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WHO: The Office of the Federal Register.

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

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4. An introduction to the finding aids of the FR/CFR system.

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

WASHINGTON, DC
(two briefings)

WHEN: July 15 at 9:00 am and 1:30 pm

WHERE: Office of the Federal Register, 7th Floor Conference Room, 800 North Capitol Street NW, Washington, DC (3 blocks north of Union Station Metro)

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Presidential Documents

Title 3—

The President

Proclamation 6577 of July 2, 1993

Agreement on Trade Relations Between the United States of America and Romania

By the President of the United States of America

A Proclamation

1. By the authority vested in me as President by the Constitution and the laws of the United States of America, I, acting through duly empowered representatives, entered into negotiations with representatives of Romania to conclude an agreement on trade relations between the United States of America and Romania.

2. These negotiations were conducted in accordance with the requirements of the Trade Act of 1974, Public Law 93–618, as amended (19 U.S.C. 2101–2495) (the "Trade Act").

3. As a result of these negotiations, an "Agreement on Trade Relations Between the Government of the United States of America and the Government of Romania" ("Agreement"), including exchanges of letters which form an integral part of the Agreement, the foregoing in English and Romanian, was signed on April 3, 1992, by duly empowered representatives of the two Governments and is set forth as an annex to this proclamation.

4. This Agreement conforms to the requirements relating to bilateral commercial agreements set forth in section 405(b) of the Trade Act (19 U.S.C. 2435(b)).

5. Article XVI of the Agreement provides that the Agreement shall enter into force on the date of exchange of written notices of acceptance by the two Governments.

6. Section 405(c) of the Trade Act (19 U.S.C. 2435(c)) provides that a bilateral commercial agreement providing nondiscriminatory treatment to the products of a country heretofore denied such treatment, and a proclamation implementing such agreement, shall take effect only if approved by the Congress under the provisions of that Act.

7. Section 604 of the Trade Act (19 U.S.C. 2483) authorizes the President to embody in the Harmonized Tariff Schedule of the United States the substance of the provisions of that Act, of other acts affecting import treatment, and actions taken thereunder.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, acting under the authority vested in me by the Constitution and the laws of the United States, including but not limited to sections 404, 405, and 604 of the Trade Act (19 U.S.C. 2434, 2435, and 2483), do proclaim that:

(1) This proclamation shall become effective, said Agreement shall enter into force, and nondiscriminatory treatment shall be extended to the products of Romania, in accordance with the terms of said Agreement, on the date of exchange of written notices of acceptance in accordance with Article XVI of said Agreement. The United States Trade Representative shall publish notice of the effective date in the **Federal Register**.

(2) Effective with respect to articles entered, or withdrawn from warehouse for consumption, into the customs territory of the United States on or after the date provided in paragraph (1) of this proclamation, general note

3(b) of the Harmonized Tariff Schedule of the United States, enumerating those countries whose products are subject to duty at the rates set forth in rate of duty column 2 of the tariff schedule, is modified by striking out "Romania".

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

William J. Clinton

Billing code 3195–01–P

Editorial note: For the President's message to Congress and the determination on this trade agreement, see the *Weekly Compilation of Presidential Documents* (vol. 29, issue 26).

AGREEMENT ON TRADE RELATIONS BETWEEN
THE GOVERNMENT OF THE UNITED STATES OF AMERICA
AND THE GOVERNMENT OF ROMANIA

The Government of the United States of America and the Government of Romania (hereinafter referred to collectively as "Parties" and individually as "Party"),

Affirming that the evolution of market-based economic institutions and the strengthening of the private sector will aid the development of mutually beneficial trade relations,

Acknowledging that the development of trade relations and direct contact between nationals and companies of the United States and nationals and companies of Romania will promote openness and mutual understanding,

Considering that expanded trade relations between the Parties will contribute to the general well-being of the peoples of each Party,

Recognizing that development of bilateral trade may contribute to better mutual understanding and cooperation and promote respect for internationally recognized worker rights,

Having agreed that economic ties are an important and necessary element in the strengthening of their bilateral relations,

Being convinced that an agreement on trade relations between the two Parties will best serve their mutual interests, and

Desiring to create a framework which will foster the development and expansion of commercial ties between their respective nationals and companies,

Have agreed as follows:

ARTICLE I

APPLICATION OF GATT AND CERTAIN GATT AGREEMENTS

1. Both Parties reaffirm the importance of their rights and obligations under the General Agreement on Tariffs and Trade ("GATT") and reaffirm the importance of the provisions and principles of the GATT to their respective economic policies.

2. To this end, the Parties shall apply between themselves the provisions of the GATT as those provisions apply to each Party, and shall accord each other's products most-favored-nation treatment ("MFN") as provided in the GATT, provided that to the extent any provision of the GATT is inconsistent with this Agreement, the latter shall apply.

3. Both Parties reaffirm the importance of their participation in the GATT Code Agreements to which both are signatories, which presently include the Agreement on Technical Barriers to Trade ("Standards Code"), the Agreement on Implementation of Article VI ("Anti-Dumping Code"), the Agreement on Implementation of Article VII ("Customs Valuation Code"), the Agreement on Import Licensing Procedures ("Licensing Code"), the Agreement on Trade in Civil Aircraft ("Aircraft Code"), and the Arrangement Regarding Bovine Meat, and the importance of the provisions and principles contained therein to their respective economic policies.

4. Both Parties commit to participate constructively in multilateral negotiations aimed at improving existing agreements

and any other multilateral negotiations under the auspices of the GATT.

5. Each Party shall accord to imports of products and services originating in the territory of the other Party most-favored-nation treatment with respect to the allocation of and access to currency to pay for such imports.

ARTICLE II

GENERAL OBLIGATIONS WITH RESPECT TO TRADE

1. The Parties agree to maintain a satisfactory balance of market access opportunities through concessions in trade in products and services, including the satisfactory reciprocation of reductions in tariffs and nontariff barriers to trade resulting from multilateral negotiations.

2. With a view to assuring nondiscriminatory trade in products and services, such trade shall be effected by contracts between nationals and companies of either Party concluded in the exercise of their independent commercial judgment and on the basis of customary commercial considerations such as price, quality, availability, delivery, and terms of payment.

3. Neither Party shall require or encourage its nationals or companies to engage in barter or countertrade transactions with nationals or companies of the other Party. Nevertheless, where nationals or companies decide to resort to barter or countertrade operations, the Parties will encourage them to

furnish to each other all necessary information to facilitate the transaction.

ARTICLE III

EXPANSION AND PROMOTION OF TRADE

1. The Parties affirm their desire to expand trade in products and services consistent with the terms of this Agreement. They shall take appropriate measures to encourage and facilitate the exchange of goods and services and to secure favorable conditions for long-term development of trade relations between their respective nationals and companies.

2. The Parties shall take appropriate measures to encourage the expansion of commercial contacts with a view to increasing trade. In this regard, the Government of Romania expects that, during the term of this Agreement, nationals and companies of Romania shall increase their orders in the United States for products and services, while the Government of the United States anticipates that the effect of this Agreement shall be to encourage increased purchases by nationals and companies of the United States of products and services from Romania. Toward this end, the Parties shall publicize this Agreement and ensure that it is made available to all interested parties.

3. Each Party shall encourage and facilitate the holding of trade promotional events such as fairs, exhibitions, missions and seminars in its territory and in the territory of the other Party. Similarly, each Party shall encourage and facilitate the

participation of its respective nationals and companies in such events. Each Party shall permit participation in such events by commercial representations on nondiscriminatory terms and conditions. Subject to the laws in force within their respective territories, the Parties agree to allow the import and re-export on a duty free basis of all articles for use in such events, provided that such articles are not sold or otherwise transferred.

ARTICLE IV

GOVERNMENT COMMERCIAL OFFICES

1. In order to promote the development of trade and economic relations between the Parties, and to provide assistance to their nationals and companies engaged in commercial activities, each Party agrees to permit and facilitate the establishment and operation of Government commercial offices of the other Party on a reciprocal basis. The establishment and operation of such offices shall be in accordance with applicable laws and regulations, and subject to such terms, conditions, privileges, and immunities as may be agreed upon by the Parties.

2. Government commercial offices and their respective officers and staff members, to the extent that they enjoy diplomatic immunity, shall not participate directly in the negotiation, execution, or fulfillment of trade transactions, or otherwise carry on trade.

3. Subject to its laws governing foreign missions, each Party shall allow government commercial offices to hire directly host-country nationals and, subject to immigration laws and procedures, third-country nationals.

4. Each Party shall ensure unhindered access of host-country nationals to government commercial offices of the other Party.

5. Each Party shall encourage the participation of its nationals and companies in the activities of their respective government commercial offices, especially with respect to events held on the premises of such commercial offices.

6. Each Party shall encourage and facilitate access of government commercial office personnel of the other Party to host-country officials, and to representatives of host-country nationals and companies.

7. This Agreement shall not derogate from obligations assumed by either Party concerning the establishment of existing government commercial offices.

ARTICLE V

BUSINESS FACILITATION

1. Each Party shall afford commercial representations of the other Party fair and equitable treatment with respect to the conduct of their operations.

2. Each Party shall endeavor to ensure that governmental decisions, rulings, and findings affecting the conduct of commercial activities are made expeditiously.

3. Subject to its laws and procedures governing immigration and foreign missions, each Party shall permit the establishment within its territory of commercial representations of nationals and companies of the other Party and shall accord such representations treatment at least as favorable as that accorded to commercial representations of nationals and companies of third countries.

4. Parties shall permit employees of commercial representations and members of their immediate families to enter the territory of the other Party and to travel therein freely, in accordance with the laws relating to the entry, stay and travel of aliens. Each Party agrees to make available multiple entry visas of duration of six months or longer to such persons and to members of their immediate families.

5. Subject to its laws and procedures governing immigration and foreign missions, each Party shall permit such commercial representations established in its territory to hire directly employees who are nationals of either Party or of third countries and to compensate such employees on terms and in a currency that is mutually agreed between the parties, consistent with such Party's minimum wage laws.

6. Each Party shall permit commercial representations of the other Party to import and use in accordance with normal commercial practices, office and other equipment, such as typewriters, photocopiers, computers and telefax machines, in connection with the conduct of their activities in the territory of such Party.

7. Each Party shall permit, on a nondiscriminatory basis and at nondiscriminatory prices (where such prices are set or controlled by the government), commercial representations of the other Party access to and use of office space and living accommodations, whether or not designated for use by foreigners. The terms and conditions of such access and use shall in no event be on a basis less favorable than that accorded to commercial representations of nationals and companies of third countries.

8. Subject to its laws and procedures governing immigration and foreign missions, each Party shall permit nationals and companies of the other Party to engage agents, consultants and distributors of either Party and of third countries on prices and terms mutually agreed between the parties.

9. Subject to its laws and procedures governing immigration and foreign missions, each Party shall permit nationals and companies of the other Party to serve as agents, consultants and distributors of nationals and companies of either Party and of third countries on prices and terms mutually agreed between the parties.

10. Each Party shall permit nationals and companies of the other Party to advertise their products and services (i) through direct agreement with the advertising media, including television, radio, print and billboard, and (ii) by direct mail, including the use of enclosed envelopes and cards preaddressed to that national or company.

11. Each Party shall encourage direct contact, and permit direct sales, between nationals and companies of the other Party and end-users and other customers of their goods and services, and with agencies whose decisions will affect potential sales.

12. Each Party shall permit nationals and companies of the other Party to conduct market studies, either directly or by contract, within its territory. To facilitate the conduct of market research, each Party shall upon request make available non-confidential, non-proprietary information within its possession to nationals and companies of the other Party.

13. Each Party shall provide nondiscriminatory access to government-provided products and services, including public utilities and telecommunications facilities, to nationals and companies of the other Party in connection with the operation of their commercial representations.

14. Each Party shall permit commercial representations to stock an adequate supply of samples and replacement parts for after-sale service on a non-commercial basis.

15. Neither Party shall impose measures which unreasonably impair contractual or property rights or other interests acquired within its territory by nationals and companies of the other Party.

16. Paragraphs 6 and 14 of this Article shall not be construed to affect the application of ordinary customs and tariff laws.

ARTICLE VI

TRANSPARENCY

1. Each Party shall make available publicly on a timely basis all laws, regulations, judicial decisions, and administrative rulings related to commercial activity, including trade, investment, taxation, banking, insurance and other financial services, transport and labor.

2. Each Party shall provide nationals and companies of the other Party with access to available non-confidential, non-proprietary data and information on the national economy and individual sectors, including information on foreign trade, production figures, and other such information related to each Party's internal market.

3. Each Party shall allow the other Party, and the other Party's nationals and companies, the opportunity to comment, to the extent practicable, on the formulation of laws, regulations, standards, and administrative rulings which affect the conduct of their business activities.

ARTICLE VII

FINANCIAL PROVISIONS RELATING TO TRADE IN PRODUCTS AND SERVICES

1. Unless otherwise agreed between the parties to individual transactions, all commercial transactions between nationals and companies of the Parties shall be made in United States dollars or any other currency that may be designated by the International Monetary Fund as being a freely usable currency.

2. Neither Party shall restrict the transfer from its territory of convertible currencies or deposits, or payment instruments representative thereof, obtained in connection with trade in products and services by nationals and companies of the other Party.

3. Nationals and companies of a Party holding currency of the other Party received in an authorized manner may deposit such currency in financial institutions located in the territory of the other Party and may maintain and use such currency for local expenses.

4. Without derogation from paragraphs 2 or 3 of this Article, in connection with trade in products and services, each Party shall grant to nationals and companies of the other Party the better of most-favored-nation or national treatment with respect to:

(a) opening and maintaining accounts, in both local and foreign currency, and having access to their funds

deposited, in financial institutions located in the territory of the Party;

(b) payments, remittances and transfers of convertible currencies, or financial instruments representative thereof, between the territories of the two Parties, as well as between the territory of that Party and that of any third country;

(c) rates of exchange and related matters, including access to freely usable currencies, such as through currency auctions; and

(d) the receipt and use of local currency.

ARTICLE VIII

PROTECTION OF INTELLECTUAL PROPERTY RIGHTS

1. Each Party shall provide adequate and effective protection and enforcement for patents, trademarks, copyrights, trade secrets, and integrated circuit layout designs as set forth in the text of the attached side letter on intellectual property.

ARTICLE IX

AREAS FOR FURTHER COOPERATION

1. For the purpose of further developing bilateral trade and promoting a steady increase in the exchange of products and services, both Parties shall strive to achieve a mutually acceptable agreement on investment issues, including the repatriation of profits and transfer of capital.

2. The Parties shall take appropriate steps to foster economic and technical cooperation on as broad a base as possible in all fields deemed to be in their mutual interest, including cooperation with respect to statistics and standards, as well as production figures.

3. The Parties, taking into account the increasing economic significance of service industries, agree to consult on matters affecting service businesses in the two countries and particular matters of mutual interest relating to individual service sectors with the objective, among others, of attaining maximum possible market access and liberalization.

ARTICLE X

IMPORT RELIEF SAFEGUARDS

1. The Parties agree to consult promptly at the request of either Party whenever actual or prospective imports of products originating in the territory of the other Party cause, threaten to cause, or significantly contribute to market disruption. Market disruption exists within a domestic industry whenever imports of an article, like or directly competitive with an article produced by a domestic industry, are increasing rapidly, either absolutely or relatively, so as to be a significant cause of material injury, or threat thereof, to the domestic industry.

2. The consultations provided for in paragraph 1 of this Article shall have the objectives of (i) presenting and examining the factors relating to such imports that may be causing or threatening to cause or significantly contributing to market disruption, and (ii) finding means of preventing or remedying such market disruptions. Such consultations shall be concluded within sixty days from the date of the request for such consultation, unless the Parties otherwise agree.

3. Unless a different solution is mutually agreed upon during the consultations, the importing Party may (i) impose quantitative import limitations, tariff measures or any other restrictions or measures to such extent and for such time as it deems appropriate to prevent or remedy threatened or actual market disruption, and (ii) take appropriate measures to ensure that imports from the territory of the other Party comply with such quantitative limitations or other restrictions. In this event, the other Party shall be free to deviate from its obligations under this Agreement with respect to substantially equivalent trade.

4. Where in the judgment of the importing Party, emergency action is necessary to prevent or remedy such market disruption, the importing Party may take such action at any time and without prior consultations provided that consultations shall be requested immediately thereafter.

5. Each Party shall ensure that its domestic procedures for determining market disruption are transparent and afford affected parties an opportunity to submit their views.

6. In the selection of measures under this Article, the Parties shall give priority to those measures which cause the least disturbance to the goals and provisions of this Agreement.

7. The Parties acknowledge that the elaboration of the market disruption safeguard provisions in this Article is without prejudice to the right of either Party to apply its own unfair trade laws and regulations, including antidumping and countervailing duty laws and those laws applicable to trade in textiles and textile products.

ARTICLE XI

DISPUTE SETTLEMENT

1. Nationals and companies of either Party shall be accorded national treatment with respect to access to all courts and administrative bodies in the territory of the other Party, as plaintiffs, defendants or otherwise. They shall not claim or enjoy immunity from suit or execution of judgment, proceedings for the recognition and enforcement of arbitral awards, or other liability in the territory of the other Party with respect to commercial transactions; they also shall not claim or enjoy immunities from taxation with respect to commercial transactions, except as may be provided in other bilateral agreements.

2. The Parties encourage the adoption of arbitration for the settlement of disputes arising out of commercial transactions concluded between nationals or companies of the United States and nationals or companies of Romania. Such arbitration may be provided for by agreements in contracts between such nationals and companies, or in separate written agreements between them.

3. The parties may provide for arbitration under any internationally recognized arbitration rules, such as the arbitration rules of the International Chamber of Commerce or the UNCITRAL Rules. If the parties elect the UNCITRAL Rules, the parties should designate an Appointing Authority under said rules in a country other than the United States or Romania.

4. Unless otherwise agreed between the parties, the parties should specify as the place of arbitration a country other than the United States or Romania that is a party to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, done at New York, 1958.

5. Nothing in this Article shall be construed to prevent, and the Parties shall not prohibit, the parties from agreeing upon any other form of arbitration or dispute settlement which suits their particular needs.

6. Each Party shall ensure that an effective means exists within its territory for the recognition and enforcement of arbitral awards.

ARTICLE XII

NATIONAL SECURITY

1. The provisions of this Agreement shall not limit the right of either Party to take any action for the protection of its security interests.

ARTICLE XIII

CONSULTATIONS

1. The Joint American-Romanian Economic Commission, established on December 5, 1973, shall periodically review the operation of this Agreement and make recommendations for achieving its objectives. The Commission shall operate pursuant to its existing Terms of Reference and Rules of Procedure, as the same may be modified from time to time by the Parties.

2. At the request of either Party, the Parties agree to consult promptly through appropriate channels to discuss any matter concerning the interpretation or implementation of this Agreement or other relevant aspects of relations between the Parties.

ARTICLE XIV

DEFINITIONS

1. As used in this Agreement, the terms set forth below shall have the following meaning:

(a) "company" means any kind of corporation, company, association, sole proprietorship, or other

organization legally constituted under the laws and regulations of a Party or a political subdivision thereof, whether or not organized for pecuniary gain, and whether or not privately or government owned.

(b) "commercial representation" means a representation of a company of a Party.

(c) "national" means a natural person who is a national of a Party under the Party's applicable laws.

ARTICLE XV

GENERAL EXCEPTIONS

1. Nothing in this Agreement shall be construed to prohibit any action by either Party which is required or permitted by the GATT.

2. So long as the measure does not constitute either an arbitrary or unjustifiable discrimination between countries where the same conditions prevail or a disguised restriction on international trade, nothing in this Agreement shall be construed to prohibit:

(a) measures for the protection of intellectual property rights and for the prevention of deceptive practices, as set out in Article VIII and the side letters to this Agreement, provided that such measures shall be related

to the extent of an injury suffered or to prevent such an injury's occurrence;

(b) measures for reasons contemplated by Article XX of the GATT, provided that the term "Agreement" in GATT Article XX, paragraph (d) shall be construed to refer to this Agreement.

3. Trade in products or services between the Parties which is subject to existing or subsequent bilateral or multilateral agreements on specific sectoral trade, such as existing agreements on textiles and civil aircraft, shall be subject to the terms of any such agreement.

4. Each Party reserves the right to deny the advantages of this Agreement to any company if either (i) nationals of a third country control the company and the company has no substantial business activities in the territory of the other Party, or (ii) the company is controlled by nationals of a third country with which the Party does not maintain normal economic relations.

ARTICLE XVI

ENTRY INTO FORCE, TERM, SUSPENSION AND TERMINATION

1. This Agreement (including its side letters, which are an integral part of the Agreement) shall enter into force upon an exchange of diplomatic notes in which the Parties notify each other that all necessary legal requirements for entry into force have been fulfilled, and shall remain in force as provided in paragraphs 3 and 4 of this Article.

2. This Agreement shall, upon entry into force, supercede in all respects the Agreement on Trade Relations Between the United States of America and the Socialist Republic of Romania, done on April 2, 1975, and the Agreement Suspending Mutual Application of Most Favored Nation Tariff Treatment Under the Trade Agreement of April 2, 1975, done on June 22, 1988, which agreements shall have no further force or effect.

3. (a) The initial term of this Agreement shall be three years, subject to subparagraph (b) and (c) of this paragraph.

(b) If either Party encounters or foresees a problem concerning its domestic legal authority to carry out any of its obligations under this Agreement, such Party shall request immediate consultations with the other Party. Once consultations have been requested, the other Party shall enter into such consultations as soon as possible concerning the circumstances that have arisen with a view to finding a solution to avoid action under subparagraph (c).

(c) If either Party does not have domestic legal authority to carry out is obligations under this Agreement, either Party may suspend the application of this Agreement or, with the agreement of the other Party, any part of this Agreement. In that event, the Parties will, to the fullest extent practicable and consistent with domestic law, seek to minimize disruption to existing trade relations between the two countries.

4. This Agreement shall be extended for successive terms of three years each unless either Party has given written notice to the other Party of its intent to terminate this Agreement at least 30 days prior to the expiration of the then current term.

IN WITNESS WHEREOF, the undersigned, being duly authorized, have signed this Agreement.

DONE at BUCHAREST on this 3RD day of APRIL 1992 in duplicate, in the English and the Romanian languages, both texts being equally authentic.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

FOR THE GOVERNMENT OF ROMANIA:

Bucharest, April 3,1992

Dear Mr. Minister,

I have the honor to confirm receipt of your letter that reads as follows:

Dear Mr. Ambassador:

In connection with the signing on this date of the Agreement on Trade Relations Between the United States of America and Romania (the "Agreement"), I have the honor to confirm the understanding reached by our Governments (the "Parties") regarding cooperation in the field of tourism services as follows:

GOAL

1. Both Parties shall facilitate the expansion of tourism between the United States and Romania and encourage the adoption of measures by tourist companies of both countries to satisfy the desire of tourists to learn about the lifestyles, achievements, history and culture of each country.

OFFICIAL TOURISM PROMOTION

1. Each Party shall seek permission of the other Party prior to the establishment of official, governmental tourism promotion offices in the other's territory.

2. Permission to open tourism promotion offices or field offices and the status of personnel at those offices shall be subject to the agreement of the Parties and subject to the laws and regulations of the host country.

The Honorable Constantin Fota
Minister of Commerce and Tourism
Romania

Bucharest, April 3,1992

Dear Mr. Minister,

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The Honorable Constantin Fota
Minister of Commerce and Tourism
Romania

3. Tourism promotion offices opened by either Party shall be operated on a non-commercial basis. Official tourism promotion offices and the personnel assigned to them shall not function as agents or principals in commercial transactions, enter into contractual agreements on behalf of commercial organizations, or engage in any other commercial activities. Such offices shall not sell services to the public or otherwise compete with travel agents or tour operators of either country.

4. Official governmental tourism offices shall conduct activities related to the promotion and facilitation of tourism between the United States and Romania, including:

(a) providing information about the tourist facilities and attractions in their respective countries to the public, the travel industry, and the media;

(b) holding meetings and workshops for representatives of the travel industry, as appropriate;

(c) participating in trade shows;

(d) distributing advertising and promotional materials such as posters, brochures, and photographs to the public, the travel industry, and the media;

(e) performing tourism market research.

5. Nothing in this letter shall obligate either Party to open an official governmental tourism office in the territory of the other.

COMMERCIAL TOURISM COMPANIES

1. Commercial tourism companies, whether privately or governmentally owned, or branches thereof, shall be treated as private commercial companies, fully subject to all applicable laws and regulations of the host country.

2. Each Party shall ensure within the scope of its legal authority and in accordance with its laws and regulations that any company owned, controlled, or administered by that Party or any joint venture therewith, or any private company or joint venture between private companies, which effectively controls a significant

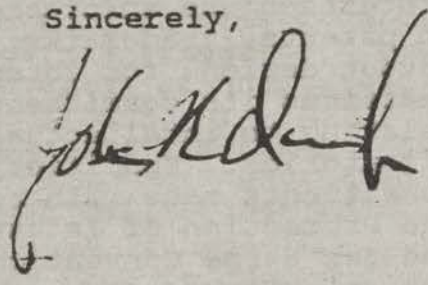
proportion of the tourism and travel-related services in the territory of that Party shall provide those services to nationals and companies of the other Party on a fair and equitable basis.

Nothing in this letter or in the Agreement shall be construed to mean that tourism and travel-related services shall not receive the benefits from the Agreement as fully as all other industries and sectors.

I have the further honor to propose that this understanding be treated as an integral part of the Agreement. I would be grateful if you would confirm that this understanding is shared by your government.

I have the further honor to confirm that the foregoing understanding is shared by my Government and constitutes an integral part of the Agreement.

Sincerely,



Bucharest, April 3,1992

Dear Mr. Minister,

I have the honor to confirm receipt of your letter that reads as follows:

Dear Mr. Ambassador:

In connection with the signing on this date of the Agreement on Trade Relations between the Government of the United States and the Government of Romania (the "Agreement"), I have the honor to confirm the understanding reached by our Governments as follows:

The Parties agree to provide adequate and effective protection and enforcement of intellectual property rights in patents, trademarks, copyrights, trade secrets, and layout designs for integrated circuits. Each Party reaffirms its commitments to those international agreements relating to intellectual property to which both Parties are signatories. Specifically, each Party reaffirms the commitments made with respect to the Paris Convention for the Protection of Industrial Property (Stockholm Act, 1967) and the Berne Convention for the Protection of Literary and Artistic Works.

1. Each Party shall provide no less favorable treatment to the right holders of the other Party than it provides to its own right holders with respect to laws, regulations and practices implementing the provisions of this letter.

2. To provide adequate and effective protection and enforcement of intellectual property rights, each Party shall continue to adhere to the Paris Convention for the Protection of Industrial Property (Stockholm Act, 1967) (Paris Convention), and shall adhere to the Berne Convention for the protection of Literary and Artistic Works (Paris 1971)(Berne Convention), and the Geneva Convention for the Protection of Producers of Phonograms (Geneva Convention) and shall also observe, inter alia, the following:

The Honorable Constantin Fota
Minister of commerce and Tourism
Romania

(a) COPYRIGHT AND RELATED RIGHTS

(i) Each Party shall protect the works listed in Article 2 of the Berne Convention and any other works now known or later developed, that embody original expression within the meaning of the Berne Convention, including:

(1) all types of computer programs (including application programs and operating systems) expressed in any language, whether in source or object form which shall be protected as literary works; and,

(2) collections or compilations of protected or unprotected material or data whether in print, machine readable or any other medium, including data bases, which shall be protected in so far as they constitute an intellectual creation by reason of the selection, coordination, or arrangement of their contents.

(ii) Each Party shall ensure that the rights provided to authors in works protected pursuant to paragraph 2(a)(i) of this letter shall include, the following:

(1) the exclusive right to import or authorize the importation into the territory of the Party of lawfully made copies of the work;

(2) the exclusive right to prevent the importation into the territory of the Party of copies of the work made without the authorization of the right-holder;

(3) the exclusive right to make the first public distribution of the original or each authorized copy of a work by sale, rental, or otherwise;

(4) in respect of at least computer programs, the exclusive right to authorize or prohibit the rental of the original or copies of their copyrighted works. Each Party may exclude from the rental right programs that are fixed as part of a machine or are fixed in a medium that is not susceptible to

copying. Putting the originals or copies of computer programs on the market with the consent of the right-holder shall not exhaust the rental right; and

(5) the exclusive right to publicly communicate a work except for a sound recording (e.g., to perform, display, project, exhibit, broadcast, transmit, or retransmit a work); the term "public" shall include:

(A) communicating a work in a place open to the public or at any place where a substantial number of persons outside of a normal circle of a family and its social acquaintances is gathered; or

(B) communicating or transmitting a work, a performance, or a display of a work, in any form, or by means of any device or process to a place specified in clause 2(ii)(5)(A) or to the public, regardless of whether the members of the public capable of receiving such communications can receive them in the same place or separate places and at the same time or at different times.

(iii) Parties shall extend the protection afforded under paragraph 2(a)(i) and 2(a)(ii) of this letter to authors of the other Party, whether they are natural persons or, where the domestic law of the Party seeking protection so provides, juridical entities, and to their successors in title.

(iv) Each Party shall provide that the exclusive rights protected under paragraph 2(a)(ii) of this letter are freely and separately exploitable and transferable. Each Party also shall provide that assignees and exclusive licensees may enjoy all rights of their assignors and licensors acquired through voluntary agreements, and ensure that they are entitled to enjoy and exercise their acquired exclusive rights in their own names.

(v) In cases where a Party calculates the term of protection of a work on a basis other than the life of a natural person, the term of protection shall be no less than 50 years from the first authorized publication or, failing such authorized publication within 50 years from the making of the work, 50 years after the making.

(vi) Each Party shall confine any limitations upon and exceptions to the exclusive rights provided under paragraph 2(a)(ii) of this letter (including any limitations or exceptions that restrict such rights to "public" activity) to certain special cases which do not conflict with a normal exploitation of the work and do not unreasonably prejudice the legitimate interests of the right holder.

(vii) Each Party shall limit resort to compulsory licensing to those works, rights and utilizations permitted under the Berne Convention; and further shall ensure that any legitimate compulsory or non-voluntary license or restriction of exclusive rights to a right of remuneration shall provide means to ensure payment and remittance of royalties at a level consistent with what would be negotiated on a voluntary basis.

(viii) Each Party shall, at a minimum, extend to producers of sound recordings the exclusive rights to do or to authorize the following:

(1) to reproduce the recording by any means or process, in whole or in part; and

(2) to exercise the importation and exclusive distribution and rental provided in paragraphs 2(a)(ii)(1)(2)(3) and (4) of this letter.

(ix) Paragraphs 2(a)(iii), (iv) and (vi) of this letter shall apply mutatis mutandis to sound recordings.

(x) Each Party shall:

(1) protect sound recordings first fixed or published in the territory of the other Party;

(2) protect sound recordings for a term of at least 50 years from publication; and

(3) grant the right to make the first public distribution of the original of each authorized sound recording by sale, rental, or otherwise except that the first sale of the original of such sound recording shall not exhaust the rental or importation right therein (the "rental right" shall mean the right to authorize or prohibit the disposal of the possession of the original or copies for direct or indirect commercial advantage).

(xi) Parties shall not subject the acquisition and validity of intellectual property rights in sound recordings to any formalities, and protection shall arise automatically upon creation of the sound recording.

(b) TRADEMARKS

(i) Protectable Subject Matter

(1) Trademarks shall consist of at least any sign, words, including personal names, designs, letters, numerals, colors, or the shape of goods or of their packaging, provided that the mark is capable of distinguishing the goods or services of one undertaking from those of other undertakings.

(2) The term "trademark" shall include service marks, collective and may include certification marks.

(ii) Acquisition of Rights

(1) Each Party shall provide a system for the registration of trademarks.

Parties shall provide protection for trademarks based on registration and may provide protection on the basis of use.

(2) Each Party shall publish each trademark either before it is registered or promptly after it is registered and shall afford other parties a reasonable opportunity to petition to cancel the registration. In addition, each Party may afford an opportunity for the other Party to oppose the registration of a trademark.

(3) The nature of the goods or services to which a trademark is to be applied shall in no case form an obstacle to registration of the trademark.

(iii) Rights Conferred

(1) The owner of a registered trademark shall have exclusive rights therein. He shall be entitled to prevent all third parties not having his consent from using in commerce identical or similar signs for goods or services which are identical or similar to those in respect of which the trademark is protected, where such use would result in a likelihood of confusion.

(2) Each Party shall refuse to register or shall cancel the registration and prohibit use of a trademark likely to cause confusion with a trademark of another which is considered to be well-known. A Party may not require that the reputation of the trademark extend beyond the sector of the public which normally deals with the relevant goods or services.

(3) The owner of a trademark shall be entitled to take action against any

unauthorized use which constitutes an act of unfair competition.

(4) The rights described in the foregoing paragraphs shall not prejudice any existing prior rights, nor shall this affect the possibility of Parties making rights available on the basis of use.

(iv) Term of Protection

Initial registration of a trademark shall be for a term of at least 10 years. The registration of a trademark shall be indefinitely renewable for terms of no less than 10 years when conditions for renewal have been met.

(v) Other Requirements

The use of a trademark in commerce shall not be encumbered by special requirements, such as use which reduces the function of a trademark as an indication of source or use with another trademark.

(vi) Compulsory Licensing

Compulsory licensing of trademarks shall not be permitted.

(vii) Transfer

Trademark registrations may be transferred.

(c) PATENTS

(i) Patentable Subject Matter

Patents shall be available for all inventions, whether products or processes, in all fields of technology, except that a Party may exclude from patentability any invention or discovery which is useful solely in the utilization of special nuclear material or atomic energy in an atomic weapon.

(ii) Rights Conferred

(1) A patent shall confer the right to prevent others not having the patent owner's consent from making, using, or selling the subject matter of the patent. In the case of a patented process, the patent confers the right to prevent others not having consent from using that process and from using, selling, or importing at least the product obtained directly by that process.

(2) Where the subject matter of a patent is a process for obtaining a product, each Party shall provide that the burden of establishing that an alleged infringing product was not made by the process shall be on the alleged infringer if the patent owner presents evidence that a substantial likelihood exists that the product was made by the process and the patent owner has been unable through reasonable efforts to determine the process actually used. In the gathering and evaluation of evidence to the contrary, the legitimate interests of the defendant in protecting his trade secrets shall be taken into account.

(3) A patent may be revoked only on grounds that would have justified a refusal to grant the patent.

(iii) Exceptions

Each Party may provide limited exceptions to the exclusive rights conferred by a patent, such as for acts done for experimental purposes, provided that the exceptions do not significantly prejudice the economic interests of the right-holder, taking account of the legitimate interests of third parties.

(iv) Term of Protection

Each Party shall provide a term of protection of at least 20 years from the date of filing of the patent application or 17 years from the date of grant of the patent. Each Party

is encouraged to extend the term of patent protection, in appropriate cases, to compensate for delays caused by regulatory approval processes.

(v) Transitional Protection

A Party shall provide transitional protection for products embodying subject matter deemed to be unpatentable under its patent law prior to its implementation of the provisions of this letter, where the following conditions are satisfied:

(1) the subject matter to which the product relates will become patentable after implementation of the provisions of this letter; and

(2) a patent has been issued for the product by the other Party prior to the entry into force of the Agreement; and

(3) the product has not been marketed in the territory of the Party providing such transitional protection.

The owner of a patent for a product satisfying the conditions set forth above shall have the right to submit a copy of the patent to the competent authority of the Party providing transitional protection. Such Party shall limit the right to make, use, or sell the product in its territory to such owner for a term to expire with that of the patent submitted.

(vi) Compulsory Licenses

Each Party may limit the patent owner's exclusive rights through compulsory licenses but only (1) to remedy an adjudicated violation of competition laws, (2) to address, only during its existence, a declared national emergency, and (3) to enable compliance with national air pollutant standards, where compulsory licenses are essential to such compliance.

Where the law of a Party allows for the grant of compulsory licenses, the following provisions shall be respected:

(1) Compulsory licenses shall be non-exclusive and non-assignable except with that part of the enterprise which exploits such license.

(2) The payment of remuneration to the patent owner adequate to compensate the patent owner fully for the license shall be required, except for compulsory licenses to remedy adjudicated violations of competition law.

(3) Each case involving the possible grant of a compulsory license shall be considered on its individual merits except that such consideration may be waived in cases of a declared national emergency.

(4) Any compulsory license shall be revoked when the circumstances which led to its granting cease to exist, taking into account the legitimate interests of the patent owner and of the licensee. The continued existence of these circumstances shall be reviewed upon request of the patent owner.

(5) Judicial review shall be available for:

(a) Decisions to grant compulsory licenses, except in the instance of a declared national emergency,

(b) decisions to continue compulsory licenses, and

(c) decisions concerning the amount of compensation provided for compulsory licenses.

(d) LAYOUT-DESIGNS OF SEMICONDUCTOR INTEGRATED CIRCUITS

(i) Subject Matter for Protection

(1) Each Party shall provide protection for original layout-designs incorporated in a semiconductor integrated circuit, however the layout-design might be fixed or encoded.

(2) Each Party may condition protection on fixation or registration of the layout-designs. If registration is required, applicants shall be given at least two years from first commercial exploitation of the layout-design in which to apply. A Party which requires deposits of identifying material or other material related to the layout-design shall not require applicants to disclose confidential or proprietary information unless it is essential to allow identification of the layout-design.

(ii) Rights Acquired

(1) Each Party shall provide to right-holders of lay-out designs of the other Party the exclusive right to do or to authorize the following:

(A) to reproduce the layout-design;

(B) to incorporate the layout-design in a semiconductor chip; and

(C) to import or distribute a semiconductor integrated circuit incorporating the layout-design and products including such integrated circuits.

(2) The conditions set out in paragraph (c)(vi) of this paragraph shall apply, mutatis mutandis, to the grant of any compulsory licenses for layout-designs.

(3) Neither Party is required to extend protection to layout-designs that are commonplace in the industry at the time of their creation or to layout-designs that are exclusively dictated by the functions of the circuit to which they apply.

(4) Each Party may exempt the following from liability under its law:

(A) reproduction of a layout-design for purposes of teaching, analysis, or evaluation in the course of

preparation of a layout-design that is itself original;

(B) importation and distribution of semiconductor chips, incorporating a protected layout-design, which were sold by or with the consent of the owner of the layout-design; and

(C) importation or distribution up to the point of notice of a semiconductor chip incorporating a protected layout-design and products incorporating such chips by a person who establishes that he did not know, and had no reasonable grounds to believe, that the layout-design was protected, provided that, with respect to stock on hand or purchased at the time notice is received, such person may import or distribute only such stock but is liable for a reasonable royalty on the sale of each item after notice is received.

(iii) Term of Protection

The term of protection for the lay-out design shall extend for at least ten years from the date of first commercial exploitation or the date of registration of the design, if required, whichever is earlier.

(e) ACTS CONTRARY TO HONEST COMMERCIAL PRACTICES AND THE PROTECTION OF TRADE SECRETS

(i) In the course of ensuring effective protection against unfair competition as provided for in Article 10 bis of the Paris Convention for the Protection of Industrial Property, each Party shall provide in its domestic law and practice the legal means for nationals and companies to prevent trade secrets from being disclosed to, acquired by, or used by others without the consent of the trade secret owner in a manner contrary to honest commercial practices insofar as such information:

(1) is not, as a body or in the precise configuration and assembly of its components, generally known or readily ascertainable;

(2) has actual or potential commercial value because it is not generally known or readily ascertainable; and

(3) has been subject to reasonable steps under the circumstances to keep it secret.

