290, 37291
Proposed Rules:
52.....37195
61.....37196
136.....37331
260.....37331
261.....37331

41 CFR

301-8.....37478

42 CFR

Proposed Rules:
441.....37054
448.....37054
489.....37054

46 CFR

Proposed Rules:
Ch. IV.....37505
550.....37069
580.....37069
581.....37069

47 CFR

0.....36729
64.....36729
73.....36733-36735
97.....37160
Proposed Rules:
73.....36751, 36752

48 CFR

1.....37257
5.....37257
8.....37257
9.....37257
10.....37257
14.....37257
15.....37257
16.....37257
17.....37257
19.....37257
25.....37257
27.....37257
31.....37257
33.....37259
35.....37257
36.....37257
42.....37257
43.....37257
44.....37257
45.....37257
49.....37257
52.....37257
Proposed Rules:
7.....37404
52.....37404

49 CFR

28.....37292
531.....37478
Proposed Rules:
107.....36992, 37505
171.....37505
172.....37505
173.....37505
175.....37505
177.....37505
178.....37505
571.....37332
1037.....36752

50 CFR

215.....36735
641.....37606
661.....37161
663.....37022
672.....36739
685.....37023, 37300
Proposed Rules:
17.....36753, 37200, 37513
217.....36753
227.....36753
685.....37070

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