(ii) Neither Party shall limit the duration of protection for trade secrets so long as the conditions in paragraph 2(e)(i) of this letter exist.

(iii) Licensing

Neither Party shall discourage or impede voluntary licensing of trade secrets by imposing excessive or discriminatory conditions on such licenses or conditions which dilute the value of trade secrets.

(iv) Government Use

(1) If a Party requires, as a condition of approving the marketing of pharmaceutical or agricultural chemical products which utilize new chemical entities, the submission of undisclosed test or other data, the origination of which involves a considerable effort, that Party shall protect such data against unfair commercial use. Further, each Party shall protect such data against disclosure except where necessary to protect the public or unless steps are taken to ensure that the data is protected against unfair commercial use.

(2) Unless the person submitting the information agrees, the data may not be relied upon for the approval of competing products for a reasonable period of time, taking into account the efforts involved in the origination of the data, their nature, and the expenditure involved in their

preparation, and such period of time shall generally be not less than five years from the date of marketing approval.

(3) Where a Party relies upon a marketing approval granted by another Party, the reasonable period of exclusive use of the data submitted in connection with obtaining the approval relied upon shall commence with the date of the first marketing approval relied upon.

(f) ENFORCEMENT OF INTELLECTUAL PROPERTY RIGHTS

(i) Each Party shall protect intellectual property rights covered by this letter by means of civil law, criminal law, or administrative law or a combination thereof in conformity with the provisions below. Each Party shall provide effective procedures, and remedies to prevent or stop, within its territory and at the border, against any act of infringement, and effective remedies to stop and prevent infringements and to effectively deter further infringements. These procedures shall be applied in such a manner as to avoid the creation of obstacles to legitimate trade and provide safeguards against abuse.

(ii) Procedures for enforcing intellectual property rights shall be fair and equitable.

(iii) Decisions on the merits of a case shall, as a general rule, be in writing and reasoned. They shall be made known at least to the parties to the dispute without undue delay.

(iv) Each Party shall provide an opportunity for judicial review of final administrative decisions on the merits of an action concerning the protection of an intellectual property right. Subject to jurisdictional provisions in each Party's laws concerning the importance of a case, an opportunity for judicial review of the legal aspects of initial judicial decisions on the merits of a case concerning the protection of an intellectual property right shall also be provided.

(v) Notwithstanding the other provisions of paragraph 2(f), when a Party to this Agreement is

sued with respect to infringement of an intellectual property right as a result of the use of that right by or for the government, the Party may limit remedies against the government to payment of full compensation to the right-holder.

3. For purposes of this Agreement:

(a) "right-holder," includes the right-holder himself, any other natural or legal person authorized by him who are exclusive licensees of the right, or other authorized persons, including federations and associations, having legal standing under domestic law to assert such rights;

(b) "A manner contrary to honest commercial practice" is understood to encompass, inter alia, practices such as theft, bribery, breach of contract, inducement to breach, electronic and other forms of commercial espionage, and includes the acquisition, use or disclosure of trade secrets by third parties who knew, or had reasonable grounds to know, that such practices were involved in their acquisition of such information.

(c) "Integrated circuit" means a product, in its final form or an intermediate form, in which the elements, at least one of which is an active element, and some or all of the interconnections are integrally formed in and/or on a piece of material and which is intended to perform an electronic function.

4. Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail, or a disguised restriction on international trade, nothing in this letter shall be construed to prohibit the adoption or enforcement by a Party of measures necessary to secure compliance with laws or regulations relating to the protection and enforcement of intellectual property rights and the prevention of deceptive practices as set out in this letter.

5. Each Party agrees to submit for enactment no later than December 31, 1993 the legislation necessary to carry out the obligations of this letter and to exert its best efforts to enact and implement this legislation by that date.

6. The Parties acknowledge that, under the existing Romanian law, it is not possible to fully implement the provisions of this letter. Accordingly, the Government of Romania has undertaken the obligation set forth in paragraph 5 of the side letter to submit and exert best efforts to

enact and implement amendments to existing laws or enact new laws. Pending the enactment of such amendments or new laws which fully implement the provisions of the exchange of letters, if it is brought to the attention of the Romanian Government by the Government of the United States that existing laws are being applied in a manner inconsistent with this side letter, the Government of Romania shall promptly take appropriate steps to rectify the inconsistency, including accelerating the introduction and implementation of such amendments and new laws.

I have the further honor to propose this understanding be treated as an integral part of the Agreement. I would be grateful if you would confirm that this understanding is shared by your Government.

I have the further honor to confirm that the foregoing understanding is shared by my Government and constitutes an integral part of the Agreement.

Sincerely,

[FR Doc. 93–16216
Filed 7–2–93; 4:26 pm]
Billing code 3190–01–C

Rules and Regulations

Federal Register
Vol. 58, No. 128
Wednesday, July 7, 1993

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

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

MERIT SYSTEMS PROTECTION BOARD

5 CFR Part 1201

Practices and Procedures; Commercial Overnight Delivery

AGENCY: Merit Systems Protection Board.

ACTION: Final rule.

SUMMARY: The Merit Systems Protection Board is amending its regulations by adding commercial overnight delivery as a method of service of written submissions; by adding commercial overnight delivery as a method of filing written submissions; and by defining the date of filing written submissions by commercial overnight delivery as the date the document is delivered to the commercial overnight delivery service. The changes will conform the regulations to actual and accepted practice.

EFFECTIVE DATE: July 7, 1993.

FOR FURTHER INFORMATION CONTACT: Robert E. Taylor, Clerk of the Board (202) 653–7200.

SUPPLEMENTARY INFORMATION: The Board is amending its regulations to provide specifically for service and filing of documents by commercial overnight delivery and to define the date of filing by this means as the date the document is delivered to the commercial overnight delivery service. The rule gives comparable treatment to filing by mail and filing by commercial overnight delivery.

The Board is publishing this rule as a final rule pursuant to 5 U.S.C. 1204(h).

List of Subjects in 5 CFR Part 1201

Administrative practice and procedure, Civil rights, Government employees.

Accordingly, the Board amends 5 CFR part 1201 as follows:

PART 1201—[AMENDED]

1. The authority citation for part 1201 continues to read as follows:

Authority: 5 U.S.C. 1204 and 7701 unless otherwise noted.

2. Section 1201.4 is amended by removing the second "or" in paragraph (i); by removing the period at the end of paragraph (i); and by adding in its place ", or by commercial overnight delivery." Section 1201.4 is also amended by adding a sentence at the end of paragraph (l) to read as follows:

§ 1201.4 General definitions.

* * * * *

(1) * * * The date of filing by commercial overnight delivery is the date the document was delivered to the commercial overnight delivery service.

3. Section 1201.22 is amended by removing "or" in paragraph (d); by removing the period at the end of paragraph (d); and by adding in its place ", or by commercial overnight delivery."

4. Section 1201.26 is amended by removing "or" in the second sentence of paragraph (b)(2); and by inserting after "delivery" and before "to" in line seven ", or by commercial overnight delivery".

5. Section 1201.114 is amended by removing "or" in paragraph (c); by removing the period at the end of paragraph (c); and by adding in its place ", or by commercial overnight delivery."

Dated: June 30, 1993.

Robert E. Taylor,

Clerk of the Board.

[FR Doc. 93–15949 Filed 7–6–93; 8:45 am]
BILLING CODE 7400–01–M

5 CFR Part 1209

Practices and Procedures for Appeals and Stay Requests of Personnel Actions Allegedly Based on Whistleblowing

AGENCY: Merit Systems Protection Board.

ACTION: Final rule.

SUMMARY: The Merit Systems Protection Board is amending its regulations by adding commercial overnight delivery as a method of filing for appeals and stay requests of personnel actions allegedly based on whistleblowing to conform the regulations to actual and accepted practice.

EFFECTIVE DATE: July 7, 1993.

FOR FURTHER INFORMATION CONTACT: Robert E. Taylor, Clerk of the Board (202) 653–7200.

SUPPLEMENTARY INFORMATION: The Board is amending its regulations to provide specifically for filing and service by commercial overnight delivery.

The Board is publishing this rule as a final rule pursuant to 5 U.S.C. 1204(h).

List of Subjects in 5 CFR Part 1209

Administrative practice and procedure, Civil rights, Government employees.

Accordingly, the Board amends 5 CFR part 1209 as follows:

PART 1201—[AMENDED]

1. The authority citation for part 1209 continues to read as follows:

Authority: 5 U.S.C. 1204, 1221, 2302(b)(8) and 7701.

2. Section 1209.8 is amended by removing "or" in paragraph (d); by removing the period at the end of paragraph (d); and by adding in its place ", or by commercial overnight delivery."

Dated: June 30, 1993.

Robert E. Taylor,

Clerk of the Board.

[FR Doc. 93–16064 Filed 7–6–93; 8:45 am]
BILLING CODE 7400–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM–78; Special Conditions No. 25–ANM–73]

Special Conditions: Modified Dassault-Aviation Mystere-Falcon Model 50 and Model 900 Airplanes, Lightning and High Intensity Radiated Fields (HIRF)

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for Dassault-Aviation Mystere-Falcon Model 50 and Model 900 airplanes modified by Falcon Jet Corporation in Little Rock, Arkansas. These special conditions apply to airplanes being modified by installation or modification of high-technology digital avionics systems or other electronic systems which perform

critical or essential functions. The applicable regulations do not contain adequate or appropriate safety standards for the protection of these systems from the effects of lightning and high-intensity radiated fields (HIRF). These special conditions provide the additional safety standards which the Administrator considers necessary to ensure that the critical and essential functions that these systems perform are maintained when the airplane is exposed to lightning and HIRF.

EFFECTIVE DATE: August 6, 1993.

FOR FURTHER INFORMATION CONTACT: William Schroeder, FAA, Standardization Branch, ANM–113, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, WA 98055–4056; telephone (206) 227–2148.

SUPPLEMENTARY INFORMATION:

Background

On October 16, 1991, Falcon Jet Corporation applied for a supplemental Type Certificate to modify the Dassault-Aviation Mystere-Falcon Model 50 and Model 900 airplanes. The proposed modification incorporates a number of novel or unusual design features, such as digital avionics including, an electronic flight instrument system (EFIS) which is vulnerable to lightning and high-intensity radiated fields (HIRF) external to the airplane. Other similar modifications often installed when updating to digital avionics include attitude and heading reference systems (AHRS) and engine indication and crew alerting systems (EICAS). Because these are typical modernization modifications for retrofitting state-of-the-art avionics and electronics to older airplanes, it is expected that Falcon Jet Corporation at Little Rock, Arkansas, will apply for supplemental type certificates for installation of similar modifications on Dassault-Aviation Mystere-Falcon Model 50 and Model 900 airplanes in the near future. Therefore, Falcon Jet Corporation will need appropriate lightning and HIRF criteria available for application to those projects.

The Dassault-Aviation Mystere-Falcon Model 50 and Model 900 airplanes are both on Type Certificate A46EU. The airplanes are pressurized, 8 to 19 passengers plus two pilots and an observer, executive transport type airplanes having maximum brake release weights prior to takeoff of 38,800 to 45,500 pounds, maximum operating speeds of 350 to 370 knots (IAS), and maximum operating altitudes of 45,000 to 51,000 feet, all depending on the specific model and airplane configuration. The airplanes are powered by three aft fuseable mounted turbojet or turbofan engines, depending on the scientific model and airplane configuration.

Supplemental Type Certification Basis

Under the provisions of § 21.115, subpart C of the FAR, Falcon Jet must show that the modified Dassault-Aviation Mystere-Falcon Model 50 and Model 900 airplanes meet the applicable requirements as specified in § 21.101 (a) and (b) of the FAR; unless (1) Otherwise specified by the Administrator, or (2) Compliance with later effective amendments is elected or required under § 21.101 (a) and (b), and (3) Special conditions are prescribed by the Administrator.

Based on the provisions of § 21.101 (a) and (b) of the FAR, Falcon Jet Corporation, when accomplishing their modification projects on Dassault-Aviation Mystere-Falcon Model 50 and Model 900 airplanes will have to show compliance with the applicable type certification basis on Type Certificate Data sheet (TCDS) No. A46EU, plus any additional requirements or amendments necessary to provide a level of safety equal to that established by the regulations at the time application is made for Supplemental Type Certification.

If the Administrator finds that the applicable airworthiness regulations (i.e., applicable part 25 requirements) do not contain adequate or appropriate safety standards for the modified Dassault-Aviation Mystere-Falcon Model 50 or Model 900 airplanes because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.101(b)(2) of the FAR to establish a level of safety equivalent to that established in the regulations. These special conditions form an additional part of the type certification basis when critical or essential digital avionics/electronic systems are being modified or installed.

Special conditions, as appropriate, are issued in accordance with § 11.49 of the FAR after public notice, as required by §§ 11.28 and 11.29 of the FAR, and become part of the type certification basis in accordance with § 21.115(a) of the FAR.

Discussion

The existing lightning protection airworthiness certification requirements are insufficient to provide an acceptable level of safety with the new technology avionic and electronic systems. There are two regulations that specifically pertain to lightning protection: One for the airframe in general (§ 25.581), and the other for fuel system protection (§ 25.954). There are, however, no regulations that deal specifically with protection of electrical and electronic systems from lightning. The loss of a critical function of these systems due to lightning would prevent continued safe flight and landing of the airplane. Although the loss of an essential function would not prevent continued safe flight and landing, it would significantly impact the safety level of the airplane.

There is also no specific regulation that addresses protection requirements for electrical and electronic systems from HIRF. Increased power levels from ground based radio transmitters and the growing use of sensitive electrical and electronic systems to command and control airplanes have made it necessary to provide adequate protection.

To ensure that a level of safety is achieved equivalent to that intended by the regulations incorporated by reference, special conditions are issued for the Dassault-Aviation Mystere-Falcon Model 50 and Model 900 airplanes which require that new technology electrical and electronic systems, such as electronic flight information systems, electronic engine information displays, digital avionics systems and electronic propulsion controls be designed and installed to preclude component damage and interruption of function due to both the direct and indirect effects of lightning and HIRF.

Lightning

To provide a means of compliance with these special conditions, a clarification on the threat definition of lightning is needed. The following "threat definition," based on FAA Advisory Circular 20–136, Protection of Aircraft Electrical/Electronic Systems Against the Indirect Effects of Lightning, dated March 5, 1990, is proposed as a basis to use in demonstrating compliance with the lightning protection special condition, with the exception of the multiple burst environment which has been changed to agree with the latest recommendation from the SAE AE4L lightning committee. This change was made subsequent to the publication of Notice of Proposed Special Conditions No. SC–93–1–NM in the **Federal Register** on March 5, 1993 (58 FR 12563). Because the new multiple burst environment is relieving as far as regulatory burden is considered, the public comment period will not be reopened for these special conditions.

The lightning current waveforms (Components A, D, and H) defined

below, along with the voltage waveforms in AC 20–53A, will provide a consistent and reasonable standard which is acceptable for use in evaluating the effects of lightning on the airplane. These waveforms depict threats that are external to the airplane. How these threats affect the airplane and its systems depend upon their installation configuration, materials, shielding, airplane geometry, etc. Therefore, tests (including tests on the completed airplane or an adequate simulation) and/or verified analyses need to be conducted in order to obtain the resultant internal threat to the installed systems. The electronic systems may then be evaluated with this internal threat in order to determine their susceptibility to upset and/or malfunction.

To evaluate the induced effects to these systems, three considerations are required:

1. *First Return Stroke:* (Severe Strike—Component A, or Restrike—Component D). This external threat needs to be evaluated to obtain the resultant internal threat and to verify that the level of the induced currents and voltages is sufficiently below the equipment "hardness" level; then

2. *Multiple Stroke Flash:* (½ Component D). A lightning strike is often composed of a number of successive strokes, referred to as multiple strokes. Although multiple strokes are not necessarily a salient factor in a damage assessment, they can be the primary factor in a system upset analysis. Multiple strokes can induce a sequence of transients over an extended period of time. While a single event upset of input/output signals may not affect system performance, multiple signal upsets over an extended period of time (2 seconds) may affect the systems under consideration. Repetitive pulse testing and/or analysis needs to be carried out in response to the multiple stroke environment to demonstrate that the system response meets the safety objective. This external multiple stroke environment consists of 24 pulses and is described as a single Component A followed by 23 randomly spaced restrikes of ½ magnitude of Component D (peak amplitude of 50,000 amps). The 23 restrikes are distributed over a period of up to 2 seconds according to the following constraints: (1) The minimum time between subsequent strokes is 10 ms, and (2) the maximum time between subsequent strokes is 200 ms. An analysis or test needs to be accomplished in order to obtain the resultant internal threat environment for the system under evaluation.

And, 3. *Multiple Burst:* (Component H). In-flight data-gathering projects have shown bursts of multiple, low amplitude, fast rates of rise, short duration pulses accompanying the airplane lightning strike process. While insufficient energy exists in these pulses to cause physical damage, it is possible that transients resulting from this environment may cause upset to some digital processing systems.

The representation of this interference environment is a repetition of short duration, low amplitude, high peak rate of rise, double exponential pulses which represent the multiple bursts of current pulses observed in these flight data gathering projects. This component is intended for an analytical (or test) assessment of functional upset of the system. Again, it is necessary that this component be translated into an internal environmental threat in order to be used. This "Multiple Burst" consists of repetitive Component H waveforms in 3 sets of 20 pulses each. The minimum time between individual Component H pulses within a burst is 50 microseconds, the maximum is 1,000 microseconds. The 3 bursts are distributed according to the following constraints: (1) The minimum period between subsequent bursts is 30 ms, and (2) the maximum period between subsequent bursts is 300 ms. The individual "Multiple Burst" Component H waveform is defined below.

The following current waveforms constitute the "Severe Strike" (Component A), "Restrike" (Component D), "Multiple Stroke" (½ Component D), and the "Multiple Burst" (Component H).

These components are defined by the following double exponential equation:

$i(t)=I_o (e^{-at}-e^{-bt})$

where: t = time in seconds, i = current in amperes, and

	Severe strike (component A)	Restrike (component D)	Multiple stroke (½ component D)	Multiple burst (component H)
I_o, amp	=218,810	109,405	54,703	10,572
a, sec^{-1}	=11,354	22,708	22,708	187,191
b, sec^{-1}	=647,265	1,294,530	1,294,530	19,105,100
This equation produces the following characteristics:				
I_{peak}	=200 KA	100 KA	50 KA	10 KA and,
$(di/dt)_{max}$ (amp/sec)	$=1.4\times10^{11}$ @t=0+ sec	1.4×10^{11} @t=0+ sec	0.7×10^{11} @t=0+ sec	2.0×10^{11} @t=0+ sec
di/dt, (amp/sec)	$=1.0\times10^{11}$ @t=.5μs	1.0×10^{11} @t=.25μs	0.5×10^{11} @t=.25μs	
Action Integral (amp^2 sec)	$=2.0\times10^{6}$	0.25×10^{6}	0.625×10^{6}	

High-Intensity Radiated Fields (HIRF)

With the trend toward increased power levels from ground based transmitters, plus the advent of space and satellite communications, coupled with electronic command and control of the airplane, the immunity of critical digital avionics systems, such as EFIS, to HIRF must be established.

It is not possible to precisely define the HIRF to which the airplane will be exposed in service. There is also uncertainty concerning the effectiveness of airframe shielding for HIRF. Furthermore, coupling to cockpit installed equipment through the cockpit window apertures is undefined. Based on surveys and analysis of existing HIRF emitters, an adequate level of protection exists when compliance with the HIRF protection special condition is shown with either paragraphs 1 or 2 below:

1. A minimum threat of 100 volts per meter peak electric field strength from 10 KHz to 18 GHz.

a. The threat must be applied to the system elements and their associated wiring harnesses without the benefit of airframe shielding.

b. Demonstration of this level of protection is established through system tests and analysis.

2. A threat external to the airframe of the following field strengths for the frequency ranges indicated.

Frequency	Peak (V/M)	Average (V/M)
10 KHz–100 KHz	50	50
100 KHz–500 KHz	60	60
500 KHz–2 MHz	70	70
2 MHz–30 MHz	200	200
30 MHz–70 MHz	30	30
70 MHz–100 MHz	30	30
100 MHz–200 MHz	150	33
200 MHz–400 MHz	70	70
400 MHz–700 MHz	4,020	935
700 MHz–1 GHz	1,700	170
1 GHz–2 GHz	5,000	990
2 GHz–4 GHz	6,680	840
4 GHz–6 GHz	6,850	310
6 GHz–8 GHz	3,600	670
8 GHz–12 GHz	3,500	1,270
12 GHz–18 GHz	3,500	360
18 GHz–40 GHz	2,100	750

The envelope given in paragraph 2 above is a revision to the envelope used in previously issued special conditions in other certification projects. It is based on new data and SAE AE4R subcommittee recommendations. This revised envelope includes data from Western Europe and the U.S. It will also be adopted by the European Joint Airworthiness Authorities.

Discussion of Comments

Notice of proposed special conditions No. SC–93–1–NM for the Modified Dassault-Aviation Mystere-Falcon Model 50 and Model 900 Airplanes was published in the Federal Register on March 5, 1993 (58 FR 12563). Two comments were received. One commenter concurs with the special conditions as proposed. The other commenter references a mistake under the "Background" section in the notice which states that the aircraft is "powered by two aft fuselage mounted turbine or turbofan engines depending on the specific model and airplane configuration." The commenter points out that, in fact, both the Falcon 50 and Falcon 900 airplanes are powered by three aft fuselage mounted turbofan engines. That correction is noted in these final special conditions.

Conclusion

This action affects only certain unusual or novel design features on Dassault-Aviation Mystere-Falcon Model 50 and Model 900 airplanes modified at Falcon Jet Corporation in Little Rock, Arkansas, by installation or modification of electronic systems that perform critical or essential functions. It is not a rule of general applicability and affects only Falcon Jet Corporation in Little Rock, Arkansas, when they apply to the FAA for approval of modifications involving these features on Dassault-Aviation Mystere-Falcon Model 50 and Model 900 airplanes.

List of Subjects in 14 CFR Part 25

Air transportation, Aircraft, Aviation safety, Safety.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 1344, 1348(c), 1352, 1354(a), 1355, 1421 through 1431, 1502, 1651(b)(2), 42 U.S.C. 1857f–10, 4321 *et seq.*; E.O. 11514; and 49 U.S.C. 106(g).

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for the modification or installation of critical and essential electronic systems on Dassault-Aviation Mystere-Falcon Model 50 and Model 900 airplanes at Falcon Jet Corporation in Little Rock, Arkansas.

1. Lightning Protection

a. Each electrical and electronic system that performs critical functions must be designed and installed to ensure that the operation and operational capability of these systems to perform critical functions are not adversely affected when the airplane is exposed to lightning.

b. Each essential function of electrical or electronic systems or installations must be protected to ensure that the function can be recovered in a timely manner after the airplane has been exposed to lightning.

2. Protection From Unwanted Effects of High-Intensity Radiated Fields (HIRF).

Each electrical and electronic system that performs critical functions must be designed and installed to ensure that the operation and operational capability of these systems to perform critical functions are not adversely affected when the airplane is exposed to high-intensity radiated fields external to the airplane.

The following definitions apply with respect to these special conditions:

Critical Functions. Functions whose failure would contribute to or cause a failure condition that would prevent the continued safe flight and landing of the airplane.

Essential Functions. Functions whose failure would contribute to or cause a failure condition that would significantly impact the safety of the airplane or the ability of the flightcrew to cope with adverse operating conditions.

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

Gary L. Killion,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service, ANM–100.

[FR Doc. 93–12179 Filed 7–6–93; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 25

[Docket No. NM–82; Special Conditions No. 25–ANM–70]

Special Conditions: Modified Gulfstream American Model 1159 Series Airplanes, High Intensity Radiated Fields (HIRF)

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for Gulfstream American Model 1159 series airplanes modified by Duncan Aviation, Inc., of Lincoln, Nebraska. These airplanes are equipped with digital electronic flight instrument systems (EFIS) that perform critical functions. The applicable regulations do not contain adequate or appropriate safety standards for the protection of the EFIS from the effects of high-intensity radiated fields (HIRF). These special conditions provide the additional safety standards that the Administrator considers necessary to ensure that the critical functions performed by these systems are maintained when the airplane is exposed to HIRF.

DATES: The effective date of these special conditions is May 10, 1993. Comments must be received on or before August 23, 1993.

ADDRESSES: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, Attn: Rules Docket (ANM–7), Docket No. NM–82, 1601 Lind Avenue SW., Renton, Washington, 98055–4056; or delivered in duplicate to the Office of the Assistant Chief Counsel at the above address. Comments must be marked "Docket No. NM–82. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Mark Quam, FAA, Standardization Branch, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (206) 227–2145.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA has determined that good cause exists for making these special conditions effective upon issuance; however, interested persons are invited to submit such written data, views, or arguments as they may desire. Communications should identify the regulatory docket and special conditions number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator. These special conditions may be changed in light of the comments received. All comments submitted will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Persons wishing the FAA to acknowledge receipt of their comments submitted in response to this request must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. NM–82." The postcard will be date stamped and returned to the commenter.

Background

On March 9, 1993, Duncan Aviation, Inc., applied for a supplemental type certificate to modify the Gulfstream American Model 1159 series airplanes. The Gulfstream American Model 1159 is a twin-engine business jet with two aft-mounted Rolls Royce Spey RB 511–8 engines. The airplane can carry two pilots and 19 passengers and is capable of operating to 45,000 feet altitude with certain service changes installed. The proposed modification incorporates the installation of digital avionics consisting of an electronic flight instrument system (EFIS) that is vulnerable to high-intensity radiated fields (HIRF) external to the airplane.

Supplemental Type Certification Basis

Under the provisions of § 21.102 of the FAR, Duncan Aviation, Inc., must show that the altered Gulfstream American Model 1159 series airplanes continue to meet the applicable provisions of the regulations incorporated by reference in Type Certificate No. A12EA, or the applicable regulations in effect on the date of application for the change. The regulations incorporated by reference in the type certificate are commonly referred to as the "original type certification basis."

The regulations incorporated by reference in Type Certificate No. A12EA include the following: Gulfstream American G–1159: CAR 4b dated December 31, 1953, including Amendments 4b–1 thru 4b–14. Gulfstream American 1159A: The Federal Aviation Regulations in 14 CFR part 25 effective February 1, 1965, including Amendments 25–2 thru 25–8, 25–10, 25–12, 25–16 thru 25–22, 25–24, 25–26, except § 25.1203(b)(3) for serial numbers 249, 252, 300 thru 321 (see retrofit requirement in A12Ea), 25–27, 25–29 thru 25–31, 25–34, 25–37, 25–40 (as applicable to the APU installation); and § 25.1329 (as applied to the autopilot installation). Gulfstream American G–1159B: CAR 4b, dated December 31, 1953, including Amendments 4b–1 thru 4b–14. In addition the following regulations apply to the EFIS installation for all Gulfstream American 1159 series airplanes: §§ 25.1301, 25.1303(b) and 25.1322, as amended through Amendment 25–38; §§ 25.1309, 25.1321(a), (b), (d), and (e), 25.1331, 25.1333, and 25.1335, as amended by Amendment 25–41. These special conditions will form an additional part of the supplemental type certification basis.

If the Administrator finds that the applicable airworthiness regulations (i.e., CAR 4b or part 25, as amended) do not contain adequate or appropriate safety standards for the Gulfstream American Model 1159 series airplanes because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16 to establish a level of safety equivalent to that established in the regulations.

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

Discussion

There is no specific regulation that addresses protection requirements for electrical and electronic systems from high-intensity radiated fields (HIRF). Increased power levels from ground based radio transmitters and the growing use of sensitive electrical and electronic systems to command and control airplanes have made it necessary to provide adequate protection.

To ensure that a level of safety is achieved equivalent to that intended by the regulations incorporated by referenced, special conditions are needed for the modified Gulfstream American Model G–1159 series airplanes that would require that the EFIS be designed and installed to preclude component damage and interruption of function due to the effects of HIRF.

High-Intensity Radiated Fields (HIRF)

With the trend toward increased power levels from ground based transmitters, plus the advent of space and satellite communications, coupled with electronic command and control of the airplane, the immunity of critical digital avionics systems, such as the EFIS, to HIRF must be established.

It is not possible to precisely define the HIRF to which the airplane will be exposed in service. There is also uncertainty concerning the effectiveness of airframe shielding for HIRF. Furthermore, coupling to cockpit installed equipment through the cockpit window apertures is undefined. Based on surveys and analysis of existing HIRF emitters, an adequate level of protection exists when compliance with the HIRF protection special condition is shown with either paragraphs 1 or 2 below:

1. A minimum threat of 100 volts per meter peak electric field strength from 10 KHz to 18 GHz.

a. The threat must be applied to the system elements and their associated wiring harnesses without the benefit of airframe shielding.

b. Demonstration of this level of protection is established through system tests and analysis.

2. A threat external to the airframe of the following field strengths for the frequency ranges indicated.

Frequency	Peak (V/M)	Average (V/M)
10 KHz–100 KHz	50	50
100 KHz–500 KHz	60	60
500 KHz–2000 KHz	70	70
2 MHz–30 MHz	200	200
30 MHz–70 MHz	30	30
70 MHz–100 MHz	30	30
100 MHz–200 MHz	150	33
200 MHz–400 MHz	70	70
400 MHz–700 MHz	4,020	935
700 MHz–1000 MHz	1,700	170
1 GHz–2 GHz	5,000	990
2 GHz–4 GHz	6,680	840
4 GHz–6 GHz	6,850	310
6 GHz–8 GHz	3,600	670
8 GHz–12 GHz	3,500	1,270
12 GHz–18 GHz	3,500	360
18 GHz–40 GHz	2,100	750

The envelope given in paragraph 2 above is a revision to the envelope used in previously issued special conditions in other certification projects. It is based on new data and SAE AE4R subcommittee recommendations. This revised envelope includes data from Western Europe and the United States.

Conclusion

This action affects only certain unusual or novel design features on the Gulfstream American Model 1159 series airplanes. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the airplane.

The substance of the special conditions for these airplanes has been subjected to the notice and comment procedure in several prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. For this reason, and because a delay would significantly affect the certification of the airplane, which is imminent, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions immediately. Therefore, these special conditions are being made effective upon issuance. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

List of Subjects in 14 CFR Part 25

Air transportation, Aircraft, Aviation safety, Safety.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. app. 1344, 1348(c), 1352, 1354(a), 1355, 1421 through 1431, 1502, 1651(b)(2), 42 U.S.C. 1857f–10, 4321 et seq.; E.O. 11514; and 49 U.S.C. 106(g).

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the supplemental type certification basis for the modified Gulfstream American Model G–1159 series airplanes:

1. *Protection From Unwanted Effects of High-Intensity Radiated Fields (HIRF).* Each electrical and electronic system that performs critical functions must be designed and installed to ensure that the operation and operational capability of these systems to perform critical functions are not adversely affected when the airplane is exposed to high-intensity radiated fields external to the airplane.

2. The following definition applies with respect to this special condition:

Critical Function. Functions whose failure would contribute to or cause a failure condition that would prevent the continued safe flight and landing of the airplane.

Issued in Renton, Washington, on May 10, 1993.

David G. Hmiel,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–12180 Filed 7–6–93; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 25

[Docket No. NM–83; Special Conditions No. 25–ANM–71]

Special Conditions: Modified Cessna Model 650 Airplanes, High Intensity Radiated Fields (HIRF)

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for Cessna Model 650 airplanes modified by Duncan Aviation, Inc., of Lincoln, Nebraska. These airplanes are equipped with digital electronic flight instrument systems (EFIS) that perform critical functions. The applicable regulations do not contain adequate or appropriate safety standards for the protection of the EFIS from the effects of high-intensity radiated fields (HIRF). These special conditions provide the additional safety standards that the Administrator considers necessary to ensure that the critical functions performed by these systems are maintained when the airplane is exposed to HIRF.

DATES: The effective date of these special conditions is May 10, 1993. Comments must be received on or before August 23, 1993.

ADDRESSES: Comments may be mailed in duplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, Attn: Rules Docket (ANM–7), Docket No. NM–83, 1601 Lind Avenue SW., Renton, Washington, 98055–4056; or delivered in duplicate to the Office of the Assistant Chief Counsel at the above address. Comments must be marked "Docket No. NM–83." Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Mark Quam, FAA, Standardization Branch, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (206) 227–2145.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA has determined that good cause exists for making these special conditions effective upon issuance; however, interested persons are invited to submit such written data, views, or arguments as they may desire. Communications should identify the regulatory docket and special conditions number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator. These special conditions may be changed in light of the comments received. All comments submitted will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Persons wishing the FAA to acknowledge receipt of their comments submitted in response to this request must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. NM–83." The postcard will be date stamped and returned to the commenter.

Background

On March 9, 1993, Duncan Aviation Inc., applied for a supplemental type certificate to modify Cessna Model 650 airplanes. The Cessna 650 is a twin-engine business jet with two aft-mounted Garrett TFE 731 engines. The Model 650 airplane is capable of carrying two pilots and 13 passengers and is capable of flying to 51,000 feet altitude. Modification incorporates the installation of digital avionics consisting of an electronic flight instrument system (EFIS) that is vulnerable to high-intensity radiated fields (HIRF) external to the airplane.

Supplemental Type Certification Basis

Under the provisions of § 21.101 of the FAR, Duncan Aviation Inc., must show that the altered Cessna Model 650 airplanes continue to meet the applicable provisions of the regulations incorporated by reference in Type Certificate No. A9NM, or the applicable regulations in effect on the date of application for the change. The regulations incorporated by reference in the type certificate are commonly referred to as the "original type certification basis."

The regulations incorporated by reference in Type Certificate No. A9NM include the following: The Federal

Aviation Regulations in 14 CFR part 25 effective February 1, 1965, as amended by Amendments 25–1 through 25–39, 25–43, and 25–44; §§ 25.901(c) and 25.1199, as amended through Amendment 25–40; §§ 25.1309 and 25.1351(d), as amended through Amendment 25–41; §§ 25.177, 25.255, and 25,703, as amended through Amendment 25–42; and §§ 25.1305 and 25.1529, as amended through Amendment 25–54. In addition, the following regulations apply to the EFIS installation: §§ 25.1321(a), (b), (d), and (e), 25.1331, 25.1333, and 25.1335, as amended by Amendment 25–41. These special conditions will form an additional part of the supplemental type certification basis.

If the Administrator finds that the applicable airworthiness regulations (i.e., part 25, as amended) do not contain adequate or appropriate safety standards for the Cessna Model 650 airplanes because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16 to establish a level of safety equivalent to that established in the regulations.

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

Discussion

There is no specific regulation that addresses protection requirements for electrical and electronic systems for high-intensity radiated field (HIRF). Increased power levels from ground based radio transmitters and the growing use of sensitive electrical and electronic systems to command and control airplanes have made it necessary to provide adequate protection.

To ensure that a level of safety is achieved equivalent to that intended by the regulations incorporated by reference, special conditions are needed for the modified Cessna 650 airplanes that would require that the EFIS be designed and installed to preclude component damage and interruption of function due to the effects of HIRF.

High-Intensity Radiated Fields (HIRF)

With the trend toward increased power levels from ground based transmitters, plus the advent of space and satellite communications, coupled with electronic command and control of the airplane, the immunity of critical digital avionics systems, such as the EFIS, to HIRF must be established.

It is not possible to precisely define the HIRF to which the airplane will be exposed in service. There is also uncertainty concerning the effectiveness of airframe shielding for HIRF. Furthermore, coupling to cockpit installed equipment through the cockpit window apertures is undefined. Based on surveys and analysis of existing HIRF emitters, an adequate level of protection exists when compliance with the HIRF protection special condition is shown with either paragraphs 1 or 2 below:

1. A minimum threat of 100 volts per meter peak electric field strength from 10 KHz to 18 GHz.

a. The threat must be applied to the system elements and their associated wiring harnesses without the benefit of airframe shielding.

b. Demonstration of this level of protection is established through system tests and analysis.

2. A threat external to the airframe of the following field strengths for the frequency ranges indicated.

Frequency	Peak (V/M)	Average (V/M)
10 KHz–100 KHz	50	50
100 KHz–500 KHz	60	60
500 KHz–2000 KHz	70	70
2 MHz–30 MHz	200	200
30 MHz–70 MHz	30	30
70 MHz–100Hz	30	30
100 MHz–200 MHz	150	33
200 MHz–400 MHz	70	70
400 MHz–700 MHz	4,020	935
700 MHz–1000 MHz	1,700	170
1 GHz–2 GHz	5,000	990
2 GHz–4 GHz	6,680	840
4 GHz–6 GHz	6,850	310
6 GHz–8 GHz	3,600	670
8 GHz–12 GHz	3,500	1,270
12 GHz–18 GHz	3,500	360
18 GHz–40 GHz	2,100	750

The envelope given in paragraph 2 above is a revision to the envelope used in previously issued special conditions in other certification projects. It is based on new data and SAE AE4R subcommittee recommendations. This revised envelope includes data from Western Europe and the U.S.

Conclusion

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

The substance of the special conditions for these airplanes has been subjected to the notice and comment procedure in several prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. For this reason, and because a delay would significantly affect the certification of the airplane, which is imminent, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions immediately. Therefore, these special conditions are being made effective upon issuance. The FAA is requesting comments to allow interested persons to submit views that may have not been submitted in response to the prior opportunities for comment described above.

List of Subjects in 14 CFR Part 25

Air transportation, Aircraft, Aviation safety, Safety.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. app. 1344, 1348(c), 1352, 1354(a), 1355, 1421 through 1431, 1502, 1651(b)(2), 42 U.S.C. 1857f–10, 4321 et seq.; E.O. 11514; and 49 U.S.C. 106(g).

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the supplemental type certification basis for the Cessna Model 650 airplanes modified by Duncan Aviation:

1. *Protection From Unwanted Effects of High-Intensity Radiated Fields (HIRF).* Each electrical and electronic system that performs critical functions must be designed and installed to ensure that the operation and operational capability of these systems to perform critical functions are not adversely affected when the airplane is exposed to high-intensity radiated fields external to the airplane.

2. The following definition applies with respect to this special condition:

Critical Function. Functions whose failure would contribute to or cause a failure condition that would prevent the continued safe flight and landing of the airplane.

Issued in Renton, Washington, on May 10, 1993.

David G. Hmiel,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–12181 Filed 7–6–93; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 25

[Docket No. NM–84; Special Conditions No. 25–ANM–72]

Special Conditions: Modified Cessna Model 500 Series Airplanes, High-Intensity Radiated Fields (HIRF)

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for Cessna Model 500 series airplanes modified by Duncan Aviation, Inc., of Lincoln, Nebraska. These airplanes are equipped with digital electronic flight instrument systems (EFIS) that perform critical functions. The applicable regulations do not contain adequate or appropriate safety standards for the protection of the EFIS from the effects of high-intensity radiated fields (HIRF). These special conditions provide the additional safety standards that the Administrator considers necessary to ensure that the critical functions performed by these systems are maintained when the airplane is exposed to HIRF.

DATES: The effective date of these special conditions is May 10, 1993. Comments must be received on or before August 23, 1993.

ADDRESSES: Comments may be mailed in duplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, Attn: Rules Docket (ANM–7), Docket No. NM–84, 1601 Lind Avenue SW., Renton, Washington, 98055–4056; or delivered in duplicate to the Office of the Assistant Chief Counsel at the above address. Comments must be marked "Docket No. NM–84." Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Mark Quam, FAA, Standardization Branch, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (206) 227–2145.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA has determined that good cause exists for making these special conditions effective upon issuance; however, interested persons are invited to submit such written data, views, or arguments as they may desire. Communications should identify the regulatory docket and special conditions number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator. These special conditions may be changed in light of the comments received. All comments submitted will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Persons wishing the FAA to acknowledge receipt of their comments submitted in response to this request must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. NM–84." The postcard will be date stamped and returned to the commenter.

Background

On March 9, 1993, Duncan Aviation, Inc., applied for a supplemental type certificate to modify the Cessna Model S550 airplane. The Cessna S550, like all of the Cessna 500 series models, is a twin-engine business jet with two aft-mounted engines. Modification incorporates the installation of digital avionics consisting of an electronic flight instrument system (EFIS) that is vulnerable to high-intensity radiated fields (HIRF) external to the airplane. Duncan Aviation has requested that the special conditions be made applicable to the Cessna Model 500, 550, 552, and 560 airplanes because all of the airplanes are listed on Type Certificate Data Sheet No. A22CE.

Supplemental Type Certification Basis

Under the provisions of § 21.101 of the FAR, Duncan Aviation, Inc., must show that the altered Cessna Model 500 series airplanes continue to meet the applicable provisions of the regulations incorporated by reference in Type Certificate No. A22CE, or the applicable regulations in effect on the date of application for the change. The regulations incorporated by reference in the type certificate are commonly referred to as the "original type certification basis."

The regulations incorporated by reference in Type Certificate No. A22CE include the following: The Federal Aviation Regulations in 14 CFR part 25 effective February 1, 1965, as amended by Amendments 25–1 through 25–17. In addition, the following regulations apply to EFIS installations in all Cessna Model 500 series airplanes: §§ 25.1301, 25.1303(b) and 25.1322, as amended through Amendment 25–38; and §§ 25.1309, 25.1321 (a), (b), (d), and (e), 25.1331, 25.1333, and 25.1335, as amended by Amendment 25–41. These special conditions will form an additional part of the supplemental type certification basis.

If the Administrator finds that the applicable airworthiness regulations (i.e., part 25, as amended) do not contain adequate or appropriate safety standards for the Cessna Model 500 series airplanes because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16 to establish a level of safety equivalent to that established in the regulations.

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

Discussion

There is not specific regulation that addresses protection requirements for electrical and electronic systems from high-intensity radiated fields (HIRF). Increased power levels from ground based radio transmitters and the growing use of sensitive electrical and electronic systems to command and control airplanes have made it necessary to provide adequate protection.

To ensure that a level of safety is achieved equivalent to that intended by the regulations referenced, special conditions are needed for the modified Cessna 500 series airplanes that would require that the EFIS be designed and installed to preclude component damage and interruption of function due to the effects of HIRF.

High-Intensity Radiated Fields (HIRF)

With the trend toward increased power levels from ground based transmitters, plus the advent of space and satellite communications, coupled with electronic command and control of the airplane, the immunity of critical digital avionics systems, such as the EFIS, to HIRF must be established.

It is not possible to precisely define the HIRF to which the airplane will be exposed in service. There is also uncertainty concerning the effectiveness of airframe shielding for HIRF. Furthermore, coupling to cockpit installed equipment through the cockpit window apertures is undefined. Based on surveys and analysis of existing HIRF emitters, an adequate level of protection exists when compliance with the HIRF protection special condition is shown with either paragraphs 1 or 2 below:

1. A minimum threat of 100 volts per meter peak electric field strength from 10 KHz to 18 GHz.

a. The threat must be applied to the system elements and their associated

wiring harnesses without the benefit of airframe shielding.

b. Demonstration of this level of protection is established through system tests and analysis.

2. A threat external to the airframe of the following field strengths for the frequency ranges indicated.

Frequency	Peak (V/M)	Average (V/M)
10KHz–100 KHz	50	50
100 KHz–500 KHz	60	60
500 KHz–2000 KHz	70	70
2 MHz–30 MHz	200	200
30 MHz–70 MHz	30	30
70 MHz–100 MHz	30	30
100 MHz–200 MHz	150	33
200 MHz–400 MHz	70	70
400 MHz–700 MHz	4,020	935
700 MHz–1000 MHz	1,700	170
1 GHz–2 GHz	5,000	990
2 GHz–4 GHz	6,680	840
4 GHz–6 GHz	6,850	310
6 GHz–8 GHz	3,600	670
8 GHz–12 GHz	3,500	1,270
12 GHz–18 GHz	3,500	360
18 GHz–40 GHz	2,100	750

The envelope given in paragraph 2 above is a revision to the envelope used in previously issued special conditions in other certification projects. It is based on new data and SAE AE4R subcommittee recommendations. This revised envelope includes data from Western Europe and the U.S.

Conclusion

This action affects only certain unusual or novel design features on Cessna Model 500 series airplanes. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the airplane.

The substance of the special conditions for these airplanes has been subjected to the notice and comment procedure in several prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. For this reason, and because a delay would significantly affect the certification of the airplane, which is imminent, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions immediately. Therefore, these special conditions are being made effective upon issuance. The FAA is requesting comments to allow interested persons to submit views that may have not been submitted in response to the prior opportunities for comment described above.

List of Subjects in 14 CFR Part 25

Air transportation, Aircraft, Aviation safety, Safety.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. app. 1344, 1348(c), 1352, 1354(a), 1355, 1421 through 1431, 1502, 1651(b)(2), 42 U.S.C. 1857f-10, 4321 *et seq.*; E.O. 11514; and 49 U.S.C. 106(g).

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the supplemental type certification basis for the Cessna Model 500 series airplanes modified by Duncan Aviation:

1. *Protection from Unwanted Effects of High-Intensity Radiated Fields (HIRF).* Each electrical and electronic system that performs critical functions must be designed and installed to ensure that the operation and operational capability of these systems to perform critical functions are not adversely affected when the airplane is exposed to high-intensity radiated fields external to the airplane.

2. The following definition applies with respect to this special condition:

Critical Function. Functions whose failure would contribute to or cause a failure condition that would prevent the continued safe flight and landing of the airplane.

Issued in Renton, Washington, on May 10, 1993.

David G. Hmiel,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–12182 Filed 7–6–93; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Parts 770, 775, 777, 785, 787, 788, and 790

[Docket No. 930370–3070]

Revisions to the Export Administration Regulations; Supporting Documentation

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Final rule.

SUMMARY: The Bureau of Export Administration is amending the Export Administration Regulations (EAR) to establish a uniform validity period for all Import and End-User Certificates, as well as the Statement by Ultimate Consignee and Purchaser. This rule also makes several editorial corrections to the EAR to indicate the correct Commerce telephone numbers and mailing address.

EFFECTIVE DATE: July 7, 1993.

FOR FURTHER INFORMATION CONTACT: Nancy Crowe, Office of Technology and Policy Analysis, Bureau of Export Administration, Telephone: (202) 482–4819.

SUPPLEMENTARY INFORMATION:

Background

This rule amends the Export Administration Regulations by establishing a uniform validity period for all Import and End-User Certificates, as well as the Statement by Ultimate Consignee and Purchaser. When an Import or End-User Certificate is obtained in support of one or more export license applications, the applicant must submit the first application to be supported by this document to the Office of Export Licensing (OEL) within the validity period shown on the certificate or six months from the date the document was issued, whichever is shorter. In addition, any subsequent export license application supported by such a document must be submitted to OEL within one year from the date that the first export license application supported by the document was submitted to OEL. The first application to be supported by a Form BXA–629P, whether prepared as a single or multiple transaction statement, must be submitted to OEL within 6 months after the Form BXA–629P is signed by the consignee or purchaser, whichever date is later. When the Statement by Ultimate Consignee and Purchaser is prepared as a multiple transaction statement, however, subsequent applications may be submitted to the Office of Export Licensing at any time within the validity of the Statement (June 30 of the second year).

This rule also amends the EAR by revising references to several Commerce Department telephone numbers, and by changing the phrases "Processing Unit" and "Reports and Records Unit" to "Operations Branch" to correctly reflect that office's name.

Rulemaking Requirements

1. This rule is consistent with Executive Orders 12291 and 12661.

2. This rule involves collections of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). These collections have been approved by the Office of Management and Budget under control numbers 0694–0005, 0694–0007, 0694–0010, and

0694–0021. The import and end-use certificates referenced in this regulation are issued by foreign governments, and therefore are not subject to the Paperwork Reduction Act.

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

4. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553) or by any other law, under section 3(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

5. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a military and foreign affairs function of the United States. Section 13(b) of the EAA does not require that this rule be published in proposed form because this rule does not impose a new control. Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule.

Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis. Comments should be submitted to Nancy Crowe, Office of Technology and Policy Analysis, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

List of Subjects

15 CFR Part 770

Administrative practice and procedure, Exports.

15 CFR Part 775

Exports, Reporting and recordkeeping requirements.

15 CFR Part 777

Administrative practice and procedure, Export, Forests and forest products, Petroleum, Reporting and recordkeeping requirements.

15 CFR Part 785

Exports.

15 CFR Part 787

Boycotts, Exports, Law enforcement, Penalties, Reporting and recordkeeping requirement.

15 CFR Part 788

Administrative practice and procedure, Boycotts, Exports, Penalties.

15 CFR Part 790

Administrative practice and procedure, Advisory committees, Exports.

Accordingly, parts 770, 775, 777, 785, 787, 788 and 790 of the Export Administration Regulations (15 CFR part 730–799) are amended as follows:

1. The authority citation for 15 CFR parts 770, 787, 788 and 790 continues to read as follows:

Authority: Pub. L. 90–351, 82 Stat. 197 (18 U.S.C. 2510 *et seq.*), as amended; sec. 101, Pub. L. 93–153, 87 Stat. 576 (30 U.S.C. 185), as amended; sec. 103, Pub. L. 94–163, 89 Stat. 877 (42 U.S.C. 6212), as amended; secs. 201 and 201(11)(e), Pub. L. 94–258, 90 Stat. 309 (10 U.S.C. 7420 and 7430(e)), as amended; Pub. L. 95–223, 91 Stat. 1626 (50 U.S.C. 1701 *et seq.*); Pub. L. 95–242, 92 Stat. 120 (22 U.S.C. 3201 *et seq.* and 42 U.S.C. 2139a); sec. 208, Pub. L. 95–372, 92 Stat. 668 (43 U.S.C. 1354); Pub. L. 96–72, 93 Stat. 503 (50 U.S.C. App. 2401 *et seq.*), as amended (extended by Pub. L. 103–10, 107 Stat. 40); sec. 125, Pub. L. 99–64, 99 Stat. 156 (46 U.S.C. 466c); E.O. 11912 of April 13, 1976 (41 FR 15825, April 15, 1976); E.O. 12002 of July 7, 1977 (42 FR 35623, July 7, 1977), as amended; E.O. 12058 of May 11, 1978 (43 FR 20947, May 16, 1978); E.O. 12214 of May 2, 1980 (45 FR 29783, May 6, 1980); E.O. 12730 of September 30, 1990 (55 FR 40373, October 2, 1990), as continued by Notice of September 25, 1992 (57 FR 44649, September 28, 1992); and E.O. 12735 of November 16, 1990 (55 FR 48587, November 20, 1990), as continued by Notice of November 11, 1992 (57 FR 53979, November 13, 1992).

2. The authority citation for 15 CFR parts 775 and 785 continues to read as follows:

Authority: Pub. L. 90–351, 82 Stat. 197 (18 U.S.C. 2510 *et seq.*), as amended; Pub. L. 95–223, 91 Stat. 1626 (50 U.S.C. 1701 *et seq.*); Pub. L. 95–242, 92 Stat. 120 (22 U.S.C. 3201 *et seq.* and 42 U.S.C. 2139a); Pub. L. 96–72, 93 Stat. 503 (50 U.S.C. App. 2401 *et seq.*), as amended (extended by Pub. L. 103–10, 107 Stat. 40); E.O. 12002 of July 7, 1977 (42 FR 35623, July 7, 1977), as amended; E.O. 12058 of May 11, 1978 (43 FR 20947, May 16, 1978); E.O. 12214 of May 2, 1980 (45 FR 29783, May 6, 1980); E.O. 12730 of September 30, 1990 (55 FR 40373, October 2, 1990), as continued by Notice of September 25, 1992 (57 FR 44649, September 28, 1992); and E.O. 12735 of November 16, 1990 (55 FR 48587, November 20, 1990), as continued by Notice of November 11, 1992 (57 FR 53979, November 13, 1992).

3. The authority citation for 15 CFR part 777 continues to read as follows:

Authority: Pub. L. 90–351, 82 Stat. 197 (18 U.S.C. 2510 *et seq.*), as amended; sec. 101, Pub. L. 93–153, 87 Stat. 576 (30 U.S.C. 185), as amended; sec. 103, Pub. L. 94–163, 89 Stat. 877 (42 U.S.C. 6212), as amended; secs. 201 and 201(11)(e), Pub. L. 94–258, 90 Stat. 309 (10 U.S.C. 7420 and 7430(e)), as amended; Pub. L. 95–223, 91 Stat. 1626 (50 U.S.C. 1701 *et seq.*); Pub. L. 95–242, 92 Stat. 120 (22 U.S.C. 3201 *et seq.* and 42 U.S.C. 2139a); sec. 208, Pub. L. 95–372, 92 Stat. 668 (43 U.S.C. 1354); Pub. L. 96–72, 93 Stat. 503 (50 U.S.C. App. 2401 *et seq.*), as amended (extended by Pub. L. 103–10, 107 Stat. 40); E.O. 11912 of April 13, 1976 (41 FR 15825, April 15, 1976); E.O. 12002 of July 7, 1977 (42 FR 35623, July 7, 1977), as amended; E.O. 12058 of May 11, 1978 (43 FR 20947, May 16, 1978); E.O. 12214 of May 2, 1980 (45 FR 29783, May 6, 1980); E.O. 12730 of September 30, 1990 (55 FR 40373, October 2, 1990), as continued by Notice of September 25, 1992 (57 FR 44649, September 28, 1992); and E.O. 12735 of November 16, 1990 (55 FR 48587, November 20, 1990), as continued by Notice of November 11, 1992 (57 FR 53979, November 13, 1992).

PART 770—[AMENDED]

4. Section 770.11 is amended by revising the phrase "(202)377–2752 in paragraph (a)(2)(i)(A) to read "(202)482–2752.

PART 772—[AMENDED]

5. Section 772.4 is amended:

a. By revising the phrase "(202)377–8536" in paragraph (b)(2)(iv)(A) to read "(202)482–0436";

b. By revising the phrase "202–377–4811; telex: 892536; telefax: 202–377–3322" in paragraph (i)(1), introductory text, to read "(202)482–4811; telex: 892536; telefacsimile: (202)482–3617";

c. By revising paragraph (i)(1)(i); and

d. By revising the phrase "377–4196; telex: 892536; telefax: 377–4096" in paragraph (i)(6) to read "(202)482–5400 telex: 892536; telefacsimile: (202)482–4094", as follows:

§ 772.4 How to apply for a validated license.

* * * * *

(i) * * *

(1) * * *

(i) Hand-carry the application directly to—Exporter Counseling Division, Office of Export Licensing, room 1099D, Department of Commerce, 14th Street and Pennsylvania Avenue NW., Washington, DC 20230. The best way to ensure prompt delivery, other than by company personnel hand carrying, is to use those private courier services that guarantee overnight delivery. C.O.D. submissions will not be accepted. "Attention: Exporter Counseling Division—Emergency Clearance Required" should be marked on the envelope. The Exporter Counseling Division will review daily the applications for which emergency

processing is requested and determine whether such processing is justified.

* * * * *

PART 775—[AMENDED]

6. Section 775.2 is amended by revising the first sentence and deleting the second sentence in paragraph (e)(6) to read as follows:

§775.2 Form BXA–629P, statement by ultimate consignee and purchaser.

* * * * *

(e) * * *

(6) *Validity period.* The first application to be supported by a Form BXA–629P, whether prepared as a single or multiple transaction statement, must be submitted to the Office of Export Licensing within 6 months after the Form BXA–629P is signed by the consignee or purchaser, whichever date is later. * * *

* * * * *

7. Section 775.3 is amended by revising paragraph (h)(3) to read as follows:

§775.3 International import certificate and delivery verification certificate.

* * * * *

(h) * * *

(3) *Validity period.* See paragraph (b) of § 775.10 of this subchapter for information on the validity period of the International Import Certificate.

* * * * *

8. Section 775.6 is amended by adding a new paragraph (d) to read as follows:

§775.6 People's Republic of China End-User Certificate.

* * * * *

(d) *Validity period.* See paragraph (b) of § 775.10 of this subchapter for information on the validity period of the PRC End-User Certificate.

9. Section 775.7 is amended by redesignating paragraph (d) as paragraph (e) and by adding a new paragraph (d) to read as follows:

§775.7 Indian Import Certificate.

* * * * *

(d) *Validity period.* See paragraph (b) of § 775.10 of this subchapter for information on the validity period of the Indian Import Certificate.

* * * * *

10. Section 775.8 is amended by redesignating paragraph (d) as paragraph (e) and adding a new paragraph (d) to read as follows:

§775.8 Polish, Hungarian, or Czechoslovak Import Certificate.

* * * * *

(d) *Validity period.* See paragraph (b) of § 775.10 of this subchapter for information on the validity period of the Polish, Hungarian, or Czechoslovak Import Certificate.

* * * * *

11. Section 775.10 is amended by redesignating paragraphs (b) through (g) as (c) through (h), and adding a new paragraph (b) to read as follows:

§775.10 Special provisions.

* * * * *

(b) *Validity period.* When a PRC End-User Certificate, Indian Import Certificate, Polish, Hungarian, or Czechoslovak Import Certificate, or an International Import Certificate is obtained in support of one or more export license applications, the applicant must submit the first application to be supported by such a Certificate to the Office of Export Licensing (OEL) within the validity period shown on the Certificate or 6 months from the date the Certificate was issued, whichever is shorter. In addition, any subsequent export license applications supported by such a Certificate must be submitted to OEL within one year from the date that the first export license application supported by the Certificate was submitted to OEL.

* * * * *

PART 777—[AMENDED]

12. Section 777.1 is amended by revising the phrase "202–377–4811; telex: 892536; telefax: 202–377–3322" in paragraph (c)(3) to read "(202) 482–4811; telex: 892536; telefacsimile: (202) 482–3617".

13. Section 777.2 is amended by revising the phrase "14th and E Streets" in paragraph (e) to read "14th St. and Pennsylvania Ave."

13a. The phrase "Processing Unit" is revised to read "Operations Branch" in the following places:

Sec.
777.2(e) [two references]
777.4(d)(1), introductory text
777.4(h), introductory text
777.4(i)(2), introductory text
777.6(d), introductory text
777.7(d)

14. Section 777.4 is amended by removing the phrase "Reports and LRecords Unit," in paragraph (h).

15. The phrase "Reports and Records Unit," is removed from the following places:

Sec.
777.4(i)(2), introductory text
777.7(d)

PART 785—[AMENDED]

16. Section 785.2 is amended by revising the phrase "Commodity Control List" in paragraph (a)(4) to read "Commerce Control List" (two references).

17. Section 785.7 is amended by removing the second sentence in paragraph (b).

PART 787—[AMENDED]

18. Section 787.14 is amended:

a. By revising the phrase "(202) 377–4608" in paragraphs (a)(1) and (a)(2) to read "(202) 482–8208"; and

b. By revising the phrase "(202) 377–2381" in paragraphs (a)(1) and (a)(2) to read "(202) 482–2381".

19. Section 787.15 is amended by revising the phrase "(202) 377–8208" in paragraph (c)(2)(ii) to read "(202) 482–8208".

PART 788—[AMENDED]

20. Section 788.20 is amended by revising the phrase "(202) 377–2593" in paragraph (c)(1)(i) to read "(202) 482–5653".

PART 790—[AMENDED]

21. Section 790.1 is amended by revising the phrase "(202) 377–2593" in paragraph (h)(3) to read "(202) 482–5653".

Dated: June 25, 1993.

Iain S. Baird,

Acting Assistant Secretary for Export Administration.

[FR Doc. 93–15526 Filed 7–6–93; 8:45 am]

BILLING CODE 3510–DT–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD1 93–054]

53rd Annual National Sweepstakes Regatta, Red Bank, NJ

AGENCY: Coast Guard, DOT.

ACTION: Notice of implementation.

SUMMARY: This document puts into effect the permanent regulations, 33 CFR 100.103, for the 53rd Annual National Sweepstakes Regatta. The regulation will be effective from Saturday, July 24, 1993 at 8 p.m. until 6 p.m. Sunday, July 25, 1993. This regulation is necessary to control vessel traffic due to the confined nature of the waterway and anticipated congestion at the time of the event. The purpose of this regulation is to provide for the

safety of life and property during the event.

EFFECTIVE DATE: The regulations are effective from 8 a.m. on Saturday, July 24, 1993 to 6 p.m. on Sunday, July 25, 1993.

FOR FURTHER INFORMATION CONTACT: Lieutenant Eric G. Westerberg, Chief, Boating Safety Affairs Branch, First Coast Guard District, (617) 223–8310.

DRAFTING INFORMATION: The principal persons involved in drafting this document are LT E. G. Westerberg, Project Manager, First Coast Guard District Boating Safety Division, and LCDR J. D. Stieb, Project Attorney, First Coast Guard District Legal Division.

SUPPLEMENTARY INFORMATION: This document provides the effective period for the permanent regulation governing the 1993 running of the National Sweepstakes Regatta in Red Bank, New Jersey. A portion of the Navesink River will be closed during the effective period to all vessel traffic except participants, official regatta vessels, and patrol craft. The regulated area is that area between the NJ Route 35 bridge and a line running across the Navesink River connecting Guyon and Lewis Points. Additional public notification will be made via the First Coast Guard District Local Notice to Mariners and marine safety broadcasts. The full text of this regulation is found in 33 CFR 100.103.

Dated: June 7, 1993.

J. D. Sipes,

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

[FR Doc. 93–15821 Filed 7–6–93; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 110

[CGD 07–91–060]

Anchorage Grounds; Port Everglades, FL

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing two anchorage grounds off Port Everglades, Florida. The Florida State Department of Natural Resources, Port Everglades Authority, and the Ocean Research Institute requested that the Coast Guard establish these anchorage grounds off the coast. Anchoring regulations requiring use of the anchorage grounds are also being established by these regulations. The primary purpose for establishing the federally designated anchorage grounds is to require commercial vessels to anchor within the anchorage grounds' boundaries to avoid causing reef damage with their anchors.

EFFECTIVE DATE: August 6, 1993.

FOR FURTHER INFORMATION CONTACT: Lieutenant E. Gray, Seventh Coast Guard District, Aids to Navigation Branch, (305) 536–5621.

SUPPLEMENTARY INFORMATION: On July 16, 1992 the Coast Guard published a notice of proposed rule making in the **Federal Register** for this regulation (57 FR 31471). Interested persons were requested to submit comments and 12 comments were received.

Drafting Information

The drafters of this regulation are Lieutenant E. Gray, project officer, Seventh Coast Guard District, Aids to Navigation Branch, and Lieutenant J. Losego, project attorney, Seventh Coast Guard District Legal office.

Discussion of Comments

All comments received supported the proposed anchorage grounds; however, several recommended changes to and presented concerns with the regulation.

The comments included a request that the areas be marked with buoys and shown on nautical charts. The anchorages will be shown on nautical charts; however, there are no plans to mark the anchorage grounds with buoys. Depiction on nautical charts is generally sufficient to indicate the boundaries of offshore anchorages.

Several comments suggested modifying the regulation to require all vessels to use the anchorage grounds rather than just vessels awaiting berthing in Port Everglades as contained in the Notice of Proposed Rulemaking for this regulation. The language of the regulation has been changed to require use of the anchorage grounds by all commercial vessels in the vicinity of Port Everglades, Florida.

The comments also included a recommendation that vessels be required to check-in with the harbormaster when entering or leaving the anchorage grounds and a recommendation that the harbormaster be given the authority to control vessels' entry to, exit from, and movement within the anchorage grounds. Such authority is generally given to the Captain of the Port or another federal agency and is not properly delegated to a non-federal entity.

Several comments expressed concern over the environmental impact of this regulation, particularly the increased potential for pollution incidents. In light of these comments, the categorical exclusion was reviewed and determined to still be appropriate.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of these regulations is expected to be so minimal that a full regulatory evaluation is unnecessary. The designated areas have traditionally been used as anchorage grounds for large vessels. Therefore, minimal economic impact would result from directing commercial ships away from the reef areas for anchoring.

Since the impact of these regulations is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

Environmental Assessment

The Coast Guard considered the environmental impact of this rulemaking and concluded that under section 2.b.2.1 of Commandant Instruction M16475.1B, this rulemaking is categorically excluded from further environmental documentation as an administrative action under the Coast Guard's statutory authority to establish and regulate Restricted Navigational Areas. A Categorical Exclusion Determination is available in the docket.

List of Subjects in 33 CFR Part 110

Anchorage grounds.

Final Regulation

In consideration of the foregoing, the Coast Guard is amending part 110 of title 33, Code of Federal Regulations, as follows:

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

Authority: 33 U.S.C. 471, 2030, 2035, and 2071; 49 CFR 1.46 and 33 CFR 1.05–1(g). Section 110.1a and each section listed in 110.1a are also issued under 33 U.S.C. 1223 and 1231.

2. Section 110.186 is added to read as follows:

§ 110.186 Port Everglades, Florida.

(a) *The anchorage grounds.* (1) Anchorage A. A rectangular area the center of which is approximately two miles northeast of the entrance to Port Everglades with the following NAD 83 coordinates:

Latitude	*Longitude*
26°07'46" N.	80°04'51" W.
26°07'46" N.	80°05'01" W.
26°06'20" N.	80°05'01" W.
26°06'20" N.	80°05'10" W.

(2) Anchorage B. An area bounded by a line connecting points with the following NAD 83 coordinates:

Latitude	*Longitude*
26°07'16" N.	80°04'38" W.
26°07'56" N.	80°04'34" W.
26°07'56" N.	80°02'42" W.
26°07'16" N.	80°02'54" W.

(b) *The regulations.* (1) Commercial vessels in the Atlantic Ocean in the vicinity of Port Everglades shall anchor only within the anchorage area hereby defined and established, except in cases of emergency.

(2) Commercial vessels anchoring under emergency circumstances outside the anchorage area shall be shifted to new positions within the anchorage area immediately after the emergency ceases.

Dated: June 18, 1993.

W.P. Leahy,

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

[FR Doc. 93–15819 Filed 7–6–93; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 117

[CG07–93–025]

Drawbridge Operation Regulations; Gulf Intracoastal Waterway, Okeechobee Waterway, Manatee River & Orange River, FL

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is removing the regulations pertaining to four drawbridges in Southwest Florida. Each of these drawbridges has been replaced with a fixed bridge. Therefore, there is no longer a need for the drawbridge regulations because they pertain to drawbridges that no longer exist.

EFFECTIVE DATE: This rule becomes effective on August 6, 1993.

FOR FURTHER INFORMATION CONTACT: Ian MacCartney, Project Manager, Bridge Section, at (305) 536–4103.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking has not been published for these regulations, because there is no longer a need for the regulations as they pertain to drawbridges that no longer exist.

Drafting Information

The principal persons involved in drafting this document are Mr. Ian MacCartney, Project Manager, and Lieutenant J.M. Losego, Project Counsel.

Background and Purpose

The Edison Drawbridge, Okeechobee Waterway mile 134.5, Caloosahatchee River, at Fort Myers, Lee County, Florida, was replaced by a high-level fixed bridge in June 1992. The SR 80 Drawbridge, Orange River mile 0.9, between Fort Myers and Tice, Lee County, Florida, was replaced by a high-level fixed bridge in November 1990.

The US 41 Drawbridge, Manatee River mile 4.3, at Bradenton, Manatee County, Florida, was replaced by a high-level fixed bridge in October 1987.

The Maximo Point Drawbridge, Gulf Intracoastal Waterway mile 110.5, Tampa Bay, Pinellas County, Florida, was replaced by a high-level fixed bridge in November 1992.

Regulatory Evaluation

There are no issues that require a Federalism Assessment. This regulation removal is Categorically Excluded under Section 2.B.2.1. of the NEPA Implementing Procedures. This action has no economic consequences. Consequently, this action is considered to be non-major under Executive Order 12291 and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034, February 26, 1979). Since there is no economic impact, a full regulatory evaluation is unnecessary.

List of Subjects in 33 CFR Part 117

Bridges.

In consideration of the foregoing facts, part 117 of title 33 of the 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).

§ 117.301 [Removed]

2. Section 117.301 is removed.

§ 117.317 [Amended]

3. In § 117.317, paragraph (j) is removed, and paragraph (k) is redesignated paragraph (j).

§ 117.321 [Removed]

4. Section 117.321 is removed.

§ 117.287 [Removed]

5. In § 117.287, paragraph (d)(3) is removed.

Dated: June 1, 1993.

William P. Leahy,

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

[FR Doc. 93–15820 Filed 7–6–93; 8:45 am]

BILLING CODE 4910–04–M

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33 CFR Part 165

[CGD 09–93–19]

Safety Zone Regulations; Lower Lake Huron, St. Clair River and Black River, Port Huron, MI

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a Safety Zone for portions of Lower Lake Huron, the St. Clair River and Black River during the festivities surrounding the beginning of the annual Port Huron to Mackinac Island Race on July 24, 1993. These regulations will establish a "Caution Area" from the lower part of the Black River to the International Boundary in the St. Clair River northward to the Lake Huron Cut Buoys 5 and 6, Lake Huron, in United States waters. Due to a dramatic increase in boating traffic, which could pose hazards to navigation in the area, these regulations are needed to provide for the safety of life, limb, and property on navigable waters during the beginning of the event.

EFFECTIVE DATE: These regulations become effective from 10 a.m. (EDST) on July 24, 1993 until 4 p.m. (EDST) July 25, 1993.

FOR FURTHER INFORMATION CONTACT: William A. Thibodeau, Marine Science Technician Second Class, U.S. Coast Guard, Aids to Navigation and Waterways Management Branch, Ninth Coast Guard District, 1240 East 9th Street, Cleveland, Ohio 44199–2060, (216) 522–3990.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a Notice of Proposed Rulemaking has not been published for these regulations and good cause exists for making them effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been impracticable. The application to hold this event was not received by the Commander, Ninth Coast Guard District, until May 14, 1993, and there was not sufficient time remaining to publish proposed rules in advance of the event or to provide for a delayed effective date.

Drafting Information

The drafters of these regulations are William A. Thibodeau, Marine Science Technician Second Class, U.S. Coast Guard, Project Officer, Aids to Navigation and Waterways Management Branch and M. Eric Reeves, Commander, U.S. Coast Guard, Project Attorney, Ninth Coast Guard District Legal Office.

Discussion of Regulations

The circumstances requiring these regulations result from past experiences with congestion and confrontations before, during, and after the start of the annual Port Huron to Mackinac Island Race. This event, based on past records, has drawn in excess of 100,000 people and dramatically increased boating traffic in the general vicinity. These regulations require that all vessels in the designated "Caution Area" from the lower part of the Black River to the International Boundary in the St. Clair River northward to the Lake Huron Cut Buoys 5 and 6, Lake Huron, in United States waters, be operated at NO-WAKE speed meaning that all vessels transiting the area be operated at bare steerageway, keeping the vessel's wake at a minimum, and exercise a high degree of caution in the area. There will be no restrictions imposed by the Canadian authorities in their waters. These regulations are necessary to ensure the protection of life, limb, and property prior to and until approximately eight hours after the start of the race.

This regulation is issued pursuant to 33 U.S.C. 1233 as set out in the authority citation for all of part 165.

Federalism Implications

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

Environment

The Coast Guard has considered the environmental impact of these regulations and concluded that, under section 2.B.2.c of Coast Guard Commandant Instruction M16475.1B, they are categorically excluded from further environmental documentation.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The impact of these regulations is expected to be minimal, and the Coast Guard therefore certifies that, if adopted, they will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act, 5 U.S.C. 601 et seq.

Collection of Information

These regulations will impose no collection of information requirements under the Paperwork Reduction Act, 44 U.S.C. 3501 et seq.

List of Subjects in 33 CFR Part 165

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

Regulations

In consideration of the foregoing, subpart C of part 165 of title 33, Code of Federal Regulations, is amended as follows:

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1233; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5.

2. A temporary § 165.T0976 is added to read as follows:

§ 165.T0976 SAFTEY ZONE: Lower Lake Huron, St. Clair River and Black River, Port Huron, MI.

(a) *Regulated area.* That portion of the Black River, St. Clair River, and Lower Lake Huron from:

Latitude	*Longitude*
42°58.8′ N.	082°26.0′ W., to
42°58.4′ N.	082°24.8′ W., thence
northward along the International Boundary to:	
43°02.8′ N.	082°23.8′ W., to
43°02.8′ N.	082°26.8′ W., thence
southward along the U.S. shoreline to:	
42°58.9′ N.	082°26.0′ W., thence to
42°58.8′ N.	082°26.0′ W.

(b) *Regulations.* The above regulated area is designated as a "Caution Area". All vessels transiting the above listed area will operate at bare steerageway, keeping the vessel's wake at a minimum, and exercise a high degree of caution in the area.

(c) *Patrol Commander.*

(1) The Coast Guard will patrol the regulated area under the direction of a designated Coast Guard Patrol Commander (Officer in Charge, U.S. Coast Guard Station Port Huron, MI). The Patrol Commander may be contacted on channel 16 (156.8 MHz) by the call sign "Coast Guard Patrol Commander".

(2) The Patrol Commander may direct the anchoring, mooring, or movement of any boat or vessel within the regulated areas. A succession of sharp, short signals by whistle or horn from vessels patrolling the area under the direction of the U.S. Coast Guard Patrol Commander shall serve as a signal to stop. Any vessel so signaled shall stop and shall comply with the orders of the Patrol Commander. Failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(3) The Patrol Commander may establish vessel size and speed limitation and operating conditions.

(4) The Patrol Commander may restrict vessel operation within the regulated area to vessels having particular operating characteristics.

(5) The Patrol Commander may terminate the marine event or the operation of any vessel at any time it is deemed necessary for the protection of life, limb, or property.

(6) All persons in the area shall comply with the orders of the Coast Guard Patrol Commander.

(d) *Effective date.* This regulation is effective from 10 a.m. (EDST) on July 24, 1993 until 4 p.m. (EDST) on July 25, 1993, unless otherwise terminated by the Coast Guard Patrol Commander (Officer in Charge, U.S. Coast Guard Station Port Huron, MI).

Dated: June 16, 1993.

G.A. Penington,

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

[FR Doc. 93–15822 Filed 7–6–93; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 180 and 185

[PP 0F3865, PP 2F4081, FAP 2H5635/R2004; FRL–4629–8]

RIN 2070–AB78

Pesticide Tolerances and Food Additive Regulation for Glyphosate

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document establishes tolerances and a food additive regulation for residues of the herbicide glyphosate [(*N*-phosphonomethyl) glycine] in or on the raw agricultural commodities (RACs) wheat at 5.0 parts per million (ppm), wheat straw at 85 ppm, the tree nut crop group at 1.0 ppm, almond hulls at 25 ppm, and a food additive regulation for wheat milling fractions (except flour) at 20 ppm. Monsanto Co. submitted petitions requesting EPA to establish the maximum permissible residues of the herbicide in or on these RACs and the processed human food.

EFFECTIVE DATE: These regulations become effective July 7, 1993.

ADDRESSES: Written objections, identified by the document control

number, [PP 0F3865, PP 2F4081, FAP 2H5635/R2004], may be submitted to: Hearing Clerk (A-110), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: By mail: Robert J. Taylor, Product Manager (PM), Registration Division (H7505C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 241, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)-305-6800.

SUPPLEMENTARY INFORMATION: In the Federal Register of May 5, 1993 (58 FR 26725), EPA issued a proposed rule that pursuant to petitions (PP 0F3865, PP 2F4081, and FAP 2H5635) by the Monsanto Co., 700 14th St., NW., Washington, DC 20005, and under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA) (21 U.S.C. 346a), EPA proposed to amend 40 CFR 180.364 to permit combined residues of the herbicide glyphosate, [*N*-(phosphonomethyl)glycine], and its metabolite aminomethylphosphonic acid resulting from the application of the isopropylamine salt in or on the RACs wheat at 5.0 ppm, wheat straw at 85 ppm, the tree nut crop group at 1.0 ppm, almond hulls at 25 ppm, and a food additive regulation under 40 CFR 185.3500 for wheat milling fractions (except flour) at 20 ppm.

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

The data submitted in the petition and other relevant material have been evaluated and discussed in the proposed rule. Based on the data and information considered, the Agency concludes that the tolerances and food additive regulation will protect the public health. Therefore, the tolerances and food additive regulation are established as set forth below.

Any person adversely affected by these regulations may, within 30 days after publication of this document in the Federal Register, file written objections with the Hearing Clerk, at the address given above (40 CFR 178.20). The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

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

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

List of Subjects

40 CFR Part 180

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

40 CFR Part 185

Food additives, pesticides and pests.

Dated: June 18, 1993.

Douglas D. Campt,

Director, Office of Pesticide Programs.

Therefore, chapter I of title 40 of the Code of Federal Regulations is amended as follows:

PART 180—[AMENDED]

1. In part 180:

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

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

b. In § 180.364, by amending paragraph (a) in the table therein by revising the entry "grain crops" and by adding new paragraph (d), to read as follows:

§ 180.364 Glyphosate; tolerances for residues.

(a) * * *

Commodity	Parts per million
* * * * *	
Grain crops (except wheat)	0.1 (N)
* * * * *	

* * * * *

(d) Tolerances are established for residues of glyphosate (*N*-(phosphonomethyl)glycine) resulting from the application of the isopropylamine salt of glyphosate and/or the monoammonium salt of glyphosate in or on the following raw agricultural commodities:

Commodity	Parts per million
Almond hulls	25
Tree nut crop group	1.0
Wheat, grain	5.0
Wheat, straw	85.0

PART 185—[AMENDED]

2. In part 185:

a. The authority citation for part 185 continues to read as follows:

Authority: 21 U.S.C. 348.

b. In § 185.3500, by adding new paragraph (a)(3), to read as follows:

§ 185.3500 Glyphosate.

(a) * * *

* * * * *

(3) Glyphosate (*N*-(phosphonomethyl)glycine) resulting from the application of the isopropylamine salt of glyphosate and/or the monoammonium salt of glyphosate for herbicidal purposes.

Food	Parts per million
Wheat milling fractions (excluding flour)	20.0

* * * * *

[FR Doc. 93-15419 Filed 7-6-93; 8:45 am]

BILLING CODE 6560-50-F

40 CFR Part 180

[PP 9F3702/R2003; FRL 4628-7]

RIN 2070-AB78

Pesticide Tolerances for Norflurazon

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document amends the tolerances for residues of the herbicide norflurazon (4-chloro-5-(methylamino)-2-alpha, alpha, alpha-trifluoro-*m*-tolyl-3(2H)-pyridazonone) in or on the raw agricultural commodities (RACs) peanuts at 0.2 part per million (ppm); peanut, hay at 0.5 ppm; peanut, hulls at 0.5 ppm; and peanut, vines at 0.5 ppm resulting from indirect residues of norflurazon and its desmethyl metabolite in or on these raw agricultural commodities when present therein as a result of the application of norflurazon in the culture of cotton, by establishing permanent tolerances for residues that may result from the intentional application of norflurazon in the culture of peanuts. Sandoz, Inc., petitioned EPA for this regulation to establish maximum permissible levels for the combined residues of the herbicide in or on these commodities.

EFFECTIVE DATE: Effective July 7, 1993.

ADDRESSES: Written objections, identified by the document control number, [PP 9F3702/R2003], must be submitted to: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: By mail: Joanne I. 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 Hwy., Arlington, VA 22202, (703)-305-7830.

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of February 8, 1989 (54 FR 6170), which announced that Sandoz Crop Protection Corp., 1300 East Touhy Ave., Des Plaines, IL 60018, had submitted a pesticide petition (PP 9F3702) to EPA requesting that the Administrator, pursuant to section 408(d) of the Federal Food, Drug and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), establish tolerances for the herbicide norflurazon (4-chloro-5-(methylamino)-2-(alpha, alpha, alpha-trifluoro-*m*-tolyl)-3-(2H)-pyridazinone and its desmethyl metabolite (4-chloro-5-(amino)-2-alpha, alpha, alpha-trifluoro-*m*-tolyl)-3(2H)-pyridazinone) in or on the raw agricultural commodities (RACs) peanut, nutmeat at 0.05 ppm; peanut, hulls at 1.0 ppm; peanut, vines (green hay) at 0.075 ppm; and peanut, hay (dry) at 0.5 ppm.

EPA also issued a notice, published in the **Federal Register** of May 15, 1991 (56 FR 22428), which announced that Sandoz Crop Protection Corp. had requested that section F of the petition be amended for the same residues in or on the RACs peanuts at 0.05 ppm; peanut, hulls at 1.5 ppm; peanut, vines at 1.5 ppm; and peanut, hay at 5.5 ppm.

There were no comments or requests for referral to an advisory committee received in response to the notices of filing.

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

1. Several acute toxicology studies were performed, placing technical-grade norflurazon in toxicity Category IV.

2. A 90-day rat feeding study at nominal dosages of 0, 12.5, 25.0, and 125.0 mg/kg/day, with a no-observable-effect-level (NOEL) of 25.0 mg/kg/day and a lowest-effect-level (LEL) of 125.0 mg/kg/day. The effect was increased liver-to-body weight ratios with hypertrophy of thyroids with depletion of colloid with acini and slight-to-moderate increase in interstitial vascularity.

3. A 6-month dog feeding study at nominal dosages of 0, 1.25, 3.75, and 11.25 mg/kg/day with a NOEL of 3.75 mg/kg/day and a LEL of 11.25 mg/kg/day based on a relative liver weight increase.

4. A 3-week rabbit dermal study with a NOEL of > 2,000 mg/kg/day the highest dose tested (HDT).

5. A 28-day rat feeding study at dosages of 0, 25.0, 50.0, and 250.0 mg/kg/day with a NOEL of 50.0 mg/kg/day. The effect was hyperplasia and hypertrophy of liver and higher liver, kidney, adrenal, and heart/body weight ratios.

6. A 28-day mouse feeding study at dosages of 0, 10.5, 31.5, 63.0, and 378.0 mg/kg/day with a NOEL of 63.0 mg/kg/day and a LEL of 378.0 mg/kg/day. The effect was diffused and smooth granular livers and an increase in the liver/body weight ratios.

7. A rat dermal absorption study at dosages of 0, 0.1, 1.0, and 10.0 mg/rat showing that no more than 0.1 percent of applied dose was absorbed at doses up to 10 mg/rat.

8. Gene mutation assays in *Salmonella typhimurium* (strains TA98, TA100, TA1535, TA1537, and TA1538), *E. coli* (strain WP2), and *Saccharomyces cerevisiae* (strain D4), in-vitro cytogenetic assay in Chinese hamster ovary cells for chromosome aberrations, and unscheduled DNA synthesis test in primary rat hepatocytes for DNA repair were negative for potential mutagenic activity.

9. A developmental study in rats at dosages of 0, 100, 200, and 400 mg/kg/day showed no maternal or developmental effects at 400 mg/kg/day.

10. A developmental study in rabbits at dosages of 0, 10, 30, and 60 mg/kg/day showed maternal body weight decreases at 60 mg/kg/day. Developmental effects seen at 30 and 60 mg/kg/day were decreased fetal weight and incomplete ossification of the skull, fore and hind limb middle phalanx, metacarpal, and proximal epiphysis of the tibia. The NOEL for maternal toxicity was 30 mg/kg/day. The NOEL for developmental toxicity was 10 mg/kg/day.

11. A three generation reproduction study in rats at dosages of 0, 6.25, 18.75, and 51.25 mg/kg/day showed effects of reduced fertility, gestation, and viability indices at 51.25 mg/kg/day.

12. A carcinogenicity study in rats at dosages of 0, 0.1, 6.25, 18.75, and 51.25 mg/kg/day with a NOEL of 18.75 mg/kg/day and a LEL of 51.25 mg/kg/day based on reduced body weight gain, increases in blood urea nitrogen (BUN) and a marked reduction in 2,3-diphosphoglyceric acid (DPG), increased mortality, increased liver, kidney and ovary weight, fatty changes in adrenals, endometritis, increased chromophobe adenomas in pituitary, modular or cortical hypertrophy in adrenals, casts in kidneys (males). There were no carcinogenic effects attributable to norflurazon in the study.

13. A carcinogenicity study in mice at dosages of 0, 12.75, 51.0, and 204.0 mg/kg/day with a NOEL of 51 mg/kg/day and a LEL of 204 mg/kg/day with increased liver-to-body weight ratios and significant positive trend in hepatocellular adenomas and in combined hepatocellular adenomas and/or carcinomas. A significant pair-wise increase in hepatocellular adenomas and hepatocellular adenomas/carcinomas combined was observed at the 204 mg/kg/day dose level in males. There were no statistically significant increases in tumor incidence with incremental doses of norflurazon in females.

14. A rat metabolism study at single oral doses of 2 or 110 mg/kg, a single i.v. dose of 2.0 mg/kg, or a single oral dose at 2 mg/kg after animals had ingested 0.1 mg/kg for 14 days showed that less than 1.0 percent remained in bodies of rats 96 hours after dosing. Thirteen metabolites were isolated. Norflurazon appears to be metabolized by *N*-demethylation, displacement of the chlorine atom by *N*-demethylation, displacement of the chlorine atom by glutathione, glutathione attack on the aromatic ring, and replacement of the chlorine atom with hydrogen. Norflurazon appears to be rapidly

absorbed from the gastrointestinal tract and extensively metabolized.

The Agency's Health Effects Division Peer Review Committee classified norflurazon as a Group C, possible human carcinogen, based on the criteria in the Agency's Guideline for the Classification of Carcinogens (51 FR 33992-34003, Sept. 24, 1986) and the statistically significant increase in comparison to controls in liver adenomas and combined liver adenomas and carcinomas in male CD-1 mice as well as the statistically significant positive trend for these hepatocellular adenomas and combined adenomas and carcinomas.

That committee also recommended that for the purposes of risk characterization the Reference Dose (RfD) approach should be used for the quantification of human risk. This recommendation was supported by the presence of only benign tumors in only one sex of one species at one dose level, and adequate but negative mutagenicity data and no positive analogues.

Using a 100-fold safety factor and the NOEL of 3.75 mg/kg/day determined by the most sensitive species (the 6-month dog feeding study), the RfD is 0.04 mg/kg/day. The theoretical maximum residue contribution (TMRC) from the established and proposed tolerances is 0.002038 mg/kg/bwt/day and utilizes 5.0 percent of the RfD for the overall U.S. population. The exposure of the most highly exposed subgroup in the population, nonnursing infants, is 0.009355 mg/kg/bwt/day and utilizes 23.0 percent of the RfD.

Previous tolerances have been established for norflurazon in almonds, hulls and nutmeat; asparagus; avocados; apricots; apples; blackberries; blueberries; cattle, fat, meat, and meat byproducts; cherries; citrus fruit; cottonseed; cranberries; filberts; goats, fat, meat, and meat byproducts; grapes; hogs, fat, meat, and meat byproducts; hops, green; horses, fat, meat, and meat byproducts; milk; nectarines; peanuts; peanut hay, hulls, and vines; peaches; pears; pecans; plums (fresh prunes); poultry, fat, meat, and meat byproducts; raspberries; sheep, fat, meat, and meat byproducts; soybeans; soybean, forage and hay; and walnuts.

The metabolism of norflurazon in plants is adequately understood. Metabolism of norflurazon in livestock has been studied, and tolerances for livestock commodities have been established. Reevaluation of the data has indicated that there are some metabolites that yet need to be identified. These data are scheduled to be submitted by February 1994. After the data are evaluated, the tolerances involving livestock will be reconsidered.

The nature of the residue is adequately understood, and an adequate analytical method, gas chromatography using electron capture detection, is available for enforcement purposes. Because of the long lead time from establishing these tolerances to publication of the enforcement methodology in the Pesticide Analytical Manual, Vol. II, the analytical methodology is being made available in the interim to anyone interested in pesticide enforcement when requested from: Calvin Furlow, Public Information Branch, Field Operations Division (H-7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 242, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-4432.

The modifications raise tolerance levels on peanut hays and vines and raise and redistribute the tolerance levels for the peanut taken as a whole, i.e., nutmeat and hull. Under the previous rule, tolerance levels on peanuts were more evenly distributed between the hull and the nutmeat. This rule changes that distribution to reflect more accurate data showing proportionately higher concentration of residues in the hull and a lower permissible level for the peanut, nutmeat. In addition, these amendments provide tolerances for direct application and also for indirect application as previously provided for these commodities. In accordance with EPA and FDA policies, pesticide residues resulting from indirect application are automatically regulated under direct application tolerances, when available.

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

Any person adversely affected by this regulation may, within 30 days after the date of publication of this document in the **Federal Register**, file written objections and/or a request for a hearing with the Hearing Clerk at the address given above. 40 CFR 178.20. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections. 40 CFR 178.25. Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on each such issue, and a summary of any evidence relied upon by the objector. 40 CFR 178.27. A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: there is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested. 40 CFR 178.32.

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

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

List of Subjects in 40 CFR Part 180

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

Dated: June 23, 1993.

Daniel M. Barolo,

Acting Director, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

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

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

2. In § 180.356, by removing the paragraph designation "(a)" and amending the table therein by adding and alphabetically inserting the following raw agricultural commodities and by removing paragraph (b), to read as follows:

§ 180.356 Norflurazon; tolerances for residues.

* * * * *

Commodity	Parts per million
* * * * *	
Peanuts	0.05

Commodity	Parts per million
Peanuts, hay	5.50
Peanuts, hulls	1.5
Peanuts, vines	1.5

* * * * *

[FR Doc. 93–15986 Filed 7–6–93; 8:45 am]
BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[PR Docket No. 89–552; FCC No. 93–297]

Use of the 220–222 MHz Band by the Private Land Mobile Radio Services

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission has adopted an Order denying a petition for reconsideration filed by United Parcel Service of America, Inc. (UPS). In addition, in the Order, the Commission on its own motion amended its regulations by eliminating that portion thereof that permitted applicants to rely on a long-term business plan to satisfy the requirement that they demonstrate internal communications needs in 70 or more markets. The intended effect of this action is to ensure that the non-commercial channels are used primarily as envisioned for the licensee's internal nationwide communications needs.

EFFECTIVE DATE: October 5, 1993.

FOR FURTHER INFORMATION CONTACT: Karen Kincaid, (202) 634–2443, Private Radio Bureau.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction

Public reporting burden for this collection of information is estimated to average 25.5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Federal Communications Commission, Office of Managing Director, Paperwork Reduction Project (OMB Control No. 3060–0475), Washington, DC 20554, and to the Office of Management and Budget, Paperwork Reduction Project (OMB Control No. 3060–0475), Washington, DC 20503.

This is a summary of the Commission's Order, PR Docket No. 89–552, FCC No. 93–297, adopted June 4, 1993, and released June 21, 1993. The full text of the Order is available for inspection and copying during normal business hours in the FCC Dockets Branch, room 230, 1919 M Street, NW., Washington, DC. The complete text may be purchased from the Commission's copy contractor, Downtown Copy Center, 1114 21st Street, NW., Washington, DC 20036, telephone (202) 452–1422.

Summary of Orders

1. On June 18, 1992, the Commission adopted a Memorandum Opinion and Order, 57 FR 32448 (July 21, 1992), that addressed the issues raised on reconsideration of the Report and Order, 56 FR 19598 (April 29, 1991), in PR Docket No. 89–552, as well as those presented by the Further Notice of Proposed Rule Making, 57 FR 4180 (February 4, 1992), issued in the same proceeding. The Memorandum Opinion and Order also amended the Commission's rules to strengthen the construction and operating requirements applicable to non-commercial nationwide 220–222 MHz licensees in a manner designed to ensure that the non-commercial nationwide channels would be used as envisioned to satisfy the licensee's nationwide internal communications needs.

2. UPS filed a Request for Clarification or Petition for Reconsideration of certain of these rule changes. Specifically, UPS requested the Commission to amend 47 CFR 90.733(d) to limit the amount of system capacity available for leasing to 20 percent, or to amend § 90.733(d) to prohibit the leasing of excess capacity entirely during the initial ten-year license term. In the alternative, UPS requested that if § 90.733(d) were maintained in its present form, construction benchmarks be adopted at one, three and five years, with a loss of license imposed for failure to meet these deadlines. In addition, UPS asked the Commission to make plain that non-commercial nationwide applicants must rely solely on their qualifications and resources as of the time that their applications were filed in satisfying the requirement that they demonstrate a need for internal communications capacity in 70 or more markets.

3. The Commission denied UPS's request that § 90.733(d) be amended to restrict further the circumstances in which non-commercial nationwide licensees may lease the excess capacity of their systems, citing its continued belief that allowing the leasing of excess capacity only after expiration of the initial five years of the license term best balances the interests in spectrum efficiency and in ensuring that the non-commercial channels are used as intended. Similarly, the Commission disagreed with UPS's suggestion that its rules be amended to impose construction benchmarks on non-commercial nationwide licensees. In this regard, the Commission stated its belief that its existing rules, which require licensees to (1) construct and place in operation base stations in a minimum of 70 markets within five years or forfeit the entire nationwide license, 47 CFR 90.725(h), and (2) include with their application a certification that they have sufficient resources to construct the entire system within five years of license grant and operate the system during the first years of the license term, 47 CFR 90.713(a)(5), 90.713(b), 90.713(c)(4), are fully adequate to ensure that the system will not be misused.

4. The Commission also denied UPS's request that it make plain that each non-commercial nationwide applicant must rely solely on its internal communications needs and financial qualifications as of May 1, 1991, when its application was filed. The Commission stated that the rule changes adopted in the Memorandum Opinion and Order significantly altered the non-commercial nationwide entry criteria, and that consequently, applicants able to satisfy the original criteria should be afforded an opportunity to amend their applications in response to the new rules.

5. On its own motion, the Commission amended that portion of 47 CFR 90.713(a)(6) that permits non-commercial nationwide applicants to rely on a long-term business plan in satisfying the requirement that they demonstrate a need for non-commercial communications capacity in 70 or more markets. Under the rule in its new form, applicants will be required to demonstrate an actual presence, and will not be allowed to rely upon a projected need based on a long-term business plan. The Commission stated that because this represents a significant change in the entry criteria, non-commercial nationwide applicants seeking to withdraw their applications prior to the effective date of the new rules will be allowed to obtain a refund of their application filing fees. In addition, the Commission indicated that submission of the showings required of non-commercial nationwide applicants

under the Memorandum Opinion and Order and the instant Order would be required once approval from the Office of Management and Budget (OMB) has been obtained pursuant to the Paperwork Reduction Act. The Commission delegated authority to the Chief of the Private Radio Bureau to announce the date that non-commercial applicants will be required to file the additional submissions through issuance of a Public Notice.

List of Subjects in 47 CFR Part 90

220–222 MHz narrowband frequencies, Private land mobile radio services, Radio.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Amendatory Text

Part 90 of chapter 1 of title 47 of the Code of Federal Regulations is amended as follows:

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

1. The authority citation for part 90 continues to read as follows:

Authority: Sections 4, 303, 332 48 Stat., 1066, 1082, as amended; 47 U.S.C. §§ 154, 303 and 332 unless otherwise noted.

2. Section 90.713 is amended by revising paragraphs (a)(1) and (a)(6) to read as follows:

§ 90.713 Entry criteria.

(a) * * *

(1) Applicants for commercial nationwide channels must include certification that, within ten years of receiving a license, the applicant will construct a minimum of one base station in a least 70 different geographic areas designated in the application; that base stations will be located in a minimum of 28 of the 100 urban areas listed in § 90.741; and that each base station will have all five assigned nationwide channels constructed and placed in operation (regularly interacting with mobile and/or portable units). Applicants for non-commercial nationwide channels must include certification that, within five years of receiving a license, the applicant will construct a minimum of at least one base station in at least 70 different geographic areas designed in the application; that base stations will be located in a minimum of 28 of the 100 urban areas listed in § 90.741; that each base station in the ten large urban areas designated in § 90.725(h) will have all assigned nationwide channels constructed and placed in operation (regularly interacting with mobile and/or portable units); and that all other base stations will have a minimum of five of the assigned nationwide channels constructed and placed in operation.

* * * * *

(6) Applicants for non-commercial nationwide licensing must also submit a certification demonstrating an actual presence necessitating internal communications capacity in the 70 or more markets identified in the license application.

* * * * *

3. Section 90.725 is amended by revising the text of paragraph (h) (the Table remains unchanged) to read as follows:

§ 90.725 Construction requirements.

* * * * *

(h) Licensees granted non-commercial nationwide authorizations will be required to construct and place in operation base stations in a minimum of 70 markets designated in the application within five years of the initial license grant. Base stations of 10-channel non-commercial nationwide systems that are located in any of the ten large urban areas listed in the following Table (base stations are considered located in the following ten large urban areas if they are within 60 kilometers (37.3 miles) of the coordinates listed) must have all 10 channels constructed and placed in operation within 5 years of the initial license grant:

* * * * *

[FR Doc. 93–15790 Filed 7–6–93; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF ENERGY

48 CFR Parts 904, 906, 913, 915, 916, 919, 922, 952, and 970

Acquisition Regulation; Miscellaneous Amendments (Number 4)

AGENCY: Department of Energy (DOE).

ACTION: Final rule; technical amendments.

SUMMARY: The Department is amending the Department of Energy Acquisition Regulation (DEAR) to perform "housekeeping" duties such as updating references, correcting editorial errors, and clarifying language. This rule falls under the exceptions stated in the Administrative Procedure Act to the proposed rulemaking and public procedure requirements. These corrections and changes are all technical and administrative in nature, and none of them raises substantive issues. All of these changes are summarized in the "Section-by-Section Analysis" appearing later in this document.

EFFECTIVE DATE: This rule will be effective August 6, 1993.

FOR FURTHER INFORMATION CONTACT:

Kevin M. Smith, Office of Procurement, Assistance and Program Management (PR–121), Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–8189.

Laura Fullerton, Office of the Assistant General Counsel for Procurement and Finance (GC–34), Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–1900.

SUPPLEMENTARY INFORMATION:

I. Section-by-Section Analysis
II. Procedural Requirements
A. Regulatory Review
B. Review Under the Regulatory Flexibility Act
C. Review Under the Paperwork Reduction Act
D. Review Under Executive Order 12612
E. National Environmental Policy Act
F. Review Under Executive Order 12778

I. Section-by-Section Analysis

A detailed list of changes follows:

1. The authority citation for parts 904, 906, 913, 915, 916, 919, 922, and 952 is restated.

2. Section 904.601 is amended to reflect an organizational name change.

3. Subsection 904.601–70(b) is amended to update the citation for DOE Order 1331.1.

4. Subsection 904.601–70(b)(2) is amended to clarify language for Individual Procurement Action Report submission requirements.

5. Subsection 904.601–70(b)(3)(ii) is amended to update the dollar threshold for SF 281 reporting.

6. Subsection 906.303–1(a) is amended to clarify language addressing justification language for Other Than Full And Open Competition.

7. Subsection 913.505–1 is amended to clarify language and to allow for the use of DOE F4250.3.

8. Subsection 915.971–4(f) is amended to correct a typographical error.

9. Subsection 915.971–6(b) is amended to correct a referenced citation.

10. Section 916.206 duplicates FAR coverage and is deleted.

11. Section 919.708(b) containing the requirement for quarterly report submittals is deleted.

12. Section 922.473 is amended to reflect an organizational name change.

13. Section 922.803 is amended to reflect an organizational name change.

14. Subsection 922.804–2 is amended to reflect an organizational name change.

15. Section 922.7001 is amended to reflect an organizational name change.

16. Section 952.219 is deleted as the alternate language to the FAR clause is no longer relevant.

17. The authority citation for part 970 is restated.

18. Section 970.1901(a) is amended to delete the reference to 952.219–9, since requirement for quarterly report submittals has been deleted.

19. Section 970.2270(b)(2) is amended to reflect an organizational name change.

20. Section 970.2271(b)(1) is amended to reflect an organizational name change.

21. Subsection 970.3102–2(l)(2) is amended to reflect an organizational name change.

22. Subsection 970.5204–20 is amended to add the clause preamble, title and date.

23. Subsection 970.7104–11 is amended to correct a typographical error.

24. Subsection 970.7104–12 is amended to delete the paragraph containing the requirement for quarterly reporting.

II. Procedural Requirements

A. Regulatory Review

Pursuant to the January 22, 1993, memorandum from the Director, Office of Management and Budget (OMB), on the subject of regulatory review, 58 FR 6074 (January 25, 1993), DOE submitted this notice to the Director for appropriate review. The Director has completed his review. Separately, DOE has determined that there is no need for a regulatory impact analysis as the rule is not a "major rule" as that term is defined in section 1(b) of Executive Order 12291.

B. Review Under the Regulatory Flexibility Act

This rule was reviewed under the Regulatory Flexibility Act of 1980, Public Law 96–354, which requires preparation of a regulatory flexibility analysis for any rule that is likely to have a significant economic impact on a substantial number of small entities. This rule will have no impact on interest rates, tax policies or liabilities, the cost of goods or services, or other direct economic factors. It will also not have any indirect economic consequences such as changed construction rates. DOE certifies that this rule will not have a significant economic impact on a substantial number of small entities and, therefore, no regulatory flexibility analysis has been prepared.

C. Review Under the Paperwork Reduction Act

No new information collection or recordkeeping requirements are imposed by this rule. Accordingly, no OMB clearance is required under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, *et seq.*).

D. Review Under Executive Order 12612

Executive Order 12612, entitled "Federalism," 52 FR 41685 (October 30, 1987), requires that regulations, rules, legislation, and any other policy actions be reviewed for any substantial direct effects on states, on the relationship between the Federal government and the states, or in the distribution of power and responsibilities among various levels of government. If there are sufficient substantial direct effects, then the Executive order requires preparation of a federalism assessment to be used in all decisions involved in promulgating and implementing a policy action. This rule will apply to states that contract with DOE; however, none of the revisions is substantive in nature.

E. National Environmental Policy Act

DOE has concluded that this rule would not represent a major Federal action having significant impact on the human environment under the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321, *et seq.*) (1976) or the Council on Environmental Quality Regulations (40 CFR parts 1500–1508) and, therefore, does not require an environmental impact statement or an environmental assessment pursuant to NEPA.

F. Review Under Executive Order 12778

Section 2 of Executive Order 12778 instructs each agency subject to Executive Order 12291 to adhere to certain requirements in promulgating new regulations and reviewing existing regulations. These requirements, set forth in sections 2(a) and (b), include eliminating drafting errors and needless ambiguity, drafting the regulations to minimize litigation, providing clear and certain legal standards for affected conduct, and promoting simplification and burden reduction. Agencies are also instructed to make every reasonable effort to ensure that the regulation specifies clearly any preemptive effect, effect on existing Federal law or regulation, and retroactive effect; describes any administrative proceedings to be available prior to judicial review and any provisions for the exhaustion of such administrative proceedings; and defines key terms. DOE certifies that today's rule meets the requirements of sections 2(a) and (b) of Executive Order 12778.

List of Subjects in 48 CFR Parts 904, 906, 913, 915, 916, 919, 922, 952, and 970

Government Procurement.

For the reasons set out in the preamble, chapter 9 of title 48 of the Code of Federal Regulations is amended as set forth below:

Issued in Washington, DC, on June 29, 1993.

Berton J. Roth,

Acting Director, Office of Procurement, Assistance and Program Management.

Chapter 9 of title 48 Code of Federal Regulations is amended by making the following technical amendments:

1. The authority citation for parts 904, 906, 913, 915, 916, 919, 922, and 952 continues to read as follows:

Authority: 42 U.S.C. 7254; 40 U.S.C. 486(c).

PART 904—ADMINISTRATIVE MATTERS

2. Section 904.601 is amended in paragraph (c) (first sentence) by removing the name "Office of Procurement Information/Property" and adding the name "Office of Management Review and Assistance" in its place.

3. Subsection 904.601–70 is amended in paragraph (b) introductory text by removing "1331.1A" and adding "1331.1 (latest version)" in its place.

4. Subsection 904.601–70 is amended by revising the first sentence of paragraph (b)(2) to read as follows:

904.601–70 Procurement and Assistance Data System (PADS).

* * * * *

(b) * * *

(2) For each prime contract over the small purchase limit, contracting officers shall complete, for each action awarded under that contract, an Individual Procurement Action Report (IPAR), DOE F 4200.40, and submit it to their data entry point for input to the Procurement and Assistance Data System. * * *

* * * * *

5. Subsection 904.601–70 is amended at paragraph (b)(3)(ii) by removing "$10,000" and adding "$25,000" in its place.

PART 906—COMPETITION REQUIREMENTS

6. Subsection 906.303–1 is amended at paragraph (a) by removing the first sentence.

PART 913—SMALL PURCHASES AND OTHER SIMPLIFIED PURCHASE PROCEDURES

7. Subsection 913.505–1 is amended by revising the heading and paragraph (a)(2) to read as follows:

913.505–1 Optional Form (OF) 347, Order for Supplies or Services, and Optional Form 348, Order for Supplies or Services Schedule-Continuation or DOE F 4250.3, Order for Supplies or Services.

(a)(2) Optional Forms 347 and 348, or DOE F 4250.3 may be used for purchase orders using small purchase procedures. These forms shall not be used as the contractor's invoice.

* * * * *

PART 915—CONTRACTING BY NEGOTIATION

8. Subsection 915.971–4 is amended in paragraph (f), third sentence, by removing the word "relation" and adding the word "relations" in its place.

9. Subsection 915.971–6 is amended in paragraph (b) introductory text, first sentence, by removing "(f)(2)" and adding "(a) of this section" in its place.

PART 916—TYPES OF CONTRACTS

10. Part 916 is amended by removing section 916.206 and subsection 916.206–3.

PART 919—SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS

11. Section 919.708 is amended by removing paragraph (b).

PART 922—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITION

12. Section 922.473 is amended in paragraph (b) by removing "Office of Contractor Industrial Relations" and adding "Office of Contractor Human Resource Management" in its place.

13. Section 922.803 is amended in paragraph (d) (fifth sentence) by removing "Office of Industrial Relations" and adding "Office of Civil Rights" in its place.

14. Subsection 922.804–2 is amended in paragraph (b)(3) (seventh sentence) by removing "Office of Industrial Relations" and adding "Office of Civil Rights" in its place.

15. Section 922.7001 is amended in paragraphs (c)(3) (third sentence), (e) (sixth sentence), (f)(1) (second sentence), and (h) (both occurrences) by removing "Office of Industrial Relations" and adding "Office of Contractor Human Resource Management" in its place.

PART 952—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

16. Part 952 is amended by removing section 952.219 and subsection 952.219–9.

PART 970—DOE MANAGEMENT AND OPERATING CONTRACTS

17. The authority citation for part 970 continues to read as follows:

Authority: Sec. 161 of the Atomic Energy Act of 1954 (42 U.S.C. 2201), sec. 644 of the Department of Energy Organization Act, Pub. L. 95–91 (42 U.S.C. 7254), sec. 201 of the Federal Civilian Employee and Contractor Travel Expenses Act of 1985 (41 U.S.C. 420) and sec. 1534 of the Department of Defense Authorization Act, 1986, Pub. L. 99–145 (42 U.S.C. 7256a), as amended.

18. Section 970.1901 is amended in paragraph (a) by removing "as modified by 952.219–9".

19. Section 970.2270 is amended in paragraph (b)(2) introductory text (second sentence) by removing "Headquarters Labor Relations" and adding "Office of Contractor Human Resource Management" in its place.

20. Section 970.2271 is amended in paragraph (b)(1) by removing "Labor Relations" and adding "Office of Contractor Human Resource Management" in its place; in paragraph (b)(2)(iv) by removing "Office of Industrial Relations" and adding "Office of Contractor Human Resource Management" in its place; and in paragraph (b)(3) by removing "Office of Industrial Relations" and adding "Office of Contractor Human Resource Management" in its place.

21. Subsection 970.3102–2 is amended in paragraph (l) (2) (fourth sentence) by removing "Office of Labor Relations" and adding "Office of Contractor Human Resource Management" in its place.

22. Subsection 970.5204–20 is amended by adding "In accordance with 970.0901, the following clause shall be used in management and operating contracts:

MANAGEMENT CONTROLS (Jan 1992)" after the heading and before paragraph (a).

23. Subsection 970.7104–11 is amended by revising the heading to read as follows:

970.7104–11 Cost or pricing data.

* * * * *

24. Subsection 970.7104–12 is amended by removing paragraph (g).

[FR Doc. 93–15885 Filed 7–6–93; 8:45 am]
BILLING CODE 6450–01–P

Proposed Rules

Federal Register
Vol. 58, No. 128
Wednesday, July 7, 1993

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

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 180 and 186

[PP 0E3823 and FAP 0H5592/P563; FRL 4628–6]

RIN 2070–AC18

Pesticide Tolerance and Food Additive Regulation for Hexakis [2-Methyl-2-Phenylpropyl] Distannoxane

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that a pesticide tolerance be established for residues of the pesticide hexakis in or on the raw agricultural commodity marigolds and that a food additive regulation be established for the processed feed commodities dried marigolds and marigold extract. The proposed regulations to establish maximum permissible levels for residues of the pesticide in or on the commodities were requested in petitions submitted by the Interregional Research Project No. 4 (IR-4).

DATES: Comments, identified by the document control number [PP 0E3823 and FAP 0H5592/P563], must be received on or before August 6, 1993.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Hoyt L. Jamerson, Emergency Response and Minor Use Section (H7505W), Registration Division, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Sixth Floor, Crystal Station #1, 2800 Jefferson Davis Hwy., Arlington, VA 22202, (703)-308-8783.

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition (PP) 0E3823 and feed additive petition (FAP) 0H5592 to EPA on behalf of the Agricultural Experiment Station of California. Pesticide petition 0E3823 requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)), amend 40 CFR part 180 by establishing a tolerance for residues of the pesticide hexakis, [2-methyl-2-phenylpropyl] distannoxane, and its organotin metabolites, calculated as hexakis, in or on the raw agricultural commodity marigolds at 4 parts per million (ppm). Feed additive petition 0H5592 requested that the Administrator, pursuant to section 409 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348), amend 40 CFR part 186 by establishing a feed additive regulation for residues of hexakis and its organotin metabolites in or on the processed feed commodities dry marigolds and marigold extract at 25 ppm.

Marigolds are fed to poultry in the form of dried and ground flower petals or as an extract of xanthophyll concentrate produced from marigold petals. Xanthophylls are plant pigments which are fed to poultry to increase yellow pigment and enhance the yellow color of their egg yolks and skin.

The petitioner proposed that this use of hexakis be limited to California based on the geographical representation of the residue data submitted. Additional residue data will be required to expand the area of usage. Persons seeking geographically broader registration should contact the Agency's Registration Division at the address provided above.

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

1. A 2-year chronic feeding study in dogs fed diets containing 0, 2.5, 5.0, 15, 30, or 60 milligrams (mg)/kilogram (kg)/day with no observed toxicity other than vomiting and diarrhea at doses of 15 mg/kg and above.

2. A 2-year chronic feeding/carcinogenicity study in rats feed diets containing 0, 50, 100, 300, or 600 ppm with a no-observed-effect-level (NOEL) for systemic effects of 100 ppm (equivalent to 5.0 mg/kg/day) based on decreased leukocytes in female rats and reduced body weights in both sexes. No increase in tumor incidence was observed under the conditions of the study.

3. A carcinogenicity study in mice fed diets containing 0, 50, 100, 300, and 600 ppm with no increase in tumor incidence observed under the conditions of the study. A NOEL for systemic effects was established at 100 ppm (equivalent to 15 mg/kg/day) based on body weight reduction.

4. A two-generation reproduction study in rats with a reproductive NOEL of 75 ppm (equivalent to 5.2 mg/kg/day in male rats and 5.98 mg/kg in female rats) based on decreased body weight and food consumption in the adult rats and the first generation offspring.

5. A developmental toxicity study in rabbits given oral doses of 0, 1, 5, and 10 mg/kg/day in gelatin capsules on days 6 through 18 of gestation with a NOEL for developmental toxicity of 1 mg/kg/day based on increased incidence of abortions at 5 mg/kg/day and above. Maternal toxicity was established at 5 mg/kg/day based on anorexia and gastric lesions.

6. A developmental toxicity study in rats given gavage doses of 0, 15, 30, or 60 mg/kg/day from days 6 through 15 of gestation with a NOEL for developmental toxicity of 30 mg/kg/day based on increased preimplantation loss. A maternal toxicity NOEL was established at 15 mg/kg/day based on reduced body weight.

7. Gene mutation assays in Salmonella and Chinese hamster ovary cells, a chromosome aberration test in human lymphocytes, and an unscheduled DNA synthesis test in rat primary hepatocytes were all negative.

8. A metabolism study in rats reveals that hexakis is primarily excreted as the parent compound within 3 days of ingestion.

The reference dose (RfD) for hexakis is established at 0.05 mg/kg body weight/day. The RfD is based on a NOEL of 5.2 mg/kg body weight/day from the reproduction study in rats and an uncertainty factor of 100. The anticipated residue contribution (ARC) from established tolerances, including tolerances for eggs, and poultry meat, fat, and meat byproducts, utilizes 4 percent of the RfD for the general population (8 percent of the RfD for the subgroup most highly exposed, children 1 to 6 years old). This proposed action does not alter the dietary risk assessment for hexakis. Hexakis residues in eggs and poultry meat, fat, and meat byproducts resulting from the proposed use are expected to fall within the established tolerances for these commodities. The risk assessment discussed above assumes dietary exposure to hexakis residues at a tolerance level (0.1 ppm) for eggs and poultry meat, fat, and byproducts.

The nature of the residue is adequately understood and an adequate analytical method, gas-liquid chromatography, is available for enforcement purposes. An analytical method for enforcing these tolerances has been published in the Pesticide Analytical Manual (PAM), Vol. II. Any secondary residues occurring in poultry and eggs will be covered by existing tolerances for hexakis. Secondary residues are not expected in nonpoultry livestock from the proposed use since marigolds are not considered a feed item for these animals. The pesticide is considered capable of achieving the intended physical or technical effect.

There are currently no actions pending against the continued registration of this chemical.

Based on the above information, the Agency concludes that the proposed tolerance would protect the public health and that use of the pesticide in accordance with the proposed food additive regulations would be safe. Therefore, it is proposed that they be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this document in the **Federal Register** that the proposed tolerance for fresh marigold be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulations. Comments must bear a notation indicating the document control number, [PP 0E3823 and 0H5592/P563]. All written comments filed in response to these petitions will be available in the Public Response and Program Resources Branch, at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

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

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

List of Subjects in 40 CFR Parts 180 and 186

Administrative practice and procedure, Agricultural commodities, Feed additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: June 24, 1993.

Lawrence E. Culleen,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that chapter I of title 40 of the Code of Federal Regulations be amended as follows:

PART 180—[AMENDED]

1. In part 180:

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

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

b. In § 180.362, by amending paragraph (b) in the table therein by adding and alphabetically inserting a tolerance for regional registration for fresh marigolds, to read as follows:

§ 180.362 Hexakis [2-methyl-2-phenylpropyl]distannoxane; tolerances for residues.

* * * * *

(b) * * *

Commodity	Parts per million
Marigolds, fresh	4.0

* * * * *

PART 186—[AMENDED]

2. In part 186:

a. The authority citation for part 186 continues to read as follows:

Authority: 21 U.S.C. 348.

b. By revising § 186.3550, to read as follows:

§ 186.3550 Hexakis (2-methyl-2-phenylpropyl) distannoxane.

(a) Tolerances are established for combined residue of the insecticide hexakis (2-methyl-2-phenylpropyl) distannoxane and its organotin metabolites calculated as hexakis (2-methyl-2-phenylpropyl) distannoxane in the following processed feeds when present therein as a result of application of the insecticide to growing crops:

Commodity	Parts per million
Apple pomace, dried	75.0
Citrus pulp, dried	35.0
Grape pomace, dried	100
Raisin waste	20

(b) Tolerances with regional registration, as defined in § 180.1(n) of this chapter, are established for residues of the pesticide hexakis in or on the following feed commodities:

Feed	Parts per million
Marigolds (dried and extract)	25.0

[FR Doc. 93-15987 Filed 7-6-93; 8:45 am]
BILLING CODE 6560-50-F

40 CFR Part 261

[FRL-4557-2]

RIN 2050-AD70

Hazardous Waste Management System: Identification and Listing of Hazardous Waste; Treatability Studies Sample Exclusion

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: On July 19, 1988, the Environmental Protection Agency (EPA) issued a final rule conditionally exempting waste samples used in small-scale treatability studies from subtitle C regulations. The rule established quantity limits on materials to be processed and imposed reporting and recordkeeping requirements. Based on hazardous waste treatment technology development efforts and site remediation experience under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), and the Resource Conservation and Recovery Act (RCRA), EPA is proposing to revise the existing treatability sample exclusion rule, primarily in the area of the quantity of contaminated soils and debris which may be processed without a requirement to meet subtitle C regulations. For example, EPA proposes to allow testing on up to 10,000 kg of soil and debris contaminated with non-acute hazardous waste.

DATES: EPA will accept public comments on this document until September 7, 1993. Comments postmarked after this date may not be considered.

ADDRESSES: Commenters should send an original and two copies of their comments to:

RCRA Information Center (OS–305), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. Place the Docket Number (#F–93–TSP-FFFFF) on your comments.

An original and two copies of Confidential Business Information (CBI) must be submitted under separate cover to:

Document Control Officer (OS–312), Office of Solid Waste, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

The docket is available for viewing at the RCRA Information Center (RIC) located at:

EPA/RCRA Information Center, room M2427, 401 M Street SW., Washington, DC 20460.

The RIC is open from 9 a.m. to 4 p.m., Monday through Friday, except for Federal holidays. The public must make an appointment to review docket materials. Call (202) 269–9327 for appointments. Viewers may copy up to 100 pages free of charge, after which copies cost $.15 per page.

FOR FURTHER INFORMATION CONTACT: The RCRA/Superfund Hotline at (800) 424–9346. For technical information contact Jim Cummings, Technology Innovation Office (OS–110W), U.S. Environmental Protection Agency, 401 M Street SW, Washington, DC 20460 (703) 308–8796.

SUPPLEMENTARY INFORMATION:

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II. Background
III. Discussion of Major Issues
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V. State Authority
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I. Data Availability

The Agency has developed or received the following new data relating to treatability studies. This information supplements that found in the docket for the existing treatability sample exclusion rule (docket number F–87–TSEF-FFFFF). The earlier docket is also part of the record for this proposed rule. Copies of the following documents are available for viewing at the RIC (see "ADDRESSES" section):

(1) Information derived from submissions by hazardous waste treatment technology developers and vendors for inclusion in the Vendor Information System for Innovative Treatment Technologies (V.I.S.I.T.T.). Submissions include size of equipment and quantities utilized in conducting treatability studies.

(2) Information from implementation of the Superfund Innovative Technology Evaluation (S.I.T.E.) program. The SITE program provides developers of innovative technologies with an opportunity to demonstrate the performance of their equipment on actual waste from Superfund and other hazardous waste sites.

II. Background

On July 19, 1988, EPA issued a final rule conditionally exempting waste samples used in small-scale treatability studies from subtitle C regulation. This rule was issued in response to comments in an earlier rulemaking suggesting that such an exclusion be allowed. The earlier rulemaking granted an exclusion for samples shipped solely for the purpose of monitoring or testing to determine their characteristics or composition. The July 19, 1988 rule was also in response to a June 2, 1987 petition from the Hazardous Waste Treatment Council (HWTC) requesting that the Agency promulgate regulations to provide limited exemptions from the permitting requirements of RCRA to facilities conducting treatability studies.

The HWTC petition was in several parts. In addition to requesting that the Agency extend the sample exclusion to include samples shipped for treatability testing, HWTC also recommended that the Agency consider regulatory changes that would facilitate larger-scale treatability studies. The rule promulgated on July 19, 1988 addressed the first part of the HWTC petition which pertained to small-scale treatability studies. The preamble to that rule stated that "[T]he Agency will address the second part of HWTC's petition concerning larger scale studies at a later date." 53 FR 27291.

Today's proposal to increase the amount of contaminated soil and debris used in treatability studies draws upon EPA's experience since the promulgation of the initial treatability sample exclusion and responds to the HWTC petition. It addresses the continuing need for flexible mechanisms to facilitate development and evaluation of hazardous waste treatment technologies.

III. Discussion of Major Issues

A. Introduction

1. Summary of the Existing Treatability Sample Exclusion Rule

The existing Treatability Sample Exclusion rule imposes limits on the quantity of material which may be shipped, stored or treated under the exemption. In order to qualify for the conditional exclusion, laboratory and test facilities must comply with the quantity limitations as well as notification, reporting and record-keeping requirements. Except where noted, the quantity limits are the primary focus of today's proposal. Commenters are referred to the full text of the rule for other provisions which are generally unchanged by today's proposal.

Shipment—The mass of each sample shipment may not exceed 1000 kg of "as received" hazardous waste, 1 kg of acute hazardous waste, or 250 kg soils, water,

or debris contaminated with acute hazardous waste. See 40 CFR 261.4(e)(2)(ii).

Storage—The laboratory or testing facility may store up to 1000 kg of non-acute hazardous waste. This limitation can include 500 kg of soils, water, or debris contaminated with acute hazardous waste or 1 kg of acute hazardous waste. See 40 CFR 261.4(f)(4).

Treatment—The laboratory or testing facility, on a per waste stream per treatment process basis, may conduct treatability tests on up to 1000 kg of non-acute hazardous waste, 250 kg of soils, water, or debris contaminated with acute hazardous waste, or 1 kg of acute hazardous waste. See 40 CFR 261.4(e)(2)(i). The rule imposes a treatment initiation rate limit of 250 kg per day of "as received" waste for the entire laboratory or testing facility. 40 CFR 261.4(f)(3). "As received" refers to the waste shipped by the generator or sample collector as it arrives at the laboratory or testing facility.

2. Need and Rationale for This Proposed Rulemaking

The principal focus of comments in support of the original rule was that RCRA subtitle C permit requirements unnecessarily interfere with the ability to develop and assess treatment technologies. Regulatory barriers which the existing rule sought to alleviate included the costs of applying for a RCRA permit, the delays associated with obtaining Agency approval of the application, and delays prior to final granting of the permit. The Agency found that treatability testing, subject to specific limits and conditions, would pose minimal risk to human health and the environment.

More than 40 comments were received on the original treatability sample exclusion proposal (Docket number F–87–TSEF–FFFF). A number of these comments supported higher limits than those in the HWTC petition or in the rule which EPA eventually promulgated. A frequent comment was that for certain technologies larger quantities were not only desirable, but necessary, to develop required information on technology performance.

a. The Role of Treatability Studies in Hazardous Waste Remediation

"Treatability study" is defined in the existing rule as "a study in which a hazardous waste is subjected to a treatment process to determine: (1) Whether the waste is amenable to the treatment process, (2) what pretreatment (if any) is required, (3) the optimal process conditions needed to achieve the desired treatment, (4) the efficiency of a treatment process for a specific waste or wastes, or (5) the characteristics and volumes of residuals from a particular treatment process." 40 CFR 260.10.

Different types and scales of treatability studies are needed at different stages of technology development and hazardous waste site remedy evaluation. In the early stages of technology development and site assessment, lab or bench-scale studies are employed to understand basic physical and/or chemical phenomena and whether a given approach will work in principle.

Tests on larger quantities of waste with pilot-scale equipment are conducted to assess the applicability of the technology for various physical forms and waste mixtures encountered at specific sites. These tests may serve to verify engineering design, determine equipment operating parameters required for full-scale operation, estimate remediation costs, determine residual waste characteristics, and address materials handling problems associated with both untreated materials and treatment residues. It is preferable to conduct treatability studies using actual wastes which have been subjected to aging and weathering effects in the natural environment rather than using 'surrogate' materials—e.g., soils spiked with chemicals to simulate hazardous waste.

b. EPA Experience With Treatability Studies and Technology Demonstrations

Information on hazardous waste site remediation from EPA's S.I.T.E. program and vendor-submitted data in the V.I.S.I.T.T. data base indicate that a number of technologies require larger quantities of material for treatability testing and technology demonstrations. This information is summarized in Tables 1 and 2, and is available for review in the docket. Data for the V.I.S.I.T.T. system were submitted to EPA by vendors and specifically concern site remediation requirements.

Technologies which are tested in a batch mode generally require smaller quantities of waste than technologies which operate continuously. It is generally easier to simulate full-scale conditions in a batch reactor, and continuous flow units require a start-up period before steady state conditions are attained. For either case, adequate quantities of contaminated material are necessary to assess different technology operating conditions.

TABLE 1.—SUMMARY OF V.I.S.I.T.T. PILOT-SCALE TREATABILITY TESTING INFORMATION

Technology group	Average process rate (kg/hr)	Average total quantity req'd (kg)	Number of vendors
Bioremediation—Slurry Phase	780–1,310	2,060–4,600	5
Bioremediation—Solid Phase	420–2,030	7,770–39,300	8
Chemical Treatment—Dechlorination	25–75	500–1,000	1
Chemical Treatment—Other	400–3,400	2,030–10,330	3
Electrical separation	2,000–5,000	1,000–3,000	1
Materials Handling	5–250	1,000–5,000	1
Slagging—Off-Gas Treated	515–1,390	5,150–50,400	2
Soil Washing	850–1,900	3,160–14,380	8
Solvent Extraction	235–600	2,180–4,300	6
Thermal Desorption	610–1,520	5,420–7,500	5
Vitrification	143–440	230–2,380	4
Acid Extraction	500–1,000	1,000–2,000	1

TABLE 2.—PILOT-SCALE DEMONSTRATIONS CONDUCTED IN THE S.I.T.E. PROGRAM

Technology	Total qty used (kg)	Process rate (kg/hr)	Qty per test (kg)	Number of tests
Thermal:				
Pyretron	1,800	95	300	6
Cyclone Furn.	2,700	77	908	3
Infrared	1,800	55	500	3
Circulating Bed Reactor	3,900	77–148	1,300	3
Plasma Furn.	1,800	68	600	3
Phys/Chemical:				
Soil Washing	22,000	227	22,000	1
CF Solvent Extraction	908	272	227	4
CG Extraction	290	10	145	2

c. Expected Benefits From Increasing the Quantity Limits

The high cost of remedial action involving treatment at hazardous waste sites highlights the continuing need to develop and apply alternative treatment technologies. The desire to consider more cost-effective remedies, coupled with complex site and waste conditions which are not readily amenable to traditional approaches, results in an increasing willingness to select innovative techologies. While innovative approaches are being considered and selected, relatively few cleanups involving innovative technologies have been completed. Lacking such a data base of experience, treatability studies, at an appropriate scale, must be employed to provide necessary performance information.

Under the existing exclusion, up to 1000 kg of non-acutely hazardous waste may be treated from a single waste stream with a maximum of 250 kg (less than two drums) per day. Existing quantity limitations for soil and debris and other remediation wastes may be too restrictive and may prevent thorough analysis of a technology's potential to remediate contaminated sites.

The increase in quantity limits proposed today concerns only contaminated soils and debris such as those associated with site remediation activities. Contaminated soil and debris often result from undocumented or uncontrolled disposal activity resulting in unique combinations of contaminants. The often unique soil conditions at individual sites results in the need for site-specific treatability testing to assess potential technology applications. Industrial waste streams are likely to be more consistent, and may be better suited to transfer of data from other treatability studies for similar industries.

Contaminated soil and debris are essentially solid and pose a small risk if accidentally released. In the event of a spill, soil and debris can be more easily recovered than liquid wastes. Thus the incremental risk associated with transportation and storage of 10,000 kg of soil and debris is expected to be minimal in comparison to 1000 kg of liquid process waste as allowed by the current rule.

The concentrations of contaminants in soils and debris are generally lower than the concentrations in the waste material which served as the original source. Over time, contaminants will disperse in the environment by processes such as leaching, evaporation and erosion. These lower concentrations in soil further mitigate any increase in risk associated with transportation, storage and treatment of the larger quantities of material which are being proposed.

In addition to facilitating development of innovative approaches, EPA expects that increasing the quantity limits will remove obstacles to the performance of comprehensive treatability tests, thereby: (a) Providing a mechanism which will increase user willingness to consider innovative approaches and to select such approaches with greater confidence; and (b) for both innovative and established technologies, increasing the likelihood that the technology will work "as advertised" when full-scale remedial efforts commence.

Depending on the technology and its extent of use, pilot-scale tests of reasonable duration are preferred to more limited lab or bench-scale tests as predictors of full-scale cost and performance. Potential technology users may be reluctant to select or even consider a remedy based solely on bench or lab scale data. Although this applies to all technologies, it is more likely to be the case where innovative technologies are concerned. In addition, pilot-scale data may be necessary for project design and may allow vendors to formulate more precise, and potentially lower, bids for remediation work.

d. Potential for Abuse of the Exclusion

In the proposal for the existing rule, EPA solicited comment on the potential for abuse of the provision. Numerous commenters pointed out misuse of the exclusion was unlikely in light of the fact that the cost of small-scale treatability studies was many times greater than the cost of legitimate treatment or disposal.

It is our expectation that many treatability studies will be conducted with quantities less than the maximum proposed today. As discussed more fully in the risk section of today's proposal, there are a number of financial, logistic and liability factors which will drive laboratories and testing facilities to utilize the minimum quantity of material necessary to evaluate the technology in question. The purpose of today's proposed rule is to allow treatability studies to be conducted on a quantity of material, within prescribed limits, appropriate to the technology.

It is useful to place the larger quantity proposed today in perspective in terms of the potential for abuse even if the cost disparity did not exist. Various surveys such as the Preliminary Economic Assessment of the Proposed Hazardous Waste Identification Rule suggest that on average, hazardous waste sites will have on the order of 20,000 tons of material which must be addressed. The 10,000 kg (approximately 11 tons) which EPA is proposing as an upper limit, is less than one-tenth of one percent of the total waste at the average site. Therefore, the concern that a series of small-scale treatability studies could be undertaken as an alternative to use of a full-scale approach to site remediation does not appear to be realistic.

3. Determination of Minimal Risk

EPA concluded that the original treatability sample exclusion was appropriate because a number of factors combined to ensure that the risks to human health and the environment

were minimal. These factors include: (1) A limitation on the size of sample that is exempted; (2) the high cost of collecting and shipping the sample; (3) a limitation on the quantity of waste that can be shipped at any one time; (4) the applicability of the Department of Transportation (DOT), U.S. Postal Service (USPS), or other regulations governing the transportation of hazardous materials; (5) a limitation on the quantity of hazardous waste that can be stored at a laboratory or testing facility; (6) a limitation on the quantity of hazardous waste that may be processed (i.e., tested in a treatability unit) in any one day; (7) the prohibitive costs involved in conducting legitimate treatability studies as an alternative to commercial treatment and disposal; (8) a limitation on the time that a waste sample used in a treatability study or any residue generated from such studies may remain at the laboratory or testing facility without being subject to the hazardous waste regulations; (9) the RCRA requirement that any unused sample and residues from a treatability study must still be managed as a hazardous waste (if, in fact, it is still hazardous); and (10) certain reporting and recordkeeping requirements that will enable the Agency to conduct inspections and bring enforcement actions against persons who abuse the exemption. (53 FR 27292, July 19, 1988).

The same factors which serve to minimize the risk in the original rule also work to ensure a similar result with the larger quantities proposed. In particular, the proposed revision does not change the initial notification, record-keeping and reporting requirements of the original rule. Furthermore, in the case of soil and debris, contaminants are distributed throughout a relatively inert matrix, thus reducing the risks associated with transportation, storage and treatment.

As with the original rule, the proposed revision does not apply where the practice could result in a significant uncontrolled release of hazardous constituents to the environment. It would include neither open-burning, nor any type of treatment involving placement of hazardous waste on the land.

In some situations, allowing larger-scale treatability studies may result in increased reliance on on-site pilot-scale treatability testing, particularly for remediation situations not presently able to take advantage of permit exemptions. This practice will further reduce the risk from waste handling, transportation and storage.

B. Proposed Limitations

1. Quantity Limits per Waste Stream per Treatment Process

The existing rule limits treatability studies to 1000 kg of non-acute hazardous waste, 1 kg of acute hazardous waste, and 250 kg of soils, water or debris contaminated with acute hazardous waste. Testing of many of the technologies discussed in Tables 1 and 2 would be hampered under the existing rule. For the reasons discussed above, the Agency believes that raising the limit to 10,000 kg for soils and debris contaminated with non-acute hazardous waste would be beneficial for technology development and for site remedy evaluation and selection, and that is today's proposal. As discussed elsewhere in this proposal, shipment, storage and treatability testing on larger quantities of contaminated soil and debris poses no greater risk, and may actually pose a lower risk, than the existing limitation when applied to process wastes.

In addition, EPA proposes to raise the treatment limit for soils and debris contaminated with acute hazardous waste to 2500 kg, while retaining the existing 250 kg limit for water contaminated with such waste. In keeping with the remediation focus of this proposal, the 1 kg limit on acute hazardous waste would be retained.

In light of the fact that the purpose of this rule is to facilitate remediation of hazardous waste sites, EPA solicits comment on further expanding the scope of the exclusion beyond soil and debris. Other combinations of hazardous waste and waste matrices occur frequently at Superfund and RCRA Corrective Action sites. Media other than soil and debris present the same pre-treatment, materials handling, treatment and residue disposal challenges. At sites with more than one medium, it is likely that decision-makers will seek a single technology which can handle multiple matrices. In addition, as with soil and debris, EPA expects that the high cost of treatability studies for other media and the fact that most remedial actions will occur with some level of federal or state oversight, reduce concerns regarding mismanagement of the waste materials.

Groundwater contaminated with LNAPLs (Light Non-Aqueous Phase Liquids) and DNAPLs (Dense Non-Aqueous Phase Liquids) is a prevalent problem at remedial action sites. Although the levels of contamination in groundwater are generally in the low parts per million range, there may be transportation and storage concerns with allowing larger-scale treatability studies. Furthermore, it is not clear that larger quantities are needed for ex-situ treatability testing for groudwater, as much of the focus on groundwater remediation is on in-situ approaches which require on-site pilot projects.

EPA solicits information on treatability study experiences and requirements regarding other forms of remediation waste. Depending on the comments received on this revision, EPA may elect to expand the scope of the revision to include other forms of remediation waste. EPA is particularly interested in examples of innovative technologies which illustrate whether including additional materials in this increased exemption could promote more effective, less costly remedies while protecting human health and the environment.

2. Transportation Shipment Limits—Generator and Facility

The existing rule imposes a single shipment limitation of 1000 kg of non-acute hazardous waste, 1 kg of acute hazardous waste, and 250 kg of soils, water, or debris contaminated with acute hazardous waste. See 40 CFR 261.4(e)(2)(ii).

EPA proposes to raise the single shipment limit for soil and debris contaminated with non-acute hazardous waste to 10,000 kg, and 2500 kg for soils and debris contaminated with acute hazardous waste, while retaining the 1 kg limit for acute hazardous waste. Other forms of non-acute hazardous waste will continue to be subject to the 1000 kg limit, and water contaminated with acute hazardous waste will continue to be subject to a single shipment limit of 250 kg. As discussed above and as mentioned in the preamble to the original rule, "The costs to conduct the study and to collect, pack, and ship the sample will tend to limit the sample size to the smallest amount practicable." (53 FR 27295, July 19, 1988).

3. Treatment Rate Limit

The existing rule imposes a treatment initiation rate limit of 250 kg per day of "as received" waste. This allows for technologies which add non-waste materials to enhance treatment.

Under the continuing premise that the purpose of revising the rule is to allow, within limits, whatever quantity is required to evaluate a given technology, and with the expectation that processing rates will be the minimum necessary, EPA proposes to allow daily treatment rates up to the maximum quantity allowable per waste stream—i.e., 10,000 kg of "as received" soil and debris contaminated with non-acute hazardous

waste or 2500 kg of soil and debris contaminated with acute hazardous waste may be processed per day. Existing limits for other forms and types of waste are retained.

4. Storage Limit

The existing rule adopted a 1000 kg limit per laboratory or testing facility. The 1000 kg limit can include 500 kg of soils, water or debris contaminated with acute hazardous waste or 1 kg of acute hazardous waste.

EPA proposes to increase the storage limit for soil and debris contaminated with non-acute hazardous waste to 10,000 kg and to 5000 kg for soil and debris contaminated with acute hazardous waste. Other existing storage limits are retained.

5. Residues and Unused Samples—Time Limitations

The existing rule imposes the following limits on retention of materials on site: "No more than 90 days have elapsed since the treatability study for the sample has been completed, or no more than one year has elapsed since the generator or sample collector shipped the sample to the laboratory or testing facility. See 40 CFR 261.4(f)(5).

EPA is aware of the complex combinations of wastes encountered at hazardous waste sites, and of the potential need for the use of treatment trains—i.e., combinations of technologies to address wastes such as inorganics and organics which cannot be treated by a single process. Treatability studies for some treatment trains and for certain stand alone technologies, e.g., those involving bioremediation, may require extended timeframes.

Bioremediation treatability studies may require extended timeframes, particularly for contaminants not already known to be bio-degradable. Study start-up may require time for micro-organism acclimatization. Various combinations of organisms, nutrients and oxygen may be tried before initial degradation is noted. Further iterations may be necessary before desired cleanup levels are achieved.

EPA proposes to extend the one-year time limit for bioremediation treatability studies to two years, and solicits comment on whether additional technologies or groups of technologies also require longer timeframes. Wastes must still be returned to the generator within 90 days of study completion.

C. Reporting and Recordkeeping Requirements

EPA is not changing the notification, record-keeping and reporting requirements contained in the existing rule.

D. EPA Identification Numbers

Laboratories and testing facilities must continue to have an EPA identification number in order to conduct treatability studies under this exclusion.

IV. Issues For Comment

The following summarizes the issues on which EPA requests comment. These headings are suggested to help organize responses and to facilitate agency analysis and review. Commenters are strongly encouraged to provide information on the full range of concepts and information in this proposal.

(1) Are the proposed increased quantity limits for soil and debris relating to:

a. Shipment
b. Storage
c. Treatment

adequate and appropriate? In particular, are there cases where higher limits might be beneficial but still protective?

(2) Should EPA increase or otherwise modify the existing limits for other forms of remediation waste in addition to soil and debris?

(3) The factors such as the cost of treatability studies and concerns about liability from improper disposal limit the risk from treatability studies on smaller quantities should also minimize the risk from larger scale studies. These factors will also work to limit the quantities of waste to be used for treatability testing to the minimum necessary. Are there conditions or situations where factors such as cost and liability concerns will not have these desired effects?

(4) EPA proposes to extend the time limits on how long samples may be retained at the laboratory or testing facility to two years for bioremediation. Is this appropriate? Are there other technologies or combinations of technologies where extensions may also be appropriate?

(5) How many treatability studies do users expect to conduct under the revised rule? What costs would be associated with conducting treatability studies under other regulatory provisions?

Comments are solicited on the issues presented above, and on any other issues directly relevant to an expansion of the existing treatability sample exclusion rule.

V. State Authority

As with the existing rule, today's announcement proposes regulations that are not effective under HSWA in authorized states, since this rulemaking does not impose requirements or prohibitions contained in HSWA. Thus the regulations will be applicable only in those States that do not have final authorization. In an authorized State, the proposed regulation would not be applicable until the State revises its program to adopt equivalent regulations under state law. Again, as with the original rule these proposed changes are less stringent or reduce the scope of the Federal program. Therefore, although EPA strongly encourages timely adoption, authorized states would not be required to modify their programs to adopt regulations consistent with and equivalent to this rulemaking.

VI. Effective Date

Section 3010(b) of RCRA provides that EPA's hazardous waste regulations and revisions to those regulations take effect 6 months after promulgation. Given the potential of this proposed rule to increase the timeliness of CERCLA remedial activities and RCRA Corrective Actions, as was the case with the original rule, EPA proposes to make this proposed rule effective upon publication of the final rule.

VII. Regulatory Analyses

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to a Regulatory Impact Analysis. EPA has tentatively determined that this proposed regulation is not major because it will not result in an effect on the economy of $100 million or more. Rather this rule, as with the original treatability sample exclusion, will reduce the overall costs and economic impact of EPA's hazardous waste management regulations by eliminating permitting requirements for laboratories and testing facilities intending to conduct treatability studies. EPA solicits comment on the number of treatability studies which may be conducted under the proposed revision and the costs which would otherwise accrue using other regulatory mechanisms to conduct needed testing.

In the original rule, the agency estimated that perhaps 400 facilities would be affected by promulgation of the rule. It was estimated that these facilities would be spared the time (up to 2 years) and the costs (estimated to be between $100,000 and $200,000) otherwise necessary to receive a RCRA

permit. In addition, there are approximately 120 vendors in EPA's Vendor Information System for Innovative Treatment Technologies (V.I.S.I.T.T.). If between one-third and one-half of the vendors seek to conduct treatability studies at the increased scale allowed by the revised rule, using the cost estimates above regarding the expense of obtaining a RCRA permit, there is potential for additional incremental savings of between $4M–$8M.

The ultimate objective of this rule is to increase the availability of alternative treatment technologies that are environmentally preferable, particularly for remediation wastes. Non-quantifiable benefits include not only the development of new technologies, but also of more cost-effective technologies. Larger-scale treatability studies are also expected to reduce the current uncertainties associated with hazardous waste remediation and allow contractors to reduce the contingency components of their bids.

There will be no adverse impact on the ability of U.S. based enterprises to compete with non-U.S.-based enterprises in domestic or export markets. The development of new, and potentially more cost-effective, remedial technologies should improve the competitiveness of domestic vendors in both U.S. and international markets. Because this regulation is not a major regulation, no Regulatory Impact Analysis has been conducted.

This amendment was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order No. 12291.

B. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, whenever an Agency is required to publish general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the impact of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions).

As with the original rule, the Agency expects that this revision will eliminate time-consuming and costly permitting requirements, and will thus have a positive effect on small entities.

This amendment will have no adverse economic impact on small entities. In fact, it should reduce the burden imposed on small entities that conduct treatability studies and comply with the provisions of this rulemaking. Accordingly, I hereby certify that this final regulation will not have a significant economic impact on a substantial number of small entities. This regulation therefore does not require a regulatory flexibility analysis.

C. Paperwork Reduction Act

The information collection requirements contained in this rule have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and have been assigned OMB control number 2050–0053.

The public reporting burden for this collection of information is estimated to be 10 hours for generators/collectors of waste samples, and 51 hours for laboratory and facilities actually conducting the treatability studies. These estimates include time for reviewing instructions, searching existing data sources, gathering and maintaining data needed, and completing and reviewing the collection of information.

Send comments regarding the burden estimate or any other aspect of collection of information including suggestions for reducing this burden to Chief, Information Policy Branch, PM–223Y, U.S. Environmental Protection Agency, 401 M Street SW., Washington DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, marked "Attention: Desk Officer for EPA." The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

List of Subjects in 40 CFR Part 261

Hazardous waste, Recycling.

Dated: June 28, 1993.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, part 261 of title 40 of the Code of Federal Regulations is proposed to be amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, and 6938.

2. Section 261.4 is proposed to be amended by revising paragraphs (e)(2)(i) and (e)(2)(ii), (f)(3), (f)(4) and (f)(5) to read as follows:

§ 261.4 Exclusions.

* * * * *

(e) * * *

(2) * * *

(i) The generator or sample collector uses (in "treatability studies") no more than 10,000 kg of soil and debris contaminated with non-acute hazardous waste, 1000 kg of non-acute hazardous waste other than soil and debris, 1 kg of acute hazardous waste, 2500 kg of soils and debris contaminated with acute hazardous waste, or 250 kg of water contaminated with acute hazardous waste for each process being evaluated for each generated waste stream; and

(ii) The mass of each sample shipment does not exceed 10,000 kg; the 10,000 kg quantity may be all soil and debris contaminated with non-acute hazardous waste, or may include 2500 kg of soil and debris contaminated with acute hazardous waste, 1000 kg of hazardous waste, 250 kg of water contaminated with acute hazardous waste, and 1 kg of acute hazardous waste; and

* * * * *

(f) * * *

(3) No more than a total of 10,000 kg of "as received" soil and debris contaminated with non-acute hazardous waste, 2500 kg of soil and debris contaminated with acute hazardous waste or 250 kg of other "as received" hazardous waste is subject to initiation of treatment in all treatability studies in any single day. "As received" waste refers to the waste as received in the shipment from the generator or sample collector.

(4) The quantity of "as received" hazardous waste stored at the facility for the purpose of evaluation in treatability studies does not exceed 10,000 kg, the total of which can include 10,000 kg of soil and debris contaminated with non-acute hazardous waste, 5000 kg of soils and debris contaminated with acute hazardous waste, 1000 kg of non-acute hazardous wastes other than soil and debris, 500 kg of water contaminated with acute hazardous waste, and 1 kg of acute hazardous waste. This quantity limitation does not include:

(i) Treatability study residues; and

(ii) Treatment materials (including nonhazardous solid waste) added to "as received" hazardous waste

(5) No more than 90 days have elapsed since the treatability study for the sample was completed, or no more than one year (two years for treatability studies involving bioremediation) have elapsed since the generator or sample collector shipped the sample to the laboratory or testing facility, whichever date first occurs.

* * * * *

[FR Doc. 93–15876 Filed 7–6–93; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 171

[CGD 93–041]

Domestic Passenger Vessel Damage Stability Standards

AGENCY: Coast Guard, DOT.

ACTION: Notice; public meeting.

SUMMARY: The Coast Guard will hold a public meeting to solicit information on the subject of passenger vessel damage stability standards and the application of Coast Guard regulations to domestic passenger vessels. This meeting will be open to the public.

DATES: The meeting is scheduled for 1 p.m. to 5 p.m. on August 5, 1993.

ADDRESSES: This public meeting will be held in room 2415 of Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001.

FOR FURTHER INFORMATION CONTACT: Ms. P.L. Carrigan, Marine Technical and Hazardous Materials Division (G–MTH–3), room 1308, Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001, telephone: (202) 267–2988, telefax: (202) 267–4816.

SUPPLEMENTARY INFORMATION: All large U.S. passenger vessels, as defined in 46 CFR 171.045, constructed on or after December 10, 1992 are required to meet the damage stability standard in 46 CFR 171.080(e). This criteria was based on a standard developed by the International Maritime Organization for application to any passenger vessel allowed to carry 12 or more passengers on an international voyage.

Because of industry concerns with the application of this requirement to domestic vessels, especially vessels operating in protected and partially-protected waters, the Coast Guard intends to hold a public meeting to determine what problems have been encountered in complying with the standard and what actions may be appropriate.

The public meeting is scheduled for 1 p.m. to 5 p.m. on August 5, 1993 in room 2415 of Coast Guard Headquarters, 2100 Second Street SW., Washington, DC, 20593. More information about this public meeting is available by contacting the person listed in "**FOR FURTHER INFORMATION CONTACT**".

(Authority: 46 U.S.C. 3306)

Dated: June 28, 1993.

R.C. North,

Captain, U.S. Coast Guard, Acting Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 93–15982 Filed 7–6–93; 8:45 am]

BILLING CODE 4910–14–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 93–180, RM–8237]

Radio Broadcasting Services; Bowie, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Central Oklahoma Radio Corporation, licensee of Station KFXT–FM, Sulphur, Louisiana, proposing the substitution of Channel 264A for Channel 264C3 for Station KRJT–FM at Bowie, Texas and modification of its license to specify operation on the Class A channel. The coordinates for Channel 264A at Bowie are 33–38–43 and 97–49–08.

DATES: Comments must be filed on or before August 23, 1993, and reply comments on or before September 7, 1993.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Jeffrey D. Southmayd, Southmayd & Miller, 1220 Nineteenth Street, NW., Suite 400, Washington, DC 20036 (Counsel for petitioner).

FOR FURTHER INFORMATION CONTACT: Pamela Blumenthal, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 93–180, adopted June 16, 1993, and released June 30, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 93–15902 Filed 7–6–93; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 93–172, RM–8261]

Television Broadcasting Services; Cimarron, KS

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Clear Channel Television Licenses, Inc., proposing the allotment of UHF Channel 23 to Cimarron, Kansas, as that community's first local television service. The coordinates for Channel 23 are 37–48–41 and 100–22–38. There is a site restriction 2.7 kilometers (1.7 miles) west of Cimarron.

DATES: Comments must be filed on or before August 23, 1993, and reply comments on or before September 7, 1993.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Richard J. Bodorff, Todd M. Stansbury, Wiley, Rein & Fielding, 1776 K Street, NW., Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 93–172 adopted June 10, 1993, and released June 30, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision

may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20036, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 93–15904 Filed 7–6–93; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 90–475; RM–7280, RM–7328]

Radio Broadcasting Services; Dawson and Sasser, GA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 251A for Channel 221A at Dawson, Georgia, and modifies the license for Station WAZE (FM) accordingly and allots Channel 299C3 to Sasser, Georgia, as a first local transmission service, at the request of Dawson Broadcasting Company and EME Communications, respectively. See 55 FR 46079, November 1, 1990. Channel 251A can be allotted to Dawson in compliance with the Commission's minimum distance separation requirements with a site restriction of 5.7 kilometers (3.5 miles) southwest, in order to avoid a short spacing to Station WDMT (FM), Channel 250A, Eufaula, Alabama, and Station WKKN (FM), Channel 252A, Cordele, Georgia. The coordinates for Channel 251A at Dawson are North Latitude 31–44–06 and West Longitude 84–29–01. Channel 299C3 can be allotted to Sasser in compliance with the Commission's minimum distance separation requirements with a site restriction of 10.4 kilometers (6.5 miles) west, in order to avoid a short spacing to Station WWRQ (FM), Channel 299A, Valdosta, Georgia, and Station WPEZ (FM), Channel 300C1, Macon, Georgia. The coordinates for Channel 299C3 at Sasser are North Latitude 31–41–55 and West Longitude 84–27–13. With this action, this proceeding is terminated.

DATES: *Effective:* August 16, 1993. The window period for filing applications for Sasser, Georgia, will open on August 17, 1993 and close on September 16, 1993.

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 90–475, adopted June 16, 1993, and released June 30, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 1919 M Street, NW., room 246, or 2100 M Street, NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

47 CFR PART 73 [AMENDED]

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

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Georgia, is amended by removing Channel 221A and adding Channel 251A at Dawson, and by adding Sasser, Channel 299C3.

Federal Communications Commission.

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 93–15905 Filed 7–6–93; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 93–173, RM–8262]

Television Broadcasting Services; Hoisington, KS

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Clear Channel Television Licenses, Inc., proposing the allotment of Television Channel 14+ to Hoisington, Kansas, as that community's first local television service. The coordinates for Channel 14+ are 38–31–00 and 98–46–36. Channel 14+ does not require a site restriction but does have a plus offset.

DATES: Comments must be filed on or before August 23, 1993, and reply comments on or before September 7, 1993.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Richard J. Bodorff, Todd M. Stansbury, Wiley, Rein & Fielding, 1776 K Street, NW., Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 93–173, adopted June 10, 1993, and released June 30, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW., suite 140, Washington, DC 20036, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 93–15903 Filed 7–6–93; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 93–181, RM–8268]

Radio Broadcasting Services; Livingston, MT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Henry Adams requesting the allotment of Channel 264C to Livingston, Montana, as that community's second FM broadcast service. The coordinates for Channel 264C are 45–39–45 and 110–33–37. The channel can be allotted without a site restriction.

DATES: Comments must be filed on or before August 23, 1993, and reply comments on or before September 7, 1993.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Lauren A. Colby, Law Office of Lauren A. Colby, 10 E. Fourth Street, P.O. Box 113, Frederick, Maryland 21705–0113.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 93–181, adopted June 16, 1993, and released June 30, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20037, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 93–15899 Filed 7–6–93; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 93–175; RM–8264]

Radio Broadcasting Services; Pateros, WA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Pateros Community Broadcasters proposing the allotment of Channel 300A at Pateros, Washington, as its first local aural transmission service. Channel 300A can be allotted to Pateros in compliance with the Commission's minimum distance separation requirements with a site restriction of 8.3 kilometers (5.1 miles) west to avoid a short-spacing to Station KMBI–FM, Channel 300C, Spokane, Washington, at petitioner's requested site. The coordinates for Channel 300A at Pateros are North Latitude 48–03–32 and West Longitude 120–00–51. Since Pateros is located within 320 kilometers (200 miles) of the U.S.-Canadian border, concurrence by the Canadian government has been requested.

DATES: Comments must be filed on or before August 23, 1993, and reply comments on or before September 7, 1993.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: John F. Garziglia, Esq., Pepper & Corazzini, 1776 K Street, NW., suite 200, Washington, DC 20006 (Counsel for Petitioner).

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 93–175, adopted June 10, 1993, and released June 30, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., suite 140, Washington DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 93–15901 Filed 7–6–93; 8:45 am]

BILLING 6712–01–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 541

[Docket No. 93–50; Notice 1]

RIN 2127–AE 85

Federal Motor Vehicle Theft Prevention Standard

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

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Anti Car Theft Act (ACTA) of 1992, which was enacted in October 1992, amended title VI, "Theft Prevention," of the Motor Vehicle Information and Cost Savings Act (Cost Savings Act). Among the amendments was one requiring that certain lines of multipurpose passenger vehicles (MPVs) and light-duty trucks (LDTs) be designated as high theft lines. Manufacturers of lines designated as high theft will have to mark the major parts of each vehicle in the line. In anticipation of rulemaking to promulgate this requirement, this notice solicits comments on the definition of LDTs for title VI purposes. It also seeks comments on what parts of MPVs and LDTs should be considered major parts, and therefore should be subject to parts marking.

DATES: Comments on this advance notice of proposed rulemaking must be received by this agency not later than August 23, 1993.

ADDRESSES: Comments should refer to the docket number referenced in the heading of this notice, and be submitted to: Docket Section, NHTSA, room 5109, 400 Seventh Street, SW., Washington, DC 20590. (Docket hours are 9:30 a.m. to 4 p.m., Monday through Friday.)

FOR FURTHER INFORMATION CONTACT: Ms. Barbara A. Gray, Office of Market Incentives, NHTSA, 400 Seventh Street, SW., Washington, DC 20590. Ms. Gray's telephone number is (202) 366–1740.

SUPPLEMENTARY INFORMATION:

Anti Car Theft Act of 1992

The "Anti Car Theft Act of 1992" (ACTA), which became law on October 25, 1992, is a comprehensive attack on automotive theft and fraud. ACTA strengthens Federal penalties for motor vehicle theft, armed robbery of motor vehicles, and motor vehicle titling fraud. In addition, ACTA amended title VI "Theft Prevention" of the Motor Vehicle Information and Cost Savings Act (Cost Savings Act) (15 U.S.C. 2021 *et seq.*).

As amended by ACTA, title VI defines "passenger motor vehicle" to include "any multipurpose passenger vehicle and light-duty truck that is rated at 6,000 pounds gross vehicle weight or less." (See section 601(1) of title VI.) Since title VI had formerly defined "passenger motor vehicle" to include passenger cars only, the effect of the new definition is that certain multipurpose passenger vehicle (MPV) and light-duty truck (LDT) lines may be determined to be likely high theft vehicles, and may thus be subject to the parts marking requirements of the Theft Prevention Standard.

The agency anticipates having to make substantial revisions to the Motor Vehicle Theft Prevention Standard (49 CFR part 541) to reflect the amendments to title VI. The purpose of the standard is to reduce the incidence of motor vehicle theft by facilitating the tracing and recovery of parts from stolen vehicles. The standard seeks to facilitate such tracing by requiring that vehicle identification numbers (VINs), VIN derivative numbers, or other symbols be placed on major motor vehicle parts. Each vehicle in a high theft line must have its major parts and major replacement parts marked unless the line is exempted from parts marking pursuant to 49 CFR part 543.

This advance notice is the first step in revising the Theft Prevention Standard. The notice solicits public comment to aid the agency in developing proposals regarding the vehicles that must henceforth be covered by the Theft Prevention Standard, and regarding which parts of these vehicles should be considered major parts, and therefore subject to parts marking.

New Types of Motor Vehicles To Be Covered by the Theft Prevention Standard

Under the new definition of "passenger motor vehicle," lines of MPVs and LDTs designated as high theft will be required to comply with the Theft Prevention Standard. For the purposes of designating high theft lines, there is no need to differentiate between MPVs and LDTs. However, with respect to non-high theft vehicles, the new title VI requirements distinguish MPVs from LDTs. Section 602(f) requires NHTSA to promulgate a vehicle theft standard by October 1994 that applies to the major parts of one half on non-high theft passenger motor vehicles, but excludes LDTs from this requirement.

Since title VI requirements differ in some respects for "multipurpose passenger vehicles" and "light-duty trucks," these two terms must be defined so that it can be readily determined whether a particular vehicle is an MPV or an LDT.

1. Multipurpose Passenger Vehicle

Section 2 of the Cost Savings Act (15 U.S.C. 1901), which applies to title VI, defines "passenger motor vehicle" and "multipurpose passenger vehicle" as follows:

> For the purpose of this Act (except title V and except as provided in section 601 of this Act):
>
> (1) The term "passenger motor vehicle" means a motor vehicle with motive power, designed for carrying twelve persons or less, except (A) a motorcycle or (B) a truck not designed primarily to carry its operator or passengers.
>
> (2) The term "multipurpose passenger vehicle" means a passenger motor vehicle which is constructed either on a truck chassis or with special features for occasional off-road operation.

Since section 601(1) defines "passenger motor vehicle" to include "any multipurpose passenger vehicle and light-duty truck that is rated at 6,000 pounds gross vehicle weight or less," it differs from section 2(2) in that it excludes some MPVs (those over 6,000 pounds) and includes some LDTs (those at 6,000 pounds or under). Similarly, "multipurpose passenger vehicle" has a narrower meaning in title VI than that set forth in section 2(2). Combining the section 2(2) definition with the gross vehicle weight limit of section 601 yields the following definition of MPV for the purposes of Title VI:

> A passenger motor vehicle which is constructed either on a truck chassis or with special features for occasional off-road operation and which is rated at 6,000 pounds gross vehicle weight or less.

2. Light-Duty Truck

To implement ACTA, the agency must define "light-duty truck" for Theft Prevention Standard purposes. No definition of "light-duty truck" is provided in the Cost Savings Act (including title VI), or in ACTA itself. The legislative history of ACTA provides no express guidance as to what types of vehicles ACTA's drafters intended to include in "light-duty truck" for theft prevention purposes. To determine the most suitable definition, NHTSA first examined existing definitions that may be applied to the Theft Prevention Standard. NHTSA, in its regulations, has promulgated a definition of "light truck," at 49 CFR 523.5, for purposes of title V of the Cost Savings Act, the Corporate Average Fuel Economy (CAFE) program, and a definition of "truck," at 49 CFR 571.3, for purposes of the Federal Motor Vehicle Safety Standards.

NHTSA's definition of "light truck" in 49 CFR part 523 (for CAFE program purposes) is broad enough to include multipurpose passenger vehicles. The definition applies to motor vehicles that transport more than 10 persons, or permit expanded use of the vehicle for cargo carrying purposes by removing seats. Many multipurpose passenger vehicles can meet one or both of these conditions, and would therefore be included as "light trucks." For this reason, the definition of "light truck" would not be suitable as a basis for defining "light-duty truck" for Theft Prevention Standard purposes. As was previously explained, it is important to maintain a distinction between "multipurpose passenger vehicles" and "light-duty trucks."

NHTSA therefore proposes to base the definition of "light duty truck" for Theft Prevention Standard purposes, on NHTSA's definition of "truck" at 49 CFR 571.3: "A motor vehicle with motive power, except a trailer, designed primarily for the transportation of property or special purpose equipment." This definition focuses on the primary distinction between multipurpose passenger vehicles and light-duty trucks, a distinction that is important for Theft Prevention Standard purposes: Multipurpose passenger vehicles are designed to carry passengers, and light-duty trucks are

designed to carry property. Since multipurpose passenger vehicles are not designed primarily to transport property or equipment, multipurpose passenger vehicles are not included in the 49 CFR 571.3 definition of "truck."

Therefore, in defining "light-duty truck" under ACTA, NHTSA would propose to modify its definition of "truck," by imposing a weight limit of 6,000 pounds gross vehicle weight. The following is the proposed definition of "light-duty truck" for the purposes of title VI:

> A motor vehicle with motive power, except a trailer, designed primarily for the transportation of property or special purpose equipment, that is rated at 6,000 pounds gross vehicle weight or less.

Public comments are solicited on this proposal. If the commenter believes that this proposed definition would not fulfill the needs of the Theft Prevention Standard, the agency requests that the commenter provide an alternative definition, with a statement of rationale why the alternative definition would be more suitable for Theft Prevention Standard purposes.

Major Parts

Section 601(7) of title VI "Theft Prevention" of the Motor Vehicle Information and Cost Savings Act, defines the term "major part." Section 601(7) identifies various specific passenger automobile parts as major parts and provides that the agency may add additional motor vehicle parts of comparable design or function. The identified parts are:

The engine;
The transmission;
Each door allowing entrance or egress to the passenger compartment;
The hood;
The grille;
Each bumper;
Each front fender;
The deck lid, tailgate or hatchback (whichever is present);
Rear quarter panels;
The trunk floor pan;
The frame, or in the case of a unitized body, the supporting structure which serves as a frame; and any other part of a passenger motor vehicle which the agency, by rule, determines is comparable in design or function to any of the parts listed above.

NHTSA has implementing provisions, in the Theft Prevention Standard at 49 CFR 541.5, that specify the major parts on high theft passenger car lines that must be marked. Section 541.5 lists all the parts identified in section 601(7) except for the grille, the trunk floor pan, and the frame or supporting structure which serves as a frame. The agency did not exercise its authority in section 601(7) and did not add additional parts to the list. Before its amendment by ACTA, title VI of the Cost Savings Act mandated that manufacturers mark not more than 14 major parts on a high theft passenger automobile. As amended, there is no statutory limit on the number of major parts that may be required to be marked. However, the parts marking requirement is still limited by a $15 (in 1984 dollars) maximum marking cost per vehicle. (See section 604.) Hence, although there is no longer a statutory limit on the number of parts that must be marked, the limit on costs involved in marking parts would still indirectly restrict the number of parts that can be required to be marked.

Comments are solicited on what parts of multipurpose passenger vehicles and of light-duty trucks should be considered "major parts." The listing in § 541.5 was created specifically to apply to passenger cars, and may not be wholly appropriate for multipurpose passenger vehicles or for light-duty trucks. If the commenter believes that the existing list of "major parts" in 49 CFR 541.5 or section 601(7) of title VI of the Cost Savings Act should also be made applicable to multipurpose passenger vehicles and/or light-duty trucks, or should be modified, comments so stating are solicited.

As stated earlier, the ACTA removed the limitation on the number of major parts that may be required to be marked on any motor vehicle. Therefore, comments are also solicited regarding whether there are any other major parts on passenger cars, comparable in design or function to those parts already listed, that should be added to the list of passenger car parts subject to the Theft Prevention Standard.

Potential Regulatory Impacts

NHTSA believes that this advance notice is neither "major" within the meaning of Executive Order (E.O.) 12291 nor "significant" within the meaning of the Department of Transportation's regulatory policies and procedures. This advance notice solicits comments on definition of "light-duty truck" (LDT) and on what parts of multipurpose passenger vehicles (MPVs) and LDTs should be considered "major parts." If made final, the new definition would have little effect in and of itself. The definition clarifies which vehicles Congress intended to be subject, as LDTs, to the marking of high theft car lines, but excluded from the potential rules for marking of low theft car lines. The costs and benefits resulting from the marking of major parts of MPVs and LDTs will be analyzed in subsequent rulemaking.

Similarly, the selection of the MPV and LDT parts to be marked is already, in large part, decided by Congress in title VI. However, the agency has authority under section 601(7) to make modifications to the statutory list. The specific nature of those modifications, as well as their impact, is unknown at this point. The overall cost of marking the MPVs and LDTs would, in any event, be limited to the $15 per vehicle maximum specified in section 604. The agency can say at this point that the overall impact of any modifications it might make would be less than the $100 million threshold for a regulation to be "major" under E.O. 12291 or "significant" under DOT's regulatory policies and procedures.

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

Procedures for Filing Comments

NHTSA solicits public comments on the issues presented in this notice. It is requested, but not required that 10 copies be submitted.

All comments must not exceed 15 pages in length. (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR part 512.

All comments received before the close of business on the comment closing date indicated above for this notice will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments received too late for consideration in regard to the final rule will be

considered as suggestions for further rulemaking action. Comments on this notice will be available for inspection in the docket. NHTSA will continue to file relevant information as it becomes available for inspection in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 541

Administrative practice and procedure, Labeling, Motor vehicles, Reporting and recordkeeping requirements.

Authority: 15 U.S.C. 2021–2024, and 2026; delegation of authority at 49 CFR 1.50.

Issued on: June 30, 1993.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 93–15967 Filed 7–6–93; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018—AB94

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for the Kootenai River Population of the White Sturgeon

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Fish and Wildlife Service (Service) proposes to list the Kootenai River population of the white sturgeon (*Acipenser transmontanus*), as an endangered species without critical habitat, pursuant to the Endangered Species Act of 1973, as amended (Act). The Kootenai River population of the white sturgeon is restricted to approximately 168 miles (270 kilometers (km)) of the Kootenai River, in Idaho, Montana, and British Columbia, Canada, primarily upstream from Cora Linn Dam at the outflow from Kootenay Lake, British Columbia. A natural barrier at Bonnington Falls downstream of Kootenay Lake has isolated the Kootenai River population of white sturgeon from other white sturgeon populations in the Columbia River basin for approximately 10,000 years. Recent genetic analysis indicates that the Kootenai River sturgeon is a unique stock and constitutes a distinct interbreeding population. The free-flowing river habitat for the Kootenai River white sturgeon population has been modified and impacted from development of the Kootenai River basin. Construction of Libby Dam for hydropower and flood control has transformed the natural hydrograph of the Kootenai River, thus reducing river flows critical to successful reproduction during the May to July sturgeon spawning season, and also affecting the biological productivity of the system by removing nutrients. This population has declined to an estimated 880 individuals, with approximately 80 percent of the sturgeon over 20 years old. There has been an almost complete lack of recruitment of juveniles into the population since 1974, soon after Libby Dam began operation. Other potential threats to the population include disease, and poor water quality due to contaminants.

This proposal, if made final, would extend the Act's protection to the Kootenai River population of the white sturgeon. The Service requests comments and information from the public on this proposed rule.

DATES: Comments from all interested parties must be received by November 4, 1993.

In anticipation of a request, the Service intends to conduct a public hearing on Thursday, August 26, 1993, from 1 to 4 p.m. and from 6 to 8 p.m. in Sand Point, Idaho.

ADDRESSES: Written comments and materials concerning this proposed rule may be submitted at the hearing or to the Field Supervisor, Boise Field Office, U.S. Fish and Wildlife Service, 4696 Overland Road, room 576, Boise, Idaho, 83705. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address. The public hearing on August 26, 1993, will be held at the Schweitzer Mountain Resort, Headquarters Day Lodge, Caribou Room, 10000 Schweitzer Mountain Road, 11 miles north of Sand Point, Idaho.

FOR FURTHER INFORMATION CONTACT: Charles H. Lobdell, Field Supervisor, at the above address or (208) 334–1931.

SUPPLEMENTARY INFORMATION:

Background

White sturgeon (*Acipenser transmontanus*) historically occurred on the Pacific coast from the Aleutian Islands to central California. The species reproduces in at least three large river systems: the Sacramento-San Joaquin, Columbia, and Fraser Rivers. The Kootenai River population of white sturgeon is one of several land-locked populations of white sturgeon found in the Pacific Northwest. The Kootenai River originates in Kootenay National Park in British Columbia, Canada, and flows south into Montana, turns northwest into Idaho, and north through the Kootenai Valley back into British Columbia, where it flows through Kootenay Lake and eventually joins the Columbia River at Castlegar.

White sturgeon are included in the Family Acipenseridae, which consists of 4 genera and 24 species of sturgeon. There are eight species of sturgeon in North America; white sturgeon is one of five species in the genus *Acipenser*. *Acipenser*, among the oldest genera of sturgeon, evolved nearly 400 million years ago during the Cretaceous Period (Scott and Crossman 1973). The closely related green sturgeon (*Acipenser medirostris*) also occurs in the Pacific Coast region, but is restricted in distribution to river estuaries.

The white sturgeon was described by Richardson in 1863 from a single specimen collected in the Columbia River near Fort Vancouver, Washington (Scott and Crossman 1973). All sturgeon are distinguished in having a cartilaginous skeleton with a persistent notochord, and also a protractile, tube-like mouth and sensory barbels on the ventral surface of the snout. The white sturgeon is distinguished from other *Acipenser* by the specific arrangement and number of scutes (bony plates) along its body (Scott and Crossman 1973). The fish have 11 to 14 dorsal, 36 to 48 lateral, and 9 to 12 ventral scutes. White sturgeon are the largest freshwater or anadromous fish in North America, reported to grow upwards of 1,800 pounds (lb) (820 kilograms (kg)). However, the largest authentic record of a white sturgeon is a 1,387 lb (630 kg) specimen taken from the Fraser River in British Columbia in 1897 (Scott and Crossman 1973). Individuals in landlocked populations are generally much smaller. For example, there are no reports of white sturgeon over 200 lbs (90 kg) captured from the Kootenai River system (Apperson 1992, Graham 1981, Partridge 1983). White sturgeon are known to be long-lived, with females living from 34 to 70 years (PSMFC 1992). Partridge (1983) reported that the oldest of 342 sturgeon captured in the Kootenai River during 1977 to 1982 was estimated to be 44 years old.

For white sturgeon in general, the size or age of first maturity in the wild is

quite variable (PSMFC 1992). Females normally require a longer period to mature than males, generally taking 15 to 32 years. Only a portion of adult white sturgeon are reproductive or spawn each year, with the spawning frequency for females estimated at 2 to 11 years. Spawning occurs when the physical environment permits vitellogenesis (egg development) and cues ovulation. White sturgeon are broadcast spawners, releasing their eggs and sperm in fast water. In the lower Columbia River, below McNary Dam, landlocked populations of white sturgeon normally spawn during the period of peak flows from April through July (Parsley et al. 1989; Duke et al. 1990); in recent studies sturgeon eggs were collected in spawning areas with mean column water velocities ranging from 1.6 to 6.3 feet (ft) per second (0.5 to 1.92 meters (m) per second) (Miller et al. 1991). Spawning in high water velocities disperses and prevents clumping of the adhesive eggs. Following fertilization, eggs adhere to the river substrate and hatch after a relatively brief incubation period of 8 to 15 days, depending on water temperature (Brannon et al. 1985). Recently hatched yolk-sac larvae swim or drift in the current for a period of several hours and then settle into interstitial spaces in the substrate. Larval white sturgeon require 20 to 30 days to metamorphose into juveniles with a full complement of fin rays and scutes. During this period, larval sturgeon disperse into the water column where they begin to feed actively, thus becoming susceptible to predation, starvation, disease, and parasitism (Parsley et al. in prep.).

The ecology of white sturgeon in the Kootenai River is not as well known as that of anadromous and other landlocked populations of white sturgeon in the Columbia River basin. Historically, little was known concerning the status and life history of the white sturgeon population in the Kootenai River basin prior to studies initiated during the late 1970's by the British Columbia Ministry of Environment and Parks (Andrusak 1980), Idaho Department of Fish and Game (Partridge 1983), and Montana Department of Fish, Wildlife and Parks (Graham 1981).

The Kootenai River population of white sturgeon is restricted to approximately 168 river miles (270 river km) in the Kootenai River basin, primarily upstream of Cora Linn Dam at the outflow from Kootenay Lake, British Columbia, Canada, through the northeast corner of the Idaho panhandle to Kootenai Falls, about 31 river miles (50 km) below Libby Dam, Montana. Kootenai Falls, in Montana, represents an impassible natural barrier to the upstream migration of the sturgeon. A natural barrier at Bonnington Falls downstream of Kootenay Lake has isolated the Kootenai River white sturgeon from other white sturgeon populations in the Columbia River basin since the last glacial age (approximately 10,000 years) (Apperson and Anders 1991). The Kootenai River population is one of 18 landlocked populations of white sturgeon known to occur in western North America.

Recent genetic analysis indicates that the Kootenai River sturgeon is a unique stock and constitutes a distinct interbreeding population (Setter and Brannon 1990). In examining electrophoretic data from 65 individuals in the Kootenai River, Setter and Brannon (1990) estimated an average heterozygosity (or measure of the quantity of genetic variation) for the Kootenai River population at 0.54. An average heterozygosity of 0.74 was observed for white sturgeon sampled in the Columbia River. Based on the observed lowered average heterozygosity, Setter and Brannon (1990) concluded "* * * that the amount of variability is on the average less for individuals found in the Kootenai River than those found throughout the Columbia River" and "* * * we find adequate evidence to distinguish these fish as a separate population based on differences in allele frequencies, the genetic distance calculation and the overall quantity of variation displayed."

In general, individual white sturgeon in the Kootenai River are broadly distributed, migrating freely between the Kootenai River and the deep, oligotrophic Kootenay Lake (Andrusak 1980). However, the species is not commonly found upstream of Bonners Ferry into Montana (Apperson and Anders 1991). In 1980, Graham (1981) estimated the sturgeon population in Montana to be from one to five individuals found in the river reach immediately downstream of Kootenai Falls. Although white sturgeon use the main channel of the Kootenai River upstream to Kootenai Falls, none have been reported from tributary streams in Idaho and Montana (Partridge 1983).

Based on tagging studies, Kootenai River white sturgeon are relatively sedentary during the summer and inhabit the deepest holes (Apperson and Anders 1990). During late summer and fall, tagged fish were observed moving into the deepest river holes available in the river and/or into Kootenay Lake. Kootenai River locations used by sturgeon were generally sites over 20 ft (6 m) deep with column velocities less than 0.77 ft per second (less than 0.24 m per second) and water temperature of 57 to 68° F (14 to 20° C) (PSMFC 1992). Depths utilized by sturgeon in Kootenay Lake ranged from 30 to over 300 ft (10 to 100.5 m) (Apperson and Anders 1991). Compared with other waters containing white sturgeon, the Kootenai River is a relatively cool river with summer high temperatures of 68 to 72° F (20 to 22° C). Like other white sturgeon, Kootenai River sturgeon are opportunistic feeders. Partridge (1983) found white sturgeon more than 28 inches (in) (80 centimeters (cm)) in length feeding on a variety of prey items, including chironomids, clams, snails, aquatic insects, and fish. Andrusak (British Columbia Environment, Parks and Lands, pers. comm., 1993) noted that kokanee salmon (*Oncorhynchus nerka*) in Kootenay Lake, prior to a dramatic population crash beginning in the mid 1970's, were once considered an important prey item for adult white sturgeon in the lake.

Specific spawning sites for white sturgeon in the Kootenai River are not well known. Apperson (IDFG, pers. comm., 1993) believes that under natural (pre-Libby Dam operation) flow conditions, habitat available for white sturgeon spawning would have occurred in an approximate 60 river mile (96 river km) stretch of the Kootenai River from Shorty's Island in Idaho (river mile 145) upstream to Kootenai Falls in Montana (river mile 203). Apperson (1992) reported that six reproductively mature white sturgeon (three males and three females) tagged with ultrasonic transmitters were located weekly from April through July 1991 to monitor spawning related movements. By May, all six fish had moved upriver 10 to 71 river miles (16 to 114 river km) into the river reach between Shorty's Island and immediately downstream of Bonners Ferry, where they were congregated through July. These fish exhibited movements and remained congregated in areas similar to other sturgeon tagged and monitored in 1990. During May through July, white sturgeon fitted with transmitters occupied locations with water velocities that ranged from 1 to 2 ft per second (0.3 to 0.6 m per second) in 1990, and 1.3 to 2.5 ft per second (0.4 to 0.8 m per second) in 1991.

Based on a comparison of population estimates made in 1982 and 1990, Kootenai River white sturgeon have declined from an estimated 1,194 fish (range of 907 to 1,503) (Partridge 1983) to approximately 880 fish (range of 638 to 1,211) (Apperson and Anders 1991).

This decline in population from 1982 to 1990 indicates an overall annual mortality rate of 0.0374 for adult white sturgeon. The 1990 population estimate translates to an average abundance of seven sturgeon per river kilometer from Kootenay Lake upstream to Bonners Ferry, Idaho.

The population is reproductively mature, with approximately 80 percent of the sturgeon over 20 years old (Apperson 1992). The Idaho Department of Fish and Game (IDFG) estimates that 7 percent of the female white sturgeon and 30 percent of the male white sturgeon in the Kootenai River are reproductive each year (Apperson 1992). Based on a 1:1 sex ratio, this translates into 22 to 42 females and 96 to 182 males available to spawn in any given year. The actual number of available spawners is dependent upon size at maturity and spawning frequency. In addition, it is not certain at what age reproductive senescence occurs in white sturgeon.

There has been an almost complete lack of recruitment of juveniles into the population since 1974, soon after Libby Dam began operation (Partridge 1983, Apperson and Anders 1991). The youngest fish found in the most recent study was a single specimen of the 1977 year class (Apperson and Anders 1991). According to PSMFC (1992), no white sturgeon less than 20 in (51 cm) total length were collected in surveys conducted between 1977 and 1982 on the Kootenai River.

Partridge (1983) noted that sturgeon recruitment was intermittent and possibly decreasing prior to 1974 starting in the mid-1960's, demonstrated by lack of sturgeon from the 1965 to 1969, 1971 to 1973, and 1975 year-classes. Partridge speculated that the lack of recruitment was due in part to (1) the elimination of rearing areas for juveniles through diking of slough and marsh side-channel habitats, and (2) the increase in chemical pollutants (copper, zinc) in the river that may have affected spawning success. In any event, based on current annual mortality rate estimates of 0.0374 coupled with continuing zero recruitment in the future, Apperson (1992) believes that the number of white sturgeon in the Kootenai River population will decline to fewer than 500 individuals within 15 years and to 100 individuals within 55 years.

Previous Federal Action

Federal action on the Kootenai River population of white sturgeon began on November 21, 1991, when the Service included this population as a category 1 candidate species in the Animal Notice of Review (56 FR 58804), based primarily on the results of field studies conducted by Idaho Department of Fish and Game. Category 1 candidates are taxa for which the Service has on file enough substantial information on biological vulnerability and threats to propose them for endangered or threatened status. On June 11, 1992, the Service received a petition from the Idaho Conservation League, Northern Idaho Audubon, and Boundary Backpackers to list the Kootenai River population of white sturgeon as threatened or endangered under the Act. The petition cited the continuing lack of natural flows affecting juvenile recruitment as the primary threat to the continued existence of the wild sturgeon population. Pursuant to section 4(b)(3)(A) of the Act, the Service determined that the petition presented substantial information indicating that the requested action may be warranted, and published this finding in the **Federal Register** on April 14, 1993 (58 FR 19401).

Section 4(b)(3)(B) of the Act requires the Service to make a finding within 1 year of the date a petition is received as to whether or not the requested action is warranted. This proposed rule constitutes the 1-year finding that listing of the Kootenai River population of white sturgeon as an endangered species is warranted.

Summary of Factors Affecting the Species

Section 4 of the Endangered Species Act (16 U.S.C. 1533) and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal Lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to the Kootenai River population of white sturgeon (*Acipenser transmontanus*) are as follows:

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

The significant modifications to the natural hydrograph in the Kootenai River caused by flow regulation at Libby Dam is considered the primary reason for the Kootenai River sturgeon's declining numbers (Apperson and Anders 1991). Since 1972 when Libby Dam began operating, spring flows in the Kootenai River have been reduced an average 50 percent, and winter flows have increased by 300 percent over normal. As a consequence, natural high spring flows required by white sturgeon for reproduction rarely occur during the May to July spawning season when suitable temperature, water velocity, and photoperiod conditions exist. Spring flows in the Kootenai River are also far below the flows observed in 1974, the last year with appreciable white sturgeon production (Apperson 1992). Flows in 1974 exceeded 35,000 cubic ft per second (1,000 cubic m per second) during most of the spawning season. The operation of Libby Dam drastically alters seasonal downstream discharge by storing the natural spring runoff, providing more predictable flows throughout the year, and allowing late summer load factoring (power peaking) flows (Apperson 1992).

In 1990 and 1991, river discharge during the suspected spawning period was atypical for the post-Libby Dam period. Instead of discharge declining through late spring as occurred during 1989 and most prior years following Libby Dam operation, increasing and higher than 'normal' flows coincided with increasing water temperatures through June in 1990 and 1991. In both 1990 and 1991, mature female sturgeon tagged with ultrasonic transmitters moved from 10 to 68 river miles (15 to 110 river km) upriver and congregated in the 10 river mile reach near Bonners Ferry (Apperson 1992). These migrations coincided with an increase in flows near Bonners Ferry from approximately 24,700 cubic ft per second to nearly 42,400 cubic ft per second (700 to 1,200 cubic meters per second) and an increase in water temperature from 8 to 14° C. According to Parsley et al. (in prep.), most sturgeon spawning recorded in the lower Columbia River occurred at 14° C. Although no sturgeon eggs were recovered in 1990, 13 eggs were collected in early July 1991 from an artificial substrate placed in the suspected spawning area near river mile 155 at Bonners Ferry, within 0.06 mile (100 m) downriver from the railroad bridge (Apperson 1992). The eggs, estimated to be approximately 3 days of age, were spawned when water temperatures were 14° C and discharge between June 29 and July 2 ranged from 14,125 to 19,400 cubic ft per second (400 to 500 cubic meters per second). Water velocities where sturgeon eggs were collected were estimated at 2.4 to 3.1 ft per second (0.8 to 1.0 m per second); these velocities were at the lower end of velocity ranges measured in white sturgeon spawning areas during egg collection in the lower Columbia River (1.6 to 9.1 ft per second or 0.5 to 2.8 m per second) (Miller et al. 1991). This egg collection is the only

physical evidence of natural spawning by white sturgeon in the Kootenai River basin based upon recent studies. Although pre-spawning migratory behavior was observed in both 1990 and 1991, the higher than normal Kootenai River flows through the suspected spawning area occurred only for a brief period, and few viable eggs were collected. Evidence that more than one female spawned successfully, or whether the eggs spawned in 1991 survived past the larval stage, is lacking.

Additional adverse impacts to sturgeon because of reduced spring flow conditions may result from load-factoring or load-following at Libby Dam. Load-factoring, the deliberate practice of artificially raising and lowering river levels over a daily or weekly pattern for peak power generation or recreation, can create rapid changes in tailwater flows and affect depth, temperature, dissolved gases, and other physical-chemical conditions in the tailwater. Load-factoring at Libby Dam is a frequent and sporadic operating practice contributing to routine fluctuations in river elevations of 1 to 3 ft (0.3 to 0.9 m) per day (Kim Apperson, IDFG, pers. comm., 1993). These fluctuations may adversely affect sturgeon spawning behavior and reduce any egg/larvae survival. Because sturgeon spawning coincides with peak flows during spring and early summer, flows within natural fluctuations are considered important in maintaining consistent sturgeon spawning behavior during the spawning period (Lance Beckman, U.S. Fish and Wildlife Service, pers. comm., 1993).

Kootenai River sturgeon eggs and larvae are subject to downstream drift and are vulnerable to dewatering from flow fluctuations for 4 to 6 weeks post-spawning. This is especially critical for eggs and larvae deposited in shallow, littoral areas within the 10 river mile (16 river km) stretch downstream of Bonners Ferry. In addition, frequent water level fluctuations may displace larval sturgeon, thus increasing their susceptibility to predation (Kim Apperson, IDFG, in litt., 1993). Load-factoring also affects and modifies the primary and secondary productivity in lotic ecosystems (Ward and Stanford 1979). White sturgeon normally begin exogenous feeding within 2 weeks following hatching. Therefore, the availability of native benthos, periphyton, and zooplankton suitable as prey organisms is critical to their early survival.

Elimination of side channel slough habitat in the Kootenai River floodplain due to diking and bank stabilization to protect agricultural lands from flooding may also be a contributing factor to the sturgeon decline. Much of the Kootenai River has been channelized and stabilized from Bonners Ferry downstream to Kootenay Lake resulting in reduced aquatic habitat diversity, altering flow conditions at potential remaining spawning and nursery areas, and altering remaining substrates and conditions necessary for survival. The former slough and side channel areas were considered important rearing and foraging habitat for early age sturgeon and their prey (Partridge 1983). In summary, these extensive habitat modifications in the Kootenai River basin are believed to have caused adverse effects on white sturgeon reproduction, recruitment, and survival, and threaten the continued existence of the population.

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

All legal commercial and sport harvest for Kootenai River sturgeon has been eliminated in Idaho, Montana, and British Columbia. However, it is not known what impact, if any, to Kootenai River sturgeon may still be occurring from the illegal harvest of sturgeon.

While no historic evidence of white sturgeon exploitation in the Kootenai River basin during the 1800's exists (PSMFC 1992), sturgeon were utilized by the Kootenai Indians "* * * at least several hundred years ago" (Graham and White 1985). In Idaho, the harvest of white sturgeon in the Kootenai River was first regulated in 1944 when commercial fishing was prohibited and sport fishing restrictions were imposed (Apperson 1992). With increasingly restrictive harvest and length restrictions, an estimated 10 to 20 white sturgeon were harvested per year from 1944 through the mid-1970's. Partridge (1983) reported that the legal harvest had reached a relatively constant 51 to 52 fish per year over the 1979 through 1981 period, although "* * * the total number of sturgeon caught has been decreasing and less fish are being released * * *." Partridge also found that only 13 percent (n = 50) of the 342 sturgeon sampled were younger than age 15 and smaller than the legal size of 32 in (92 cm) total length, concluding that lack of recruitment was limiting the population and fishery. Following this investigation and citing concerns about the status of the population, Idaho terminated the legal sport harvest in 1984, limiting the sturgeon fishery to catch and release only.

In Montana, the harvest of white sturgeon was not restricted prior to 1972 (Apperson 1992). Graham and White (1985) reported that burbot (ling) anglers and fishermen using set-lines harvested sturgeon in the Kootenai River downstream of Kootenai Falls during the 1940's and 1950's. Beginning in 1972, harvest was restricted to two sturgeon per year with a slot (size) limit of between 36 and 54 in (102 to 183 cm). Over a 6-year period, 5 to 18 sturgeon were harvested annually. Fishing for sturgeon in Montana has been prohibited since 1979, and the species is now classified as a "Species of Special Concern" (Don Skarr, Montana Department of Fish, Wildlife and Parks, pers. comm., 1993).

In British Columbia, the white sturgeon harvest was first regulated in 1952 (Apperson 1992). During the 1974 through 1989 period, anglers were allowed to harvest one white sturgeon per year over 1 m total length. Anglers were required to secure a permit to fish for sturgeon. An average of 55 permits were issued annually from 1973 to 1980 with an estimated annual legal and illegal harvest of 10 to 20 fish (Graham 1981). Setlining for white sturgeon in British Columbia was prohibited in 1989, and a total ban on the sport harvest was imposed in 1990.

A few adult white sturgeon are collected each year for experimental culture purposes. The Kootenai Tribal Experimental Hatchery in Bonners Ferry, Idaho, is currently evaluating factors limiting recruitment, including the relationship between water quality and gamete viability, as well as habitat use and survival of juvenile Kootenai sturgeon released into the Kootenai River. Although collection for experimental culture purposes does not appear to be a threat at this time, the Bonneville Power Administration (BPA) is funding an evaluation of a captive broodstock program for the species to determine the environmental impacts and genetic risk of supplementation on the remaining wild sturgeon population (Rick Westerhouse, BPA, pers. comm., 1993; and Harold Kincaid, Service, pers. comm., 1993).

C. Disease or Predation

Not known to be applicable. However, the potential exists for disease to enter the wild Kootenai River sturgeon population through the release of hatchery raised sturgeon, such as those from the experimental culture facility. Diseases known to occur in white sturgeon hatcheries include bacterial diseases, protozoans, fungi, adenovirus, and the white sturgeon iridovirus (WSIV) (PSMFC 1992). During late November 1992, an outbreak of the WSIV killed most of the nearly 23,000 fingerling Kootenai River white sturgeon

being raised at the Kootenai Tribe hatchery, and the IDFG hatchery at Sandpoint, Idaho. Following the outbreak, approximately 2,000 of the sturgeon fingerlings survived, 1,800 of which remain at the Kootenai Tribe Hatchery. The remaining 200 sturgeon at the IDFG hatchery at Sandpoint were subsequently destroyed to prevent any further transmission of the WSIV virus (Kent Hauck, IDFG, pers. comm., 1993). Although it appears that white sturgeon fingerlings are most susceptible to the iridovirus when confined under hatchery rearing conditions, the disease may also be transmitted to the remaining wild population when hatchery raised sturgeon are released.

Fish predation may be a source of mortality for white sturgeon eggs and larvae, although no data to support this suggestion exists specific to the Kootenai River. In the Columbia River downstream of McNary Dam, common carp (*Cyprinus carpio*), largescale suckers (*Catostomus macrocheilus*), and northern squawfish (*Ptychocheilus oregonensis*) have been collected with white sturgeon eggs in their stomachs (Duke et al. 1990).

D. The Inadequacy of Existing Regulatory Mechanisms

The Idaho Department of Fish and Game (IDFG) currently classifies the Kootenai River population of white sturgeon as endangered, which it defines as "any species in danger of extinction throughout all or a significant portion of its Idaho range" (IDFG 1992). While such designation regulates t.0he take or possession of those species classified as threatened or endangered, the State lacks authority to impose or implement additional conservation measures to ensure survival or recovery.

In Montana, the Kootenai River sturgeon is classified as a "Species of Special Concern" (Don Skarr, Montana Department of Fish, Wildlife and Parks, pers. comm., 1993). Montana does have a State "Nongame and Endangered Species Conservation Act of 1973" that assists in the protection of endangered, indigenous wildlife of Montana. Species of Special Concern are not protected under this conservation act, however. Listing the white sturgeon under the State conservation act would not only prohibit the taking and possession of the species but also allow the Montana Department of Fish, Wildlife and Parks to negotiate with agencies such as the U.S. Army Corps of Engineers (Corps) and BPA for enhanced management of white sturgeon (Graham 1981). In the early 1980's, the Montana State Legislature resisted all attempts at reclassifying the species as endangered under State law, thus precluding any State-authorized initiatives that could benefit the species.

The Corps regulates the management of water at Libby Dam. The Libby Dam project was authorized by title II of Public Law 81–516, the Flood Control Act of 1950, primarily for flood control, hydropower generation, and recreation purposes (U.S. Army Corps of Engineers 1984). Present Corps policy states that equal consideration should be given to environmental concerns in accordance with project objectives. In practice, there is no specific allocation of water on the Kootenai River for fish and wildlife, and the Corps does not give any special consideration to the Kootenai River sturgeon. The Corps is proposing to provide an additional 400,000 acre ft of storage water in 1993, for a one-time test only, to evaluate sturgeon spawning (Jeff Laufle, Corps, pers. comm., 1993). This block of water will provide about 18,000 to 20,000 cubic ft per second of flows through the Bonners Ferry spawning area over a 15 day period starting in June. This additional water, while possibly useful to evaluate flows necessary to stimulate spawning, is unlikely to provide suitable spawning and rearing habitat throughout the normal sturgeon spawning and early rearing season.

Because operation of Libby Dam is considered part of the Coordinated Columbia River System, BPA is also involved in the management of Kootenai River operations. The Coordinated Columbia River System refers to all projects operated under at least three authorities: the Columbia River Treaty, the Pacific Northwest Coordination Agreement, and Federal flood control statutes. The Columbia River Treaty of 1961 between Canada and the United States provided for the building of four storage reservoirs, including Libby Dam, in the upper Columbia River drainage, primarily for flood control and power production. The Pacific Northwest Coordination Agreement, an intricate contract between the Corps, BPA, and Bureau of Reclamation, calls for the planned operation to accommodate all of the authorized purposes of the Columbia River hydropower system. These authorized purposes include flood control, navigation, irrigation, and power production (System Operation Review Interagency Team 1991). The two aforementioned treaties and the various Federal flood control statutes have enacted stringent planning and operation criteria for the Columbia River system for flood control, hydropower, and other purposes. BPA and the Corps have not yet taken steps to impose conservation measures on Libby Dam operations to specifically protect and enhance recruitment opportunities for white sturgeon in the Kootenai River. Although BPA has stated that additional conservation measures to benefit sturgeon would be available if the species were listed, it believes that without threatened or endangered status, the remaining sturgeon have no "special status" for conservation considerations, and other regional interests (i.e., hydropower production, recreation, resident fish) would be given priority consideration (Walt Pollock, BPA, pers. comm., 1993).

BPA, on at least two occasions since June 1992, has made decisions affecting flow conditions in the Kootenai River system that adversely impacted sturgeon. In the first instance, during early June 1992, BPA required that water be stored behind Libby Dam as part of an energy exchange with British Columbia Hydro and Power Authority. As a result, flows dropped from nearly 20,000 cfs to 4,000 cfs in the Kootenai River during the critical spawning period. At that time, three mature female sturgeon tagged with ultrasonic transmitters were staging in the suspected spawning reach near Bonners Ferry when suitable temperature and possibly flow conditions were present. Subsequent to the flow reduction, no eggs or larvae or other evidence of spawning were reported for the 1992 sturgeon spawning season. In the second example, BPA in mid-February 1993 started drafting the nearly 1 million acre ft stored behind Libby Dam for power reserve generation. The Service had been working with the Corps to develop an agreement or Memorandum of Agreement (MOA) that included a flow regime for 1993 using all or part of this stored water for sturgeon reproduction; the Service believed this cooperative effort would not only benefit sturgeon, but also complement flow augmentation proposals being developed for recently listed salmon.

The Pacific Northwest Electric Power Planning and Conservation Act of 1980 (Power Planning Act) was a recent attempt by the United States Congress to address the hydropower impacts on fish and wildlife in the Columbia River system. The Power Planning Act directed the Northwest Power Planning Council (NWPPC) to "* * * promptly develop and adopt * * * a program to protect, mitigate, and enhance fish and wildlife, including related spawning grounds and habitat, on the Columbia River and its tributaries" (16 U.S.C. 839b(h)(1)(A)). BPA has been charged with funding all efforts and projects to protect, mitigate, and enhance fish and

wildlife consistent with the NWPPC's Program. Ongoing efforts by various State agencies and the Kootenai Tribe, authorized by the NWPPC (1987) and funded by BPA, have been undertaken to identify environmental factors limiting the white sturgeon population in the Kootenai River, and develop and maintain an experimental white sturgeon culture facility on the Kootenai River. Despite these efforts to better comprehend the factors affecting the Kootenai River sturgeon, a change in the flow regime associated with dam operation on the Kootenai River is still needed to enable this population to successfully reproduce and increase in size.

The Service joined efforts in June 1992 with IDFG, MDFWP, the Corps, the Kootenai Tribe, and other U.S. and Canada regional agencies to form a Kootenai River White Sturgeon Technical Committee. The goal of the Technical Committee was to develop a regional, prelisting recovery plan that would form the basis of a Conservation Agreement or MOA between the Service, Corps, and IDFG to provide a realistic, natural flow solution for sturgeon recruitment in the Kootenai River within water management constraints. The Service noted the MOA would need to include measures to remove threats to the sturgeon and include long-term provisions to modify flows in the Kootenai River below Libby Dam that would result in successful spawning and recruitment.

Based on discussions and recommendations by the Kootenai River Sturgeon Technical Committee, the Service adopted an interim flow proposal as the basis of any prelisting Conservation Agreement or MOA. This alternative attempts to match flows of 1974, the last year of successful reproduction and measurable recruitment to the population, but reduces the peak flows to 35,000 cfs to minimize flooding impacts and dike damage at Bonners Ferry and reduce nitrogen supersaturation effects below Libby Dam. The interim flow strategy specified that discharge from Libby Dam be regulated so that river flows through the suspected spawning reach near Bonners Ferry stay at the 35,000 cfs discharge throughout the white sturgeon spawning, egg incubation, and early rearing period. The flow proposal is equal to 60 percent of normal discharge (pre Libby Dam) and is similar to the record low natural flows that occurred in 1937.

The Service and the Technical Committee, while recognizing that the lack of reproduction is the most immediate threat to the sturgeon population, are cognizant of other factors negatively affecting the fish. The Service will continue to participate in the Technical Committee process as needed to identify additional factors affecting sturgeon viability in the Kootenai River. To date, the Service has been unable to successfully negotiate a Conservation Agreement to implement the interim flow proposal developed by the Technical Committee.

In summary, cooperative efforts to date to implement a regional prelisting recovery strategy for the Kootenai River sturgeon have not been successful. Existing regulatory mechanisms are not sufficient to ensure the survival and recovery of this species.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

Although not fully understood, there is evidence that the overall biological productivity of the Kootenai River downstream of Libby Dam has been altered. Based on limnological studies of Kootenay Lake, Daley et al. (1981) concluded that the construction and operation of Libby Dam (and Duncan Dam in Canada) "* * * has drastically altered the annual hydrograph and has resulted in modifications to the quality of water now entering the lake by removing nutrients, by permitting the stripping of nutrients from the water in the river downstream from the dam and altering the time at which the nutrients are supplied to the lake." Potential threats to the Kootenai River population of white sturgeon from declining biological productivity include (1) Decreased prey abundance and limited food availability for all life stages of sturgeon downstream of Libby Dam, (2) reduced condition factor in adult sturgeon possibly impacting fecundity and reproduction, and (3) a possible reduction in the overall capacity for the Kootenai River and Kootenay Lake systems to sustain substantial populations of sturgeon and other native fishes. The British Columbia Ministry of Environment, Lands and Parks is currently experimenting with fertilization of Kootenay Lake to increase biological productivity and enhance native fisheries (Jay Hammond, British Columbia Environment, Lands and Parks, pers. comm., 1993). Additionally, BPA has recently funded IDFG to study primary productivity and nutrient cycling in the Kootenai River from Kootenai Falls downstream to Kootenay Lake (Kim Apperson, pers. comm., 1993).

Poor water quality and excessive nutrients in the Kootenai River were once considered major problems for the Kootenai River sturgeon and other native fishes prior to the construction and operation of Libby Dam. Graham (1981) concluded that poor water quality conditions in the Kootenai River in the 1950's and 1960's resulting from industrial and mine development most likely affected white sturgeon reproduction and overall productivity. Poor water quality could have affected white sturgeon by impacting their prey base, and introducing heavy metals and other contaminants that may have affected reproductive success. The major sources of pollution resulted from effluents from a lead-zinc mine and concentrator, a fertilizer processing plant, and sewage treatment plants on the St. Mary River, an upstream tributary in Canada, and also a vermiculite mine and processing plant 7 miles (11 km) upstream of Libby, Montana. Significant improvements in water quality were noted by 1977, due in part to waste water control and effluent recycling measures initiated in the late 1960's. Apperson (1992) noted that detectable levels of aluminum, copper, lead, zinc, and strontium were found in sturgeon oocyte (egg) samples from the Kootenai River along with detectable levels of PCB's and pesticides. However, other than copper, the detectable levels of these compounds (e.g., PCB's, organochlorides, zinc) were either (1) lower than levels found in other Columbia River basin sturgeon populations that successfully reproduce, or (2) not enough is known regarding the toxicity of these pollutants to sturgeon. Apperson believed that "* * * concentrations of copper found in white sturgeon oocytes potentially present the most severe contaminant effect on reproductive success" since some of the copper concentrations found in water samples taken in the Kootenai River were in the range of levels known to inhibit yolk uptake in larval white sturgeon. One of the objectives of the Kootenai Indian Tribe's experimental hatchery is to determine the relationship between water quality (including toxicants) and gamete viability. Initial culture efforts have documented successful fertilization and incubation and that sturgeon gametes (i.e., eggs and sperm) are generally viable (Apperson and Anders 1991). The degree to which poor water quality is a factor threatening Kootenai River sturgeon is not known; however, it remains a potential threat to the species.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by the species in determining to propose this

rule. Based on this evaluation, the preferred action is to list the Kootenai River population of white sturgeon (*Acipenser transmontanus*) as endangered because the species has declined to an estimated 880 individuals, the majority of which are greater than 20 years of age, and there has been an almost total lack of recruitment of juveniles into the population since 1974. The reduced river flows during the critical spring spawning season as a result of the operation of Libby Dam has precluded successful reproduction, and threatens the continued existence of this population. The population also faces threats from reduced water quality and prey abundance, and disease. Because this distinct population of white sturgeon is in danger of extinction throughout its range, it fits the Act's definition of an endangered species. For reasons discussed below, critical habitat is not being proposed at this time.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that critical habitat be designated to the maximum extent prudent and determinable concurrently with the determination that a species is endangered or threatened. Critical habitat for the Kootenai River population of white sturgeon is not presently determinable. Regulations implementing section 4 of the Act provide that a designation of critical habitat is not determinable when one or both of the following situations exists: (1) Information sufficient to perform required analyses of the impacts of the designation is lacking, or (2) the biological needs of the species are not sufficiently well known to permit identification of an area as critical habitat (50 CFR 424.12). For example, the Service has identified the lack of natural flows in the Kootenai River below Libby Dam as the primary threat to the white sturgeon population. Other than a basic understanding of streamflow conditions necessary for providing spawning and early rearing habitat during the normal May through July sturgeon spawning season, the life history requirements for other life stages of sturgeon are not sufficiently well known to permit identification of an area in the Kootenai River basin as designated critical habitat. Additionally, many Kootenai River sturgeon migrate freely throughout the Kootenai River system and spend part of their life in Kootenay Lake in British Columbia, Canada. The Service will gather additional information on the life history needs of the Kootenai River population of the white sturgeon, and on the potential economic consequences of designating critical before making a decision concerning critical habitat for the sturgeon.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain activities. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) of the Act requires Federal agencies to confer with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) requires Federal agencies to insure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

Federal actions that may be affected by this proposal include the continuing operation of Libby Dam and Kootenai River flow management by the U.S. Army Corps of Engineers. The Corps would be required to consult with the Service on the previously mentioned Libby Dam operations. BPA would be required to consult with the Service regarding the existing Kootenai sturgeon research program authorized by the Northwest Power Planning Council (1987) and funded by BPA. BPA would need to insure that the research and monitoring efforts to identify environmental factors limiting the white sturgeon in the Kootenai River, and that the experimental sturgeon culture facility operated by the Kootenai Indian Tribe of Idaho, are not likely to jeopardize the continued existence of the species. In addition, joint consultation by the Corps, BPA, and Bureau of Reclamation may be necessary if any change in the operation or reauthorization of the Joint Coordination Columbia River System occurs as a result of the System Operation Review process.

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

Permits may be issued to carry out otherwise prohibited activities involving endangered wildlife species under certain circumstances. Regulations governing endangered species permits are at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities. Requests for information on permits should be addressed to the Office of Management Authority, U.S. Fish and Wildlife Service 4401 North Fairfax Drive, room 432–ARLSQ, Arlington, Virginia 22203–3507 (703/358–2171).

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to this species;

(2) The location of any additional populations of this species and the reasons why any habitat should or should not be determined to be critical

habitat as provided by section 4 of the Act;

(3) Additional information concerning the range, distribution, and population size of this species; and

(4) Current or planned activities in the subject area and their possible impacts on this species.

Any final decision on this proposal will take into consideration the comments and any additional information received by the Service, and such communications may lead to a final regulation that differs from this proposal.

A public hearing will be held on this proposal. See **DATES** and **ADDRESSES** sections for detailed information.

National Environmental Policy Act

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

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Author

The primary author of this proposed rule is Stephen D. Duke, U.S. Fish and Wildlife Service, Boise Field Office (see **ADDRESSES** section); telephone 208/334-1931.

List of Subjects in 50 CFR Part 17

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

Proposed Regulation Promulgation

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:

PART 17—[AMENDED]

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 adding the following, in alphabetical order under FISHES, to the List of Endangered and Threatened Wildlife 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						
*	*	*	*	*	*	*	*
Fishes:							
*	*	*	*	*	*	*	*
Sturgeon, white ...	*Acipenser transmontanus.*	U.S.A. (AK, CA, ID, MT, OR, WA), Canada (BC).	U.S.A. (ID, MT), Canada (BC) (Kootenai R. system).	E	.....	NA	NA
*	*	*	*	*	*	*	*

Dated: June 24, 1993.

Richard N. Smith,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 93–15958 Filed 7–6–93; 8:45 am]

BILLING CODE 4310–55–P

50 CFR Part 17

RIN 1018–AB88

Endangered and Threatened Wildlife and Plants; Proposed Delisting of the Hawaiian Plant "Bidens cuneata" (Cuneate Bidens)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) proposes to remove a plant, *Bidens cuneata* (cuneate bidens), from the List of Endangered and Threatened Plants. This action is based on a review of all available data, which indicate that this plant is not a discrete taxonomic entity and does not meet the definition of a species as defined by the Endangered Species Act of 1973, as amended (Act), and therefore was listed in error. Extensive studies associated with a recent revision of the Hawaiian members of the genus have concluded that *Bidens cuneata* is an outlying population of *B. molokaiensis,* which is common along the windward cliffs of the island of Molokai.

DATES: Comments from all interested parties must be received by September 7, 1993. Public hearing requests must be received by August 23, 1993.

ADDRESSES: Comments and materials concerning this proposal should be sent to Robert P. Smith, Field Supervisor, Pacific Islands Office, U.S. Fish and Wildlife Service, 300 Ala Moana Boulevard, room 6307, P.O. Box 50167, Honolulu, Hawaii 96850. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Robert P. Smith at the above address (808/541–2749).

SUPPLEMENTARY INFORMATION:

Background

The type specimen for *Bidens cuneata* was collected on Diamond Head, Oahu, by William A. Bryan on December 6, 1903, and was formally described by Earl E. Sherff in 1920 (Sherff 1920, Takeuchi 1980). Subsequent to its initial discovery, there were no further collections or observations of the species, leading botanists to believe that it possibly could have gone extinct. In 1955, the species was rediscovered in the area from which the type originally was collected (Takeuchi 1980).

Hybrids between Hawaiian *Bidens* species can readily be induced experimentally and result in highly fertile progeny, indicating a general lack of genetic barriers within the group. Based upon experimental crosses in the Hawaiian members of the genus, Gillette and Lim (1970) concluded that *B. cuneata* was a natural hybrid between *B. mauiensis,* native to the island of Maui, and *B. molokaiensis,* which is restricted to Molokai Island; however, few botanists accepted this conclusion. Citing the occurrence of natural and experimental hybrids, Gillette (1975) later contended that the 41 species of Hawaiian *Bidens* placed by Sherff in section *Campylotheca* should be considered a single species. Recent systematic studies of the genus (including additional experimental hybridizations) culminated in a revision of the Hawaiian members of the genus (Ganders and Nagata 1990). In this publication, *B. cuneata* was considered conspecific with *B. molokaiensis,* a common species found along the northern side of Molokai Island. *Bidens molokaiensis* occurs between sea level and 150 meters (500 feet) in elevation along the seashores, sea cliffs, talus slopes, and fields of northern Molokai from Hoolehua to Kaonihu, a distance of about 37 kilometers (23 miles) or about two-thirds the length of the island.

Summary of Factors Affecting the Species

50 CFR 424.11 requires that certain factors be considered before a species can be listed, reclassified, or delisted. These factors and their application to *Bidens cuneata* Sherff (cuneate bidens) are as follows:

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

Bidens cuneata has been determined to be no more than an outlying population of *Bidens molokaiensis,* a common species native to the northern part of Molokai. *Bidens molokaiensis* is not significantly threatened with destruction, modification, or curtailment of its habitat throughout a significant portion of its range. The final rule designating *Bidens cuneata* as an endangered species was published on February 17, 1984 (49 FR 6099) and identified habitat degradation, possible reduction of reproductive success due to a decline of native pollinating insects, and potential fire hazards as threats contributing to the endangerment of that species. If *Bidens cuneata* were a valid taxon and met the definition of a "species" as described by the Act, then these factors would be relevant. However, since the entity shows no genetic integrity independent of *Bidens molokaiensis,* it cannot be scientifically defended as either a species, subspecies, or taxonomic variety.

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

Such overutilization is not known to be a factor for *Bidens molokaiensis,* which includes *Bidens cuneata.*

C. Disease or Predation

Disease or predation is not a threat to *Bidens molokaiensis*, which includes *Bidens cuneata*.

D. The Inadequacy of Existing Regulatory Mechanisms

Federal listing of a species as endangered or threatened automatically invokes listing under Hawaii State law, which prohibits taking of endangered plants in the state and encourages conservation by State agencies. State regulations prohibit the removal, destruction, or damage of plants found on State lands. This rule, if made final, would automatically remove the protection of the State laws that this population presently enjoys as a federally listed species. It also would require the reevaluation of *Bidens cuneata* in the context of its status in State land use planning documents.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

None known.

The regulations at 50 CFR 424.11(d) state that a species may be delisted if: (1) It becomes extinct, (2) it recovers, or (3) the original classification data were in error. The Service believes current scientific information exists that demonstrates that *Bidens cuneata* does not represent a valid taxonomic entity and, therefore, does not meet the definition of "species" as defined in section 3(16) of the Act. Therefore, *Bidens cuneata* was listed in error.

Effects of Rule

The proposed action would result in the removal of this species from the List of Endangered and Threatened Plants. Federal agencies would no longer be required to consult with the Secretary of the Interior to insure that any action authorized, funded, or carried out by such agency is not likely to jeopardize the continued existence of *Bidens cuneata*. There is no designated critical habitat for this species. Federal restrictions on taking this species would no longer apply. There are no specific preservation or management programs for the species that would be terminated.

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, comments or suggestions regarding any aspect of this proposal are hereby solicited from the public, other concerned governmental agencies, the scientific community, industry, or other interested parties.

National Environmental Policy Act

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

References Cited

Ganders, F.R., and K.M. Nagata. 1990. *Bidens: in* Wagner, W.L., D.R. Herbst, and S.H. Sohmer, Manual of the flowering plants of Hawai'i. University of Hawaii Press and Bishop Museum Press, Honolulu. Bishop Mus. Spec. Publ. 83:267–283.

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Gillette, G.W., and E.K.S. Lim. 1970. An experimental study of the genus *Bidens* (Asteraceae) in the Hawaiian Islands. Univ. Calif. Publ. Bot. 56:1–63.

Sherff, E.E. 1920. Studies in the genus *Bidens*.V. Bot. Gaz. 70:89–109.

Takeuchi, W. 1980. Unpublished status survey of *Bidens cuneata* Sherff. U.S. Fish and Wildlife Service, Honolulu, 29 pp.

Author

The author of this proposed rule is Dr. Derral R. Herbst, U.S. Fish and Wildlife Service, Pacific Islands Office, 300 Ala Moana Boulevard, room 6307, P.O. Box 50167, Honolulu, Hawaii 96850 (808/541–2749).

List of Subjects in 50 CFR Part 17

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

Proposed Regulation Promulgation

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:

PART 17—[AMENDED]

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.

§ 17.12 [Amended]

2. It is proposed to amend § 17.12(h) by removing the entry "*Bidens cuneata* (cuneate bidens)" under "Asteraceae—Aster family" from the List of Endangered and Threatened Plants.

Dated: June 17, 1993.

Richard N. Smith,

Acting Director, Fish and Wildlife Service.

[FR Doc. 93–15959 Filed 7–6–93; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register
Vol. 58, No. 128
Wednesday, July 7, 1993

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Advisory Council Meeting; Allegheny Wild and Scenic River, Allegheny National Forest, Pennsylvania

AGENCY: Forest Service, USDA.

ACTION: Notice of meetings.

SUMMARY: The Southern Advisory Council for the Allegheny National Wild and Scenic River will meet at 6 p.m., Tuesday, July 20, 1993 in 2nd floor meeting room of the Franklin Public Library, Franklin, PA. The Northern Advisory Council will meet at 6 p.m., Wednesday, July 21, 1993, at the YMCA, Warren, PA.

Primary topics include a presentation by the U.S. Army Corps of Engineers on the regulation of the upper Allegheny River water levels (6 p.m.) and reports on followup meetings with local municipal officials.

The Southern Council will discuss progress on developing guidelines to protect the outstanding cultural resource and recreation values between Franklin and Emlenton (Goals #3 and #5).

The Northern Council will decide on which of its goals and objectives to begin developing guidelines and will identify subcommittees for the selected goals/objectives.

Meeting is open to the public. A sign language interpreter will be provided if requested by July 12, 1993.

FOR FURTHER INFORMATION CONTACT: Lionel Lemery, Wild and Scenic River Coordinator, Allegheny National Forest, 222 Liberty Street, Warren, Pennsylvania 16365, 814/723–5150 or 814/726–2710 (TTY).

Dated: June 30, 1993.

Lionel A. Lemery,

Wild and Scenic River Coordinator.

[FR Doc. 93–15946 Filed 7–6–93; 8:45 am]

BILLING CODE 3410–11–M

Packers and Stockyards Administration

Certification of Central Filing System—Minnesota

The Statewide central filing system of Minnesota is hereby certified, pursuant to section 1324 of the Food Security Act of 1985, on the basis of information submitted by Joan Anderson Growe, Secretary of State, for the following farm products produced in that State:

Wheat/durum	Sorghum.
Alfalfa	Sunflowers.
Barley	Canola.
Oats	Onions.
Green Beans	Cucumbers.
Snap Beans	Green Peas.
Green Lima Beans	Eggs.
Milk	Cattle/calves.
Honey/bees Wax	Hogs/pigs.
Goats	Broilers.
Mink	Hay.
Rye	Field Corn.
Flax	Soybeans.
Silage	Dry Edible Beans.
Carrots	Sweet Corn.
Potatoes	Sugar Beets.
Wool	Cheese.
Apples	Horses.
Chickens	Sheep/lambs.
Fish	Turkeys.

This is issued pursuant to authority delegated by the Secretary of Agriculture.

Authority: Sec. 1324(c)(2), P.L. 99–198, 99 Stat. 1535, 7 U.S.C. 1631(c)(2); 7 CFR §§ 2.17(e)(3), 2.56(a)(3), 51 FR 22795.

Dated: June 29, 1993.

Calvin W. Watkins,

Acting Administrator, Packers and Stockyards Administration.

[FR Doc. 93–15943 Filed 7–6–93; 8:45 am]

BILLING CODE 3410–KD–P

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of Export Administration.

Title: Short Supply Regulations—Petroleum Products.

Agency Form Number: None but requirements are found at Section 777.6 of the Export Administration Regulations.

OMB Approval Number: 0694-0026.

Burden: 3 hours.

Number of Respondents: 5.

Avg Hours Per Response: 30 minutes.

Needs and Uses: This information collection requires the submission of documents in support of an export license application for petroleum products derived from a naval petroleum reserve.

Affected Public: Businesses or other for-profit institutions; small businesses or organizations.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Gary Waxman, (202) 482–7340.

Copies of the above information collection proposal can be obtained by calling or writing Edward Michals, DOC Forms Clearance Officer, (202) 482–3271, Department of Commerce, Room 5327, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collection should be sent to Gary Waxman, OMB Desk Officer, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Dated: June 28, 1993

Edward Michals,

Department Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 93–16018 Filed 7–6–93; 8:45 am]

BILLING CODE 3510–CW–F

Foreign-Trade Zones Board

[Order No. 646]

Foreign-Trade Zone 59; Lincoln, NE, Application for Expansion

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Expansion of Foreign-Trade Zone 59, Lincoln, NE

Whereas, an application from the Lincoln Foreign-Trade Zone, Inc., grantee of Foreign-Trade Zone No. 59, for authority to expand its general-purpose zone in Lincoln, Nebraska, adjacent to the Omaha Customs port of entry, was filed by the Foreign-Trade

Zones (FTZ) Board on June 2, 1992 (Docket 16–92, 57 FR 24775, 6/11/92);

Whereas, notice inviting public comment was given in the **Federal Register** and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board has found that the requirements of the Act and the regulations are satisfied, and that approval is in the public interest;

Now, Therefore, the Board hereby orders:

The grantee is authorized to expand its zone as requested in the application, subject to the Act and the Board's regulations, including section 400.28.

Signed at Washington, DC, this 25th day of June, 1993.

Joseph A. Spetrini,

Acting Assistant Secretary of Commerce for Import Administration, Chairman, Committee of Alternates, Foreign-Trade Zones Board.

[FR Doc. 93–16014 Filed 7–6–93; 8:45 am]

BILLING CODE 3510–DS–P

[Docket A(32b1)–3–93]

Foreign-Trade Zone 54—Clinton County, NY, Request for Export Manufacturing Authority; (Bicycles)

A request has been submitted to the Foreign-Trade Zones (FTZ) Board pursuant to § 400.32(b)(1) of the Board's regulations for approval of zone export manufacturing authority within FTZ 54 by the Clinton County Area Economic Development Corporation, grantee of FTZ 54. It was formally filed on June 24, 1993.

The proposed operation involves the assembly for export of bicycles (HTS 8712.00.15 and 8712.00.25—duty rate 11% and 5.5%) by the U.S. Bicycle Corporation, a subsidiary of Nevada Cycle and Sports, Ltd., of Canada. Foreign-sourced components include frames, wheels, hubs, brakes, saddles, peddles, grips, cranks, gears, and derailleurs (duty rate: 4.9–10%).

Zone procedures would exempt U.S. Bicycle from payment of Customs duties on foreign components used in the exported finished products. The request indicates that zone procedures will help promote the proposed export activity.

Public comment on the proposal is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is September 7, 1993.

A copy of the application and accompanying exhibits will be available for public inspection at the following location: Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, 14th & Pennsylvania Avenue NW., room 3716, Washington, DC 20230.

Dated: June 28, 1993.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 93–16012 Filed 7–6–93; 8:45 am]

BILLING CODE 3510–DS–P

[Order No. 645]

Foreign-Trade Zone 23; Erie County, NY; Application for Expansion

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Expansion of Foreign-Trade Zone 23 Erie County, NY

Whereas, an application from the County of Erie, New York, grantee of Foreign-Trade Zone No. 23, for authority to expand its general-purpose zone in Erie County, New York, within the Buffalo Customs port of entry, was filed by the Foreign-Trade Zones (FTZ) Board on June 8, 1992 (Docket 17–92, 57 FR 28482, 6/25/92);

Whereas, notice inviting public comment was given in the **Federal Register** and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board has found that the requirements of the Act and the regulations are satisfied, and that approval is in the public interest;

Now, Therefore, the Board hereby orders:

The grantee is authorized to expand its zone as requested in the application, subject to the Act and the Board's regulations, including section 400.28.

Signed at Washington, DC, this 25th day of June, 1993.

Joseph A. Spetrini,

Acting Assistant Secretary of Commerce for Import Administration, Chairman, Committee of Alternates, Foreign-Trade Zones Board.

[FR Doc. 93–16013 Filed 7–6–93; 8:45 am]

BILLING CODE 3510–DS–P

[Order No. 649]

Newport News Shipbuilding & Dry Dock Co. (Shipbuilding), Newport News, VA; Grant of Authority for Subzone Status

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Grant of Authority for Subzone Status, Newport News Shipbuilding & Dry Dock Company (Shipbuilding), Newport News, VA

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment . . . of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved;

Whereas, an application from the Virginia Port Authority, grantee of Foreign-Trade Zone 20, for authority to establish a special-purpose subzone for the Newport News Shipbuilding & Dry Dock Company shipyard, in Newport News, Virginia, was filed by the Board on July 8, 1992, and notice inviting public comment was given in the **Federal Register** (FTZ Docket 23–92, 57 FR 32000, 8–20–92); and,

Whereas, the Board has found that the requirements of the FTZ Act and Board's regulations would be satisfied, and that approval of the application would be in the public interest if approval were given subject to the standard shipyard restriction on foreign steel mill products;

Now, Therefore, the Board hereby authorizes the establishment of a subzone (Subzone 20B) at the Newport News Shipbuilding & Dry Dock Company shipyard, in Newport News, Virginia, at the location described in the application, subject to the FTZ Act and the Board's regulations, including § 400.28, and subject to the following special conditions:

1. Any foreign steel mill products admitted to the subzone, including plate, angles, shapes, channels, rolled steel stock, bars, pipes and tubes, not incorporated into merchandise otherwise classified, and which is used in manufacturing, shall be subject to Customs duties in accordance with applicable law, if the same item is then being produced by a domestic steel mill; and,

2. In addition to the annual report, Newport News Shipbuilding shall advise the Board's Executive Secretary (§ 400.28(a)(3)) as to significant new contracts with appropriate information concerning foreign purchases otherwise dutiable, so that the Board may consider whether any foreign dutiable items are being imported for manufacturing in the subzone primarily because of subzone status and whether the

Board should consider requiring Customs duties to be paid on such items.

Signed at Washington, DC, this 25th day of June, 1993.

Joseph A. Spetrini,

Acting Assistant Secretary of Commerce for Import Administration Chairman, Committee of Alternates Foreign-Trade Zones Board.

[FR Doc. 93–16015 Filed 7–6–93; 8:45 am]

BILLING CODE 3510–DS–P

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of Opportunity to Request Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation.

BACKGROUND: Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party as defined in section 771(9) of the Tariff Act of 1930, as amended, may request, in accordance with section 353.22 or 355.22 of the Commerce Regulations, that the Department of Commerce ("the Department") conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

OPPORTUNITY TO REQUEST A REVIEW: Not later than July 31, 1993, interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in July for the following periods:

	Period
Antidumping Duty Proceedings:	
Armenia: Solid Urea (A–831–801)	07/01/92–06/30/93
Azerbaijan: Solid Urea (A–832–801)	07/01/92–06/30/93
Belarus-Baltic: Solid Urea (A–822–801)	07/01/92–06/30/93
Brazil: Industrial Nitrocellulose (A–351–804)	07/01/92–06/30/93
Brazil: Silicon Metal (A–351–806)	07/01/92–06/30/93
Estonia-Baltic: Solid Urea (A–447–801)	07/01/92–06/30/93
Georgia: Solid Urea (A–833–801)	07/01/92–06/30/93
Germany: Industrial Nitrocellulose (A–428–803)	07/01/92–06/30/93
Germany: Solid Urea (A–428–605)	07/01/92–06/30/93
Iran: Certain In-Shell Pistachios (A–507–502)	07/01/92–06/30/93
Japan: Industrial Nitrocellulose (A–588–812)	07/01/92–06/30/93
Japan: Malleable Cast-Iron Pipe Fittings (A–588–605)	07/01/92–06/30/93
Japan: High Power Microwave Amplifiers and Components Thereof (A–588–005)	07/01/92–06/30/93
Japan: Fabric Expanded Neoprene Laminate (A–588–404)	07/01/92–06/30/93
Japan: Synthetic Methionine (A–588–041)	07/01/92–06/30/93
Kazakhstan: Solid Urea (A–834–801)	07/01/92–06/30/93
Kyrgyzstan: Solid Urea (A–835–801)	07/01/92–06/30/93
Latvia-Baltic: Solid Urea (A–449–801)	07/01/92–06/30/93
Lithuania: Solid Urea (A–451–801)	07/01/92–06/30/93
Moldova: Solid Urea (A–841–801)	07/01/92–06/30/93
Romania: Solid Urea (A–485–601)	07/01/92–06/30/93
Russia: Solid Urea (A–821–801)	07/01/92–06/30/93
Tajikistan: Solid Urea (A–842–801)	07/01/92–06/30/93
Thailand: Carbon Steel Butt-Weld Pipe Fittings (A–549–807)	12/26/91–06/30/93
The People's Republic of China: Carbon Steel Butt-Weld Pipe Fittings (A–570–814)	09/26/91–06/30/93
The People's Republic of China: Industrial Nitrocellulose (A–570–802)	07/01/92–06/30/93
The Republic of Korea: Industrial Nitrocellulose (A–580–805)	07/01/92–06/30/93
The United Kingdom: Industrial Nitrocellulose (A–412–803)	07/01/92–06/30/93
Turkmenistan: Solid Urea (A–843–801)	07/01/92–06/30/93
Ukraine: Solid Urea (A–823–801)	07/01/92–06/30/93
Uzbekistan: Solid Urea (A–844–801)	07/01/92–06/30/93
Countervailing Duty Proceedings:	
Canada: Certain Softwood Lumber Products (C–122–816)	03/12/92–03/31/93
European Economic Community: Sugar (C–408–046)	01/01/92–12/31/92
Uruguay: Leather Wearing Apparel (C–355–001)	01/01/92–12/31/92

In accordance with §§ 353.22(a) and 355.22(a) of the Commerce regulations, an interested party may request in writing that the Secretary conduct an administrative review. For antidumping reviews, the interested party must specify for which individual producers or resellers covered by an antidumping finding or order it is requesting a review, and the requesting party must state why it desires the Secretary to review those particular producers or resellers. If the interested party intends for the Secretary to review sales of merchandise by a reseller (or a producer if that producer also resells merchandise from other suppliers) which was produced in more than one country of origin, and each country of origin is subject to a separate order, then the interested party must state specifically which reseller(s) and which countries of origin for each reseller the request is intended to cover.

Seven copies of the request should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, room B–099, U.S. Department of Commerce, Washington, DC 20230. The Department also asks parties to serve a copy of their requests to the Office of Antidumping Compliance, Attention: Thomas Futtner, in room 3069–A of the main Commerce Building. Further, in accordance with section 353.31 or 355.31 of the

Commerce regulations, a copy of each request must be served on every party on the Department's service list.

The Department will publish in the Federal Register a notice of "Initiation of Antidumping (Countervailing) Duty Administrative Review" for requests received by July 31, 1993. If the Department does not receive, by July 31, 1993, a request for review of entries covered by an order or finding listed in this notice and for the period identified above, the Department will instruct the Customs Service to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

This notice is not required by statute, but is published as service to the international trading community.

Dated: June 30, 1993.

Roland L. MacDonald,

Acting Deputy Assistant Secretary for Compliance.

[FR Doc. 93–16007 Filed 7–6–93; 8:45 am]

BILLING CODE 3510–DS–M

[A–570–822]

Postponement of Final Determination of Sales at Less Than Fair Value: Certain Helical Spring Lock Washers From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: July 7, 1993.

FOR FURTHER INFORMATION CONTACT: Bill Crow, Office of Antidumping Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–0116.

POSTPONEMENT: On April 26, 1993 (58 FR 26112, April 30, 1993), the Department of Commerce (the Department) issued an affirmative preliminary determination in the antidumping duty investigation of certain helical spring lock washers from the People's Republic of China (PRC).

On June 22, 1993, Hangzhou Spring Washer Plant (HSWP), which accounted for a significant portion of exports of the subject merchandise from the PRC to the United States, requested that the Department postpone the final determination in accordance with § 353.20(b) of the Department's regulations. Respondent made this request in order to ensure that the Department has adequate time to fully review the arguments made before it by all interested parties in regard to the application of surrogate data in calculating the dumping margin for the purposes of the final determination. We find no compelling reasons to deny this request.

In order to allow the Department sufficient time to analyze the data it has gathered in the investigation, we are postponing the final determination the full extent authorized under section 735(a)(2) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673d(a)(2)). The final determination will, therefore, be issued not later than September 13, 1993, which is 135 days after the date of publication of the preliminary determination.

On May 10, 1993, respondent requested a public hearing in this investigation. Because of the postponement of the final determination, the current hearing date of June 30, 1993 has been changed. In accordance with 19 CFR 353.38, case briefs, or other written comments, have been submitted to the Assistant Secretary for Import Administration on June 21, 1993. With the new tentative date for the public hearing, and considering the number and complexity of issues in this investigation, the Department is hereby extending the date for rebuttal briefs to no later than July 9, 1993. Ten copies of the rebuttal briefs should be submitted. In addition, a public version and five copies should be submitted by the appropriate date if the submission contains business proprietary information. Tentatively, the hearing will be held at 9:30 a.m. on July 16, 1993, at the U.S. Department of Commerce, room 3708, 14th Street and Constitution Avenue NW., Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

This notice is published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)) and 19 CFR 353.20(b)(2).

Dated: June 25, 1993.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93–16016 Filed 7–6–93; 8:45 am]

BILLING CODE 3510–DS–P

[C–549–802]

Ball Bearings and Parts Thereof From Thailand; Final Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of final results of countervailing duty administrative review.

SUMMARY: On March 25, 1993, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on ball bearings and parts thereof from Thailand (58 FR 15174). We have now completed that review and determine the total bounty or grant during the period January 1, 1991 through December 31, 1991 to be 7.07 percent *ad valorem* for all producers and exporters.

EFFECTIVE DATE: July 7, 1993.

FOR FURTHER INFORMATION CONTACT: Sarah Givens or Kelly Parkhill, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

On March 25, 1993, the Department of Commerce (the Department) published in the Federal Register (58 FR 15174) the preliminary results of its administrative review of the countervailing duty order on ball bearings and parts thereof from Thailand (54 FR 19130; May 3, 1989). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act 1930, as amended (the Act).

Since the publication of the preliminary results of review (58 FR 15174, March 25, 1993), the following events have occurred. On April 26, 1993, petitioner filed a case brief. On May 3, 1993, respondents filed their rebuttal brief. Pursuant to 19 CFR 355.31(a), the Department returned both petitioner's and respondents' briefs on May 10, 1993, because they contained untimely new factual information. See 19 CFR 355.31(a)(3) and 355.3(a). Both parties were given 24 hours in which to resubmit their briefs with the new information stricken. On May 11, 1993, both parties submitted revised versions of their briefs. The comments addressed in this notice come from the May 11, 1993 briefs.

In accordance with the Department's regulations (19 CFR 355.31(a)(1)(ii)),

unsolicited submissions of new factual information for the Department's consideration in the final results of an administrative review shall be submitted not later than the earlier of the date of publication of notice of preliminary results of review or 180 days after the date of publication of notice of initiation of the review. While information from the investigation, prior reviews, or corollary proceedings existed prior to the applicable time limits, the Department deems such information as "new factual information" if it is untimely submitted for the purposes of the instant review. Each administrative review is a separate, judicially reviewable action; data or statements of fact on the records of the investigation or other reviews, used to support allegations in the instant review, must be placed before the Department in a timely manner in order for them to be properly considered by the Department and commented upon by other interested parties.

The Department, therefore, has not considered the rejected briefs in the final results of the above referenced review. See 19 CFR 355.31(a)(3). Copies of the rejected briefs were placed on the record solely for purposes of judicial review as to whether the Department properly rejected them.

Scope of Review

Imports covered by this review are ball bearings and parts thereof. Such merchandise is described in detail in Appendix A to this notice. The Harmonized Tariff Schedule (HTS) item numbers listed in Appendix A are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers the period January 1, 1991 through December 31, 1991, two related producers/exporters, NMB Thai Ltd. (NMB) and Pelmec Thai Ltd. (Pelmec), and nine programs: Investment Promotion Act (IPA) sections 31, 28 and 36(1); Tax Certificates for Exporters; Export Packing Credits; Electricity Discounts for Exporters; Rediscount of Industrial Bills; Export Processing Zones; IPA Sections 33 and 36(4); Reduced Business Taxes for Producers of Intermediate Goods for Export Industries; and International Trade Promotion Fund.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received comments from the petitioner and rebuttal comments from the respondents.

Comment 1

Petitioner argues that the Department should not adjust the benefit calculation for the parent company mark-up. Petitioner asserts that it is incorrect to assume that the marked-up price is equal to the entered value, and states that the issue has not been fully investigated or verified. In the 1990 administrative review, the Department determined that, of the two invoices for each sale, the invoice reflecting the marked-up price was the import value used by U.S. Customs. The marked-up invoice, however, states a CIF price which is not used to establish the entered value for ordinary duty purposes. Thus, petitioner alleges that, in the 1990 review, the Department did not verify the actual entered values used by Customs as the basis for its calculations. Accordingly, petitioner argues that, until NMB and Pelmec submit actual entered values, the Department should not adjust the benefit calculation for the parent company mark-up.

Petitioner further suggests that the adjustment methodology is particularly susceptible to manipulation by respondents. Petitioner contends that because related parties handle every transaction, Minebea Japan (the parent company) can readily invoice NMB Corp. U.S.A. (a subsidiary) at a high transfer price, and the U.S. subsidiary could then resell the merchandise at a lower price.

Respondents reply that the Department completed an extensive verification in the last review that supports the mark-up adjustment methodology. The respondents cite Customs law and the final results in the 1990 review to reject petitioner's suggestions that invoices could be manipulated. Respondents conclude that, since the Department has all the correct information needed to adjust for the mark-up, there should be no change in this methodology or the duty rate calculated on this basis in the preliminary results.

DOC Position

We disagree with the petitioner. The mark-up methodology in question was fully investigated and verified in the final results of the 1990 review, Ball Bearings and Parts Thereof From Thailand; Final Results of Countervailing Duty Administrative Review, 57 FR 26646, 26647 (June 15, 1992). In those final results, the Department determined:

> [T]here are two export prices for the same sale: the one on which subsidies are applied for and received by NMB and Pelmec, and the one which includes Minebea Japan's mark-up and which is the value listed on the NMB or Pelmec invoice accompanying the merchandise to the United States. At verification, NMB and Pelmec demonstrated that their accounting systems are set up to track the mark-up for each individual shipment of bearings via back-to-back invoices that are identical except for price. When NMB and Pelmec have a shipment ready for export, they will electronically transmit a copy of the invoice to Minebea Japan, who then adds the mark-up amount and transmits the invoice back to Thailand. This marked-up invoice is then cut in Thailand and packed with the shipment for export from Thailand. Even though Minebea Japan determines the mark-up, the merchandise is shipped from Thailand to the United States accompanied by the marked-up invoice.
>
> Because there is an exact one-to-one correlation between the invoice which reflects the price on which the subsidies are received and the invoice which reflects the marked-up price that accompanies each shipment, and because the merchandise is shipped directly from Thailand to the United States and is not transshipped, combined with other merchandise, or repackaged with other merchandise, the Department has determined that it is possible to make an adjustment to the subsidy rate so that the amount of countervailing duty collected will reflect the amount of subsidies bestowed.
>
> Accordingly, we have divided the FOB value of the exports of the subject merchandise before the inter-company transaction (before mark-up) by the value of the same merchandise as it entered the United States (after mark-up). This results in a ratio which reflects the difference in the export and import values. We then multiplied this ratio by the subsidy rate to obtain an adjusted rate * * * *.

Thus, contrary to petitioner's contention, the Department did fully investigate and verify the appropriateness of respondents' proposed mark-up methodology in the prior review.

Furthermore, while petitioner suggests that the Department should have solicited specific entry invoice data for the purposes of this review, that suggestion was made for the first time in petitioner's pre-hearing brief, long after the Department solicited and analyzed aggregate sales and mark-up data from the respondents. Thus, it was too late in this review for the Department to take into account petitioner's concerns. Moreover, at no time has petitioner furnished any evidence upon which the Department could rely that would substantiate its allegation that respondents are manipulating their invoice values.

Petitioner's contention with respect to Customs' handling of the subject transactions is also unsubstantiated and in error. Regardless of the stated terms on the relevant Customs invoices (e.g.,

CIF), the Department instructs Customs to collect the relevant subsidy rate based upon the FOB value. Customs normally deducts non-dutiable charges (e.g., insurance, freight, and broker fees) from the stated CIF price to arrive at the relevant FOB price. See Memo from Sarah Givens, Import Compliance Specialist, to the File, June 2, 1993 which is on file in the Central Records Unit (Room B–099 of the Main Commerce Building).

Comment 2

Petitioner contends that not all sales of the subject merchandise are marked-up by the parent company, and that some of this merchandise is sold directly to foreign subsidiaries. They conclude that the Department's methodology is improperly applied to those sales which do not receive a mark-up through the parent company.

Respondents state that Commerce has appropriately taken a weighted average of direct and indirect sales to the U.S. in calculating the duty for all transactions.

DOC Position

The Department's calculation is based on a ratio between the value of subject merchandise exported from Thailand to the U.S. and the total entry value of the merchandise entering the U.S. This total entry value includes both marked-up and direct sales. No mark-up for direct sales is added into the calculation. Therefore, the ratio correctly reflects the difference between the value of the merchandise exported from Thailand to the U.S. and the value of the merchandise (both direct and indirect sales) entering the U.S. By adjusting the duty rate based on this ratio, the Department ensures that the total subsidy is captured, and there will be no under- or over-collection of duties.

Final Results of Review

As a result of our review, we determine the total bounty or grant to be 7.07 percent ad valorem for the period January 1, 1991 through December 31, 1991.

Therefore, the Department will instruct the Customs Service to assess countervailing duties of 7.07 percent of the FOB invoice price on all shipments from Thailand of the subject merchandise exported on or after January 1, 1991 and on or before December 31, 1991.

Because the "B" rate tax certificate program of the Tax and Duty Act was terminated as of January 1, 1992, the duty deposit rate will be reduced to 7.02. As provided by section 751(a)(1) of the Act, the Department will instruct the Customs Service to collect a cash deposit of estimated countervailing duties of 7.02 percent of the FOB invoice price on shipments of the subject merchandise from Thailand entered, or withdrawn from warehouse, for consumption on or after the date of publication of this review. This deposit requirement 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 355.22.

Dated: June 29, 1993.

Barbara Stafford,

Acting Assistant Secretary for Import Administration.

Appendix A

Scope of The Review

The products covered by this review, ball bearings, mounted or unmounted, and parts thereof, constitute the following as outlined below.

Ball Bearings, Mounted or Unmounted, and Parts Thereof

These products include all antifriction bearings which employ balls as the rolling element. During the review period, imports of these products were classifiable under the following categories: antifriction balls; ball bearings with integral shafts; ball bearings (including radial ball bearings) and parts thereof; ball bearing type pillow blocks and parts thereof; ball bearing type flange, take-up, cartridge, and hanger units, and parts thereof; and other bearings (except tapered roller bearings) and parts thereof. Wheel hub units which employ balls as the rolling element are subject to the review. Finished but unground or semiground balls are not included in the scope of this review. Imports of these products are currently classifiable under the following Harmonized Tariff Schedule (HTS) item numbers: 8482.10.10, 8482.10.50, 8482.80.00, 8482.91.00, 8482.99.10, 8482.99.70, 8483.20.40, 8483.20.80, 8483.30.40, 8483.30.80, 8483.90.20, 8483.90.30, 8483.90.70, 8708.50.50, 8708.60.50, 8708.99.50.

This review covers all of the subject bearings and parts thereof outlined above with certain limitations. With regard to finished parts (inner race, outer race, cage, rollers, balls, seals, shields, etc.), all such parts are included in the scope of this review. For unfinished parts (inner race, outer race, rollers, balls, etc.), such parts are included if (1) they have been heat treated, or (2) heat treatment is not required to be performed on the part. Thus, the only unfinished parts that are not covered by this review are those where the part will be subject to heat treatment after importation.

[FR Doc. 93–16010 Filed 7–6–93; 8:45 am]
BILLING CODE 3510–DS–P

[C–307–808]

Amendment to Countervailing Duty Order: Ferrosilicon From Venezuela

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: July 7, 1993.

FOR FURTHER INFORMATION CONTACT: Kristin M. Heim, Office of Countervailing Investigations, U.S. Department of Commerce, room 3099, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–3798.

Countervailing Duty Order

On May 10, 1993, the Department of Commerce (the Department) published a final affirmative countervailing duty determination and a partial countervailing duty order on ferrosilicon from Venezuela (58 FR 27539, May 10, 1993). This partial countervailing duty order covered the dutiable items within the scope of this investigation, *i.e.*, Harmonized Tariff Schedule (HTS) items 7202.21.7500 and 7202.21.9000. For the reasons articulated in our final determination, the International Trade Commission (ITC) was required to determine whether imports of the non-dutiable merchandise within the scope of this investigation from Venezuela materially injure, or threaten material injury to, a U.S. industry.

On June 16, 1993, in accordance with section 705(d) of the Act, the ITC notified the Department of its final determination that imports of ferrosilicon are materially injuring a U.S. industry. Therefore, in accordance with section 706 of the Act, we are amending our partial countervailing duty order to include ferrosilicon classified under the HTS categories 7202.21.1000, 7202.21.5000, 7202.29.0010, and 7202.29.0050.

The countervailing duties listed below will be assessed, upon further advice provided by the Department in accordance with section 706(a) of the Act, on all unliquidated entries of ferrosilicon from Venezuela classifiable under HTS subheadings 7202.21.1000, 7202.21.5000, 7202.29.0010, and 7202.29.0050, which were entered, or withdrawn from warehouse, for consumption, on or after August 25, 1992, the date on which the Department published its preliminary countervailing duty determination in the **Federal Register**, and before December 24, 1992, the date on which we instructed the U.S. Customs Service to discontinue the suspension of liquidation, and all entries and withdrawals made on or

after the date of publication of this order in the **Federal Register**. Entries of ferrosilicon, classified under the four HTS categories listed above, made on or after December 24, 1992, and prior to the date of publication of this order in the **Federal Register** are not liable for the assessment of countervailing duties since we cannot suspend liquidation of the subject merchandise, begun on August 25, 1992, for more than 120 days without the issuance of a final affirmative ITC injury determination.

On or after the date of publication of this notice, U.S. Customs officers must require, at the same time as importers would normally deposit estimated duties of this merchandise, a cash deposit for entries of ferrosilicon from Venezuela as follows:

Company	Ad valorem rate (percent)
FESILVEN	22.08
Country-wide rate	22.08

This determination constitutes a countervailing duty order with respect to ferrosilicon from Venezuela pursuant to section 706 of the Act (19 U.S.C. section 1671e). Interested parties may contact the Central Records Unit, room B-099, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, for copies of an updated list of orders currently in effect.

Scope of Investigation

The product covered by this investigation is ferrosilicon, a ferroalloy generally containing, by weight, not less than four percent iron, more than eight percent but not more than 96 percent silicon, not more than 10 percent chromium, not more than 30 percent manganese, not more than three percent phosphorous, less than 2.75 percent magnesium, and not more than 10 percent calcium or any other element.

Ferrosilicon is a ferroalloy produced by combining silicon and iron through smelting in a submerged-arc furnace. Ferrosilicon is used primarily as an alloying agent in the production of steel and cast iron. It is also used in the steel industry as a deoxidizer and a reducing agent, and by cast iron producers as an inoculant.

Ferrosilicon is differentiated by size and by grade. The sizes express the maximum and minimum dimensions of the lumps of ferrosilicon found in a given shipment. Ferrosilicon grades are defined by the percentages by weight of contained silicon and other minor elements. Ferrosilicon is most commonly sold to the iron and steel industries in standard grades of 75 percent and 50 percent ferrosilicon.

Calcium silicon, ferrocalcium silicon, and magnesium ferrosilicon are specifically excluded from the scope of this investigation. Calcium silicon is an alloy containing, by weight, not more than five percent iron, 60 to 65 percent silicon and 28 to 32 percent calcium. Ferrocalcium silicon is a ferroalloy containing, by weight, not less than four percent iron, 60 to 65 percent silicon, and more than 10 percent calcium. Magnesium ferrosilicon is a ferroalloy containing, by weight, not less than four percent iron, not more than 55 percent silicon, and not less than 2.75 percent magnesium.

Ferrosilicon is classifiable under the following subheadings of the Harmonized Tariff Schedule of the United States (HTSUS): 7202.21.1000, 7202.21.5000, 7202.21.7500, 7202.21.9000, 7202.29.0010, and 7202.29.0050. The HTSUS subheadings are provided for convenience and customs purposes. Our written description of the scope of this investigation is dispositive.

Notice of Review

In accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)), the Department will publish during the anniversary month of the publication of this order, notice that an interested party, as defined in section 771(9) of the Act (19 U.S.C. section 1677(9)) and 19 CFR 355.2(i), may request, in accordance with 19 CFR 355.22, that the Department conduct an administrative review of this order. For further information regarding administrative review procedures, contact Barbara Tillman at (202) 482-2786, Office of Countervailing Compliance. This notice is published in accordance with section 706 of the Act (19 U.S.C. 1671e) and 19 CFR 355.21.

Barbara R. Stafford,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93-16008 Filed 7-6-93; 8:45 am]

BILLING CODE 3510-DS-P

[C-614-503]

Lamb Meat From New Zealand; Preliminary Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration/Import Administration/ Department of Commerce.

ACTION: Notice of preliminary results of countervailing duty administrative review.

SUMMARY: The Department of Commerce is conducting an administrative review of the countervailing duty order on lamb meat from New Zealand for the period April 1, 1991 through March 31, 1992. We preliminarily determine the total subsidy to be 0.11 percent *ad valorem* for all firms for the review period. In accordance with 19 CFR 355.7, any rate less than 0.50 percent *ad valorem* is *de minimis*. We invite interested parties to comment on these preliminary results.

EFFECTIVE DATE: July 7, 1993.

FOR FURTHER INFORMATION CONTACT: Gayle Longest or Kelly Parkhill, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 482-2786.

SUPPLEMENTARY INFORMATION:

Background

On September 11, 1992, the Department of Commerce (the Department) published a notice of "Opportunity to Request Administrative Review" (57 FR 41725) for the countervailing duty order on lamb meat from New Zealand (50 FR 37708; September 17, 1985). On September 30, 1992, we received a request for review from the New Zealand Meat Producers Board. On October 22, 1992 (57 FR 48201), we initiated the review, covering the period April 1, 1991 through March 31, 1992. The Department is conducting this review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act). The final results of the last administrative review of this order were published in the **Federal Register** on August 20, 1992 (57 FR 37772).

Scope of Review

Imports covered by this review are shipments of lamb meat, other than prepared, preserved or processed, from New Zealand. This merchandise is currently classifiable under item numbers 0204.10.0000, 0204.22.2000, 0204.23.2000, 0204.30.0000, 0204.42.2000 and 0204.43.2000 of the Harmonized Tariff Schedule (HTS). The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers the period April 1, 1991 through March 31, 1992, and two programs.

Analysis of Program

(1) Livestock Incentive Scheme

The Livestock Incentive Scheme (LIS) was introduced in 1976 in order to encourage farmers to increase

permanently their number of livestock. Under the scheme, a farmer engaged in a stock increase program, for a minimum of one and a maximum of three years, could opt for a minimum of one of two incentives: (1) An interest-free suspensory loan of NZ$12 for each additional stock unit carried; or (2) a deduction of NZ$24 from taxable income for each additional stock unit carried. If the livestock increase was met, farmers who elected to take out loans wrote the loans off as tax-free grants. For farmers electing the tax option, the provisional tax deduction could be applied toward tax liability in any of the three years after completion of the development program. Applications to participate in the LIS program were accepted until March 31, 1982. No new loans have been given under this program since 1983, and no tax credits have been authorized since the 1983/84 government fiscal year. The last loan was forgiven in 1988 and is treated by the Department as a grant. During the 1991/92 government fiscal year (the review period), there were no outstanding loans that had not been converted to grants and no tax credits remaining to be claimed by lamb producers.

The Department has previously found this program to be countervailable because benefits under this program are available only to farmers with livestock herds, and, as such, are limited to a specific enterprise or industry, or group of enterprises or industries (See Lamb Meat From New Zealand; Preliminary Results of Countervailing Duty Review (57 FR 27435, June 19, 1992).

To calculate the benefit, we treated the loan amounts forgiven in prior years as grants and allocated those amounts over five years, the average useful life of breeding stock. This methodology is described in 355.49(g) of Countervailing Duties; Notice of Proposed Rulemaking and Request for Public Comments (51 FR 23366, 23385; May 31, 1989). Because the 1988 grant under this program was allocated over five years, we find that a benefit was conferred during the review period. The discount rate chosen was the average interest rate on overdrafts during the year in which the loans were forgiven. The methodology and discount rate are the same used in previous administrative reviews (see *e.g.* Lamb Meat from New Zealand; Preliminary Results of Countervailing Duty Administrative Review (56 FR 27243; June 13, 1991). We added the value of the benefits from the grants and multiplied the result by a factor determined to represent the value of lamb meat as a percentage of the total value of all livestock production. We then divided that result by the total value of lamb meat production during the review period. On this basis, we preliminarily determine the benefit from this program to be 0.11 percent *ad valorem* for all firms.

(2) The Export Market Development Taxation Incentive (EMDTI)

Under the EMDTI, established in the 1979 Amendment to the Income Tax Act of 1976, exporters may receive tax credits for a certain percentage of their export market development expenditure. Qualifying expenditures include those incurred principally for seeking and developing new markets, retaining existing markets and obtaining market information. An exporter who takes advantage of this tax credit may not deduct the qualifying expenditures as ordinary business expenses in calculating taxable income. Because the program is contingent upon exportation, the Department has previously found this program to confer a countervailable grant or subsidy (See Lamb Meat From New Zealand; Preliminary Results of Countervailing Duty Administrative Review (56 FR 27243; June 13, 1991).

Effective with the government fiscal year beginning April 1, 1990, the Government of New Zealand eliminated the Export Market Development Taxation Incentive (EMDTI) tax credit, and all formerly eligible expenditures are subject to the rules for ordinary business expenses in calculating taxable income. Because certain corporate fiscal years do not correspond with the government of New Zealand's fiscal year, some residual benefits were still possible. However, according to the questionnaire response, no exporters of the subject merchandise claimed benefits under this program on their tax return during the review period.

Accordingly, for purposes of cash deposits of estimated countervailing duties, we preliminarily determine the benefit from this program to be zero for all firms.

Preliminary Results of Review

As a result of our review, we preliminarily determine the total subsidy to be 0.11 percent *ad valorem* for all firms during the period April 1, 1991 through March 31, 1992. In accordance with 19 CFR 355.7, any rate less than 0.50 percent is *de minimis*.

Therefore, as provided for by section 751(a)(1) of the Act, the Department intends to instruct the Customs Service to liquidate, without regard to countervailing duties, all shipments of the subject merchandise from New Zealand exported on or after April 1, 1991 and on or before March 31, 1992. The Department also intends to instruct the Customs Service not to collect cash deposits of estimated countervailing duties on any shipments of the subject merchandise from New Zealand entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

Parties to the proceeding may request disclosure of the calculation methodologies, and interested parties may request a hearing, not later than 10 days after the date of publication of this notice. Interested parties may submit written arguments in case briefs on these preliminary results within 30 days of the date of publication in accordance with 19 CFR 355.38(c). Rebuttal briefs, limited to arguments raised in case briefs, may be submitted seven days after the time limit for filing the case brief in accordance with 19 CFR 355.38(d). Copies of case briefs and rebuttal briefs must be served on interested parties in accordance with 19 CFR 355.38(e). Any hearing, if requested, will be held seven days after the scheduled date for submission of rebuttal briefs in accordance with 19 CFR 355.38(f).

Any representatives of parties to the proceeding may request disclosure of proprietary information under administrative protective order no later than 10 days after the representative's client or employer becomes a party to the proceeding, but in no event later than the date the case briefs are due.

The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any case or rebuttal brief or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 335.22.

Dated: June 29, 1993.

Barbara Stafford,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93–16009 Filed 7–6–93; 8:45 am]

BILLING CODE 3510–DS–P

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used,

ere being manufactured in the United States.

Comments must comply with subsections 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5 p.m. in room 4211, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC.

Docket Number: 92–169R. *Applicant:* University of California, Los Alamos National Laboratory, P.O. Box 990, Los Alamos, NM 87545. *Instrument:* UHV Scanning Tunneling Microscope. *Manufacturer:* Omicron Associates, Germany. *Original notice of this resubmitted application was published in the* Federal Register of January 19, 1993.

Docket Number: 93–064. *Applicant:* LSU-Pennington Biomedical Research Center, 6400 Perkins Road, Baton Rouge, LA 70808. *Instrument:* Mass Spectrometer, Model MAT 252. *Manufacturer:* Finnigan MAT, Germany. *Intended Use:* The instrument will be used for studies of components in blood, urine, breath, and saliva that are either isolated and purified with the peripheral devices already under operation, or newly purchased, or off line, then introduced into the IRMS with one of the peripheral devices. The compounds that will be studied include glucose, fatty acids, cholesterol, amino acids, ketone bodies, urea, CO_2, and water. The property to be investigated is the enrichment of stable isotopes in the compounds of interest after administration of a dose of stable isotope precursor or tracer. *Application Received by Commissioner of Customs:* June 9, 1993.

Docket Number: 93–065. *Applicant:* National Institute of Standards and Technology, B364, Building 222, Gaithersburg, MD 20899. *Instrument:* Differential Vacuum System for Mass Spectrometer. *Manufacturer:* Finnigan MAT, Germany. *Intended Use:* The instrument will be used to increase the pumping capacity of an ion source when analyzing large samples of carbon dioxide. *Application Received by Commissioner of Customs:* June 9, 1993.

Docket Number: 93–067. *Applicant:* St. Jude Children's Research Hospital, 570 St. Jude Place, Thomas Tower, Memphis, TN 38105. *Instrument:* Microscope micromanipulator. *Manufacturer:* Singer Instrument Company, United Kingdom. *Intended Use:* The instrument will be used to study yeast Saccharomyces cerevisiae, and genes which control its cell cycle, and human genes which can control the yeast cell cycle. *Application Received by Commissioner of Customs:* June 10, 1993.

Docket Number: 93–068. *Applicant:* Washington University, One Brookings Drive, St. Louis, MO 63130. *Instrument:* Seismograph, Model STS–2. *Manufacturer:* G. Streckheisen, Switzerland. *Intended Use:* The instrument will be used for continuous monitoring of earthquake activity in the United States and around the world, and inference of earth structure based on the seismic waves. The objectives of the investigations are to record earthquakes and to deduce from those recordings the source characteristics of those earthquakes and to study the properties of the earth through which seismic waves pass. In addition, the instrument will be used for educational purposes in the course EPSc 452: Introduction to Seismology. *Application Received by Commissioner of Customs:* June 11, 1993.

Docket Number: 93–069. *Applicant:* Rutgers University, Institute of Marine & Coastal Sciences, Marine Science Building, Cook Campus, P.O. Box 231, New Brunswick, NJ 08903. *Instrument:* 3D Ecoscope System. *Manufacturer:* Institut für Meereskunde, Germany. *Intended Use:* The instrument will be used for studies of macrofauna, meiofauna, and epifauna. Specifically, the instrument will be used to quantify the epifauna at two sites—"sludge max" area and the reference area and to observe identification characteristics and the reproductive condition of many megafaunal species without the need for collections. These data will be useful in interpreting present and future camera surveys. *Application Received by Commissioner of Customs:* June 14, 1993.

Frank W. Creel

Director, Statutory Import Programs Staff

[FR Doc. 93–16011 Filed 7–6–93; 8:45 am]

BILLING CODE 3510–DS–F

National Oceanic and Atmospheric Administration

[ID. 062393A]

Pacific Coast Groundfish Fishery

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

ACTION: Issuance of experimental fishing permits.

SUMMARY: This notice announces issuance of experimental fishing permits (EFPs) to nineteen domestic vessels participating in an observation program to monitor the bycatch of salmon caught incidental to Pacific whiting trawl operations. The permits authorize vessels fishing with trawl gear for Pacific whiting to delay sorting, until offloading, of prohibited species caught incidental to the Pacific whiting fishery and allow overages in groundfish trip limits. These activities are otherwise prohibited by Federal regulations. Issuance of EFPs is authorized by the Pacific Coast Groundfish Fishery Management Plan (FMP) and its implementing regulations.

EFFECTIVE DATE: April 15, 1993 through December 31, 1993.

ADDRESSES: Copies of the EFPs are available by writing to Rolland A. Schmitten, Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE., BIN C15700, Bldg. 1, Seattle, WA 98115.

FOR FURTHER INFORMATION CONTACT: Joe Scordino, 206–526–6140.

SUPPLEMENTARY INFORMATION: The FMP and implementing regulations at 50 CFR part 663 specify that EFPs may be issued to authorize fishing that would otherwise be prohibited by the FMP and regulations. The procedures for issuing EFPs are contained in the regulations at 50 CFR 663.10.

An EFP application from the states of Oregon, California, and Washington was received on March 2, 1993, to implement an observation program, at the request of the Pacific Fishery Management Council (Council). The purpose of the observation program is to collect information on the bycatch of salmon in whiting harvests delivered to shoreside processing plants by domestic vessels operating in the Pacific whiting fishery in the exclusive economic zone (EEZ) off the coasts of Washington, Oregon and California. The applicants requested issuance of EFPs to vessels participating in a state observation program to allow delayed sorting of salmon from trawl catches of Pacific whiting until the catch is unloaded at a shoreside processing plant so that the total catch could be sampled shoreside by biologists. In addition, in order to sample unsorted whiting catch shoreside, the states requested that the EFPs include provisions to allow for potential minor overages in groundfish trip limits as well as the retention of other prohibited species (i.e., Pacific halibut and Dungeness crab caught seaward of Washington or Oregon). Without an EFP, the vessels would be required to sort their whiting catch and return prohibited species to sea as soon as practicable with a minimum of injury when caught and brought aboard pursuant to groundfish regulations at 50 CFR 663.7(b). A notice acknowledging

receipt of the application, describing the observation program, and requesting public comment was published in the **Federal Register** on March 23, 1993 (58 FR 15484). No written comments were received.

The EFP application was reviewed by the Council at its March 1993 public meeting in San Francisco, California, and the Council recommended that NMFS issue the EFPs, as requested by the applicants. At the Council's recommendation, the Director, Northwest Region, NMFS, approved the application and issued EFPs to nineteen vessels, designated as participants in the observation program by the states, that are delivering whiting to shoreside processing plants in Ilwaco, Washington; Astoria and Newport, Oregon; and Crescent City, California. Vessels delivering whiting to a processing plant in Eureka, California, advised NMFS that they were not interested in participating in the state observation program, so no EFPs were issued to them.

The following conditions are imposed on the use of the EFPs:

1. The EFPs are valid only for fishing with pelagic trawl gear targeting on Pacific whiting, *Merluccius productus*, for shoreside delivery under the states' observation program.

2. The permit holder must allow an observer to accompany the vessel when an observer is assigned under the states' observation program.

3. The permit holder must provide departure and arrival notification to the states to allow for observer placement and/or sampling of the catch at offloading.

4. No at-sea sorting of catch is to occur on fishing trips conducted under the EFP. All fish caught under the EFP must be retained onboard the fishing vessel and delivered shoreside for sampling under the states' observation program. Salmon retained under the EFPs may not be sold, and must be set aside at the processing plant for biological sampling and disposition at the direction of state agency personnel. Groundfish trip limits apply to vessels operating under the EFPs except that overages in trip limits will not be in violation of regulations at 50 CFR 663.23 so long as such overage is surrendered to the state of landing. Pacific halibut caught while fishing under the EFPs are to be voluntarily forfeited by the permit holder to the state of landing and must be set aside at the processing plant for biological sampling and disposition by state agency personnel.

5. The EFPs are valid only for landings made at processing plants that have been designated by the states of Washington, Oregon, or California as participants in the observation program. Designated processing plants have agreed: (1) to allow state personnel to sample whiting landings and all associated bycatch; (2) to set aside salmonids and Pacific halibut for biological sampling and disposition by state agency personnel; and (3) to obtain instructions from the states on disposal of groundfish trip limit overages.

6. Trawl logbooks as required by the applicant state law must be maintained by the permit holder. Estimated pounds of all species caught in each tow and the number of salmon landed on each trip must be recorded in the log.

7. The permit holders agree to the public release of any and all information obtained as a result of activities conducted under the EFPs.

The results of the experimental fishery will be presented by the states at the November 1993 public meeting of the Council.

List of Subjects in 50 CFR Part 663

Fisheries, Fishing, Reporting and recordkeeping requirements.

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

Dated: June 30, 1993.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 93–15896 Filed 7–6–93; 8:45 am]

BILLING CODE 3510–22–M

Marine Mammals

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Modification No. 1 to Permit No. 662.

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), Public Display Permit No. (P396B), issued to the John G. Shedd Aquarium, 1200 South Lakeshore Drive, Chicago, Illinois 60605 on April 28, 1989 (52 FR 19934) is modified by deleting Special Condition A.1.

Prior to invoking the authority of Permit No. 757 to import beluga whales (*Delphinapterus leucas*) from Canada, the Permit Holder stated intention to forego rights to import *Pseudorca crassidens* under Permit No. 662 upon the import of beluga whales under Permit No. 757. The John G. Shedd Aquarium imported four beluga whales under the authority of Permit No. 757 in August 1992. Therefore, this modification removes the authority of the John G. Shedd Aquarium to import *Pseudorca crassidens* under the authority of Permit No. 662.

This modification becomes effective upon publication in the **Federal Register**.

Documents submitted in connection with the above permit are available for review by appointment in the following offices:

Office of Protected Resources, NOAA, NMFS, 1335 East West Highway, rm. 7324, Silver Spring, Maryland 20910 (301/713–2289);

Director, Northeast Region, NOAA, NMFS, One Blackburn Drive, Gloucester, Massachusetts 01930 (508/281–9300);

Director, Northeast Region, NOAA, NMFS, 7600 Sand Point Way, NE., BIN C15700, Seattle, Washington 98115 (206/526–6150);

Director, Southwest Region, NOAA, NMFS, 501 W. Ocean Blvd., suite 4200, Long Beach, CA 90802 (310/980–4016).

Dated: June 28, 1993.

William W. Fox, Jr.,

Director, Office of Protected Resources.

[FR Doc. 93–15945 Filed 7–6–93; 8:45 am]

BILLING CODE 3510–22–M

COMPETITIVENESS POLICY COUNCIL

Meetings

AGENCY: Competitiveness Policy Council.

ACTION: Notice of forthcoming meetings.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the Competitiveness Policy Council announces several forthcoming meetings.

DATES: July 21, 1993; 8:30 to 5:30 p.m.

ADDRESSES: Eighth Floor Conference Center, 11 Dupont Circle, NW., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Howard Rosen, Executive Director, Competitiveness Policy Council, Suite 650, 11 Dupont Circle, NW., Washington, DC 20036, (202) 387–9017.

SUPPLEMENTARY INFORMATION: The Competitiveness Policy Council (CPC) was established by the Competitiveness Policy Council Act, as contained in the Trade and Competitiveness Act of 1988, Public Law 100–418, sections 5201–5210, as amended by the Customs and Trade Act of 1990, Public Law 101–382, section 133. The CPC is composed of 12 members and is to advise the President and Congress on matters concerning competitiveness of the U.S. economy. The Council's chairman, Dr. C. Fred Bergsten, will chair each meeting.

The meeting will be open to the public subject to the seating capacity of

the room. Visitors will be requested to sign a visitor's register.

TYPE OF MEETING: Open.

AGENDA: The Chairman will open the meeting with a report on the Council's activities since the release of its second annual report. The group will focus on the Clinton Administration investment program and the Council's recent recommendations. The Council will also consider additional business as suggested by its members.

Dated: June 28, 1993.

Dr. C. Fred Bergsten,

Chairman, Competitiveness Policy Council.

[FR Doc. 93–15584 Filed 7–6–93; 8:45 am]

BILLING CODE 6820–11–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of Proposed Information Collection Requests.

SUMMARY: The Director, Information Resources Management Service, 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 August 6, 1993.

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 Cary Green, Department of Education, 400 Maryland Avenue, SW., Room 4682, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Cary Green (202) 401–3200. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 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 Director of the Information Resources Management Service, 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 Cary Green at the address specified above.

Dated: June 30, 1993.

Cary Green,

Director, Information Resources Management Service.

Office of Policy and Planning

Type of Review: NEW

Title: Evaluation of Drug-Free Schools and Communities Act (DFSCA) Regional Centers

Frequency: One time

Affected Public: State or local governments; non-profit institutions

Reporting Burden:

Responses: 1,669

Burden Hours: 1,669

Recordkeeping Burden:

Recordkeepers: 0

Burden Hours: 0

Abstract: Mail and telephone surveys and in-depth in-person interviews are needed to collect data from state government staff to evaluate the services of the five Regional Centers authorized and funded by the Drug-Free Schools and Communities Act. The Department will use the information for a descriptive study of the services and administration of the Regional Centers for purpose of program improvement.

[FR Doc. 93–15916 Filed 7–6–93; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER93–438–000, et al.]

Arizona Public Service Co., et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

June 29, 1993.

Take notice that the following filings have been made with the Commission:

1. Arizona Public Service Company

[Docket No. ER93–438–000]

Take notice that on June 10, 1993, Arizona Public Service Company (Arizona) tendered for filing an amendment to its March 10, 1993 filing in this docket.

Comment date: July 13, 1993, in accordance with Standard Paragraph E end of this notice.

2. Puget Sound Power & Light Company

[Docket No. ER93–674–000]

Take notice that on June 14, 1993, Puget Sound Power & Light Company (Puget) tendered for filing an amendment to its May 27, 1993 filing in this docket.

Comment date: July 12, 1993, in accordance with Standard Paragraph E at the and of this notice.

3. Montaup Electric Company

[Docket No. ER93–647–000]

Take notice that on May 28, 1993, Montaup Electric Company tendered for filing additional information to its original filing filed in this docket on May 14, 1993.

Comment date: July 13, 1993, in accordance with Standard Paragraph E at the end of this notice.

4. Puget Sound Power & Light Company

[Docket No. ER93–478–000]

Take notice that on May 24, 1993, Puget Sound Power & Light Company tendered for filing an amendment to its original filing filed in this docket on March 24, 1993.

Comment date: July 13, 1993, in accordance with Standard Paragraph E at the end of this notice.

5. Iowa-Illinois Gas and Electric Company

[Docket No. ER93–614–000]

Take notice that Iowa-Illinois Gas and Electric Company (Iowa-Illinois) tendered for filing on June 22, 1993, revised tariff sheets as an amendment to its proposed change in its rate schedule for third party purchase and resale transactions pursuant to Commission

Order No. 84. The revised tariff sheets have been designated as:

Iowa-Illinois Gas and Electric Company
FERC Order No. 84 Rate Schedule
2nd Revised Sheet No. 1
Canceling 1st Revised Sheet No. 1

The rate schedule is applicable to third party purchase and resale of electric power. The rate schedule change revises the quantifiable cost portion of the rate and explicitly states that the $1/MWh charge for difficult to quantify costs shall only apply to transactions of less the one year in duration.

Iowa-Illinois states that its reasons for proposing the rate schedule change are to reflect the increases and decreases in its quantifiable costs and to increase Iowa-Illinois' flexibility to effectively market power and energy and by permitting it to charge less than the full cost-supported rate. Iowa-Illinois further states that 2nd Revised Sheet No. 1 as amended reflects a lower rate for the quantifiable cost portion of the rate than was provided in 2nd Revised Sheet No. 1 as originally filed by Iowa-Illinois in this proceeding on April 20, 1993 and that this lower rate is acceptable to Staff.

Iowa-Illinois requests an effective date of July 1, 1993 and a waiver of the sixty (60) day notice requirement. Iowa-Illinois states that a waiver of the notice requirement is reasonable because notice of the original filing was given on May 7, 1993, an opportunity to intervene and protest has been give, that no protests were filed and 2nd Revised Sheet No. 1 as amended provides a lower rate than proposed by 2nd Revised Sheet No. 1 as originally filed which was the subject of the earlier notice.

Copies of the filing were served upon the Iowa-Illinois Utilities Board; Illinois Commerce Commission; City of Eldridge, Iowa; Illinois Municipal Electric Agency; Waverly (Iowa) Light and Power; City of Tipton, Iowa; Illinois Power Company; Commonwealth Edison Company; Geneseo (Illinois) Municipal Utilities; Union Electric Company; Interstate Power Company; Iowa Electric Light and Power Company' Midwest Power System; Inc.; Iowa Southern Utilities Company; Northern States Power Company; and City of Pella, Iowa.

Comment date: July 13, 1993, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–15940 Filed 7–6–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RM93–19–000]

Inquiry Concerning the Commission's Pricing Policy for Transmission Services Provided by Public Utilities Under the Federal Power Act

June 30, 1993.

AGENCY: Federal Energy Regulatory Commission, Energy.

ACTION: Notice of technical conference and request for comments.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is issuing this notice to request comments concerning whether it is appropriate to revise the Commission's present pricing policy for transmission services provided by public utilities under the Federal Power Act.

DATES: Written comments must be received by the Commission on or before September 7, 1993. Reply comments must be received no later than 30 days after the date that initial comments are due. Notice of the technical conference will be published in the **Federal Register** at a later date.

ADDRESSES: Send Comments to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: James H. Douglas, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, Telephone: 202–208–2143, (legal issues).

Stephen J. Henderson, Office of Economic Policy, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, Telephone: 202–208–0100, (technical issues).

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in room 3104, at 941 North Capitol Street, NE., Washington, DC 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 208–1397. To access CIPS, set your communications software to use 300, 1200, or 2400 bps, full duplex, no parity, 8 data bits and 1 stop bit. CIPS can also be accessed at 9600 bps by dialing (202) 208–1781. The full text of this order will be available on CIPS for 30 days from the date of issuance. The complete text on diskette in WordPerfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in room 3104 941 North Capitol Street, NE., Washington, DC 20426.

I. Introduction

The Federal Agency Regulatory Commission (Commission) is initiating this proceeding to consider whether it is appropriate to revise the Commission's present pricing policy for transmission services provided by public utilities [1] under the Federal Power Act (FPA).

Attached to this notice is a discussion paper prepared by the Commission staff setting forth staff's preliminary observations on transmission pricing issues.[2]

Historically, the Commission has permitted public utilities providing firm transmission service over an integrated transmission grid to charge rates reflecting the rolled-in embedded cost of the integrated grid, including the rolled-in costs of any new facilities or upgrades which become part of the integrated grid.[3] The Commission has also historically designed firm (and non-

[1] 16 U.S.C. 842(e).

[2] The staff discussion paper is not being published in the **Federal Register**, but is available through the Commission's Public Reference Section.

[3] In certain circumstances, the Commission has permitted public utilities to charge rates reflecting a share of the savings based on the difference between the seller's incremental generation costs and the buyer's decremental generation costs. See Southern Company Services, Inc., 37 FERC ¶ 61,190 (1986).

firm) transmission rates on a "postage stamp" basis.[4]

As described more fully in the staff paper, the Commission has modified its historic, rolled-in embedded cost pricing policy in the last two years.[5] Under the revised policy, when a utility chooses to add new capacity to relieve a transmission constraint, the Commission allows the utility the option of charging the higher of an embedded cost rate (calculated to include the rolled-in costs of the added facilities) *or* a rate based on the incremental cost of expansion.[6] In situations in which a utility chooses not to add new capacity to relieve a transmission constraint, the Commission allows the utility the option of charging the higher of an embedded cost rate *or* a rate based on opportunity costs[7] capped at the incremental cost of expansion. The Commission also has made clear that, in addition to an embedded cost rate or an incremental cost rate, a utility may also charge for the costs associated with interconnecting a particular customer or building a radial line between the customer and the utility's transmission system when such a line is not integral to the utility's system.[8]

The Commission's revised pricing policy for firm transmission service has generated considerable controversy and debate in the electric utility industry. Various interest groups hold widely divergent views as to the appropriate pricing approach, *e.g.*, concerning distance sensitivity, parallel path and loop flow issues, and spot pricing.

There is also disagreement concerning the Commission's pricing policy for non-firm transmission service. Historically, the Commission has permitted non-firm transmission rates to reflect up to a 100% contribution to the fixed costs of providing the service, with the proviso that pricing must reflect the attributes of the service provided, *i.e.*, the degree of firmness.[9]

Given the dramatic changes which the electric industry has faced, and will face in the near term, there can be no dispute that transmission availability and pricing are among the most important policy issues the Commission will face in the coming decade. Such changes include: Increased reliance on market forces to meet power supply needs; new market entrants such as exempt wholesale generators; a significant number of utility mergers and combinations; more highly integrated operation of various power pools; and substantial bulk power trading among electric systems. In addition, many public utilities have filed, or are considering filing, open access transmission tariffs under section 205 of the FPA. Further, Congress has given the Commission new authority under the Energy Policy Act of 1992[10] to compel transmission service under certain circumstances if the Commission determines that such transmission is in the public interest and does not unreasonably impair reliability. As a result, transmission rate schedules will be filed pursuant to orders issued under amended FPA section 211. These open access tariffs and rate schedules will provide more opportunities for buyers and sellers to participate in larger geographic markets. These changes underscore the importance of ensuring that our transmission pricing policies promote efficiency, encourage access, and reflect a reasonable allocation of costs.

In these circumstances, the Commission believes that it is now appropriate to examine its present transmission pricing policy to determine if the present policy promotes or discourages efficiency and competition in the wholesale electric market. Accordingly, the Commission invites comments on, and will hold a technical conference on, whether the present pricing policy needs revision, and possible alternative pricing models.

Clearly, any transmission pricing model adopted by the Commission must meet the substantive standards contained in the FPA. Rates for transmission service under section 205 of the FPA must be just and reasonable and not unduly discriminatory or preferential. Rates for transmission service under section 211 of the FPA must meet the requirements of section 212(a) of the FPA, as added by the Energy Policy Act. Such rates must: (1) allow the transmitting utility to recover all the costs incurred in connection with the transmission services and necessary associated services including, but not limited to, an appropriate share, if any, of legitimate, verifiable and economic costs, including taking into account any benefits to the transmission system of providing the transmission service, and the costs of any enlargement of transmission facilities; (2) promote the economically efficient transmission and generation of electricity; (3) be just and reasonable, and not unduly discriminatory or preferential; and (4) ensure, to the extent practicable, that costs incurred in providing the wholesale transmission services, and properly allocable to the provision of such services, are recovered from the applicant for service and not from a utility's existing wholesale, retail and transmission customers.

Whether the Commission ultimately decides to retain its present transmission pricing policy, or to adopt a new pricing policy, it will ensure that these substantive legal standards are met. The Commission also invites comments on the scope of the Commission's discretion on transmission pricing under section 212 of the FPA, and on whether the Commission should apply the same pricing under section 205 of the FPA as it applies under section 212.

The Commission invites comments on these issues and on the analyses presented in the attached staff paper, and encourages commenters to present their own suggestions concerning alternative transmission pricing models. The discussion paper is intended to initiate discussion and highlight the scope of this inquiry. It is not intended to limit the dialogue.[11]

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[4] Postage stamp rates are based on the theory that, when a utility provides transmission service, it uses its entire integrated transmission grid to provide the service. As such, postage stamp rates do not vary based on the length of transmission provided; in other words, it costs the same amount to move 1 MW of power 10 miles as it does to move it 100 miles.

[5] Northeast Utilities Service Company (Re Public Service, Company of New Hampshire), Opinion No. 364–A, 58 FERC ¶ 61,070 *reh'g denied*, Opinion No. 364–B, 59 FERC ¶ 61,042, *order granting motion to vacate and dismissing request for rehearing*, 59 FERC ¶ 61,089 (1992), *affirmed in part and remanded in part sub nom.* Northeast Utilities Service Company v. FERC, Nos. 92–1165, *et al.* (1st Cir. May 19, 1993) (*NU*); Pennsylvania Electric Company, 58 FERC ¶ 61,278, *reh'g denied and pricing policy clarified*, 60 FERC ¶ 61,034, *reh'g rejected*, 60 FERC ¶ 61,244 (1992), *appeal pending*, No. 92–1408 (D.C. Cir. filed Sept. 11, 1992) (*Penelec*).

[6] The First Circuit stated in *NU*:

> Under "rolled in" pricing principles, the upgrade costs would be rolled in with other company costs and charged to all ratepayers as part of [a utility's] general rate structure; while administratively simple, it ignores any concept of responsibility. Thus, incremental pricing principles look to hold parties responsible for their share of upgrade costs.

NU, supra, slip op. at 44 n.17, _____F.2d _____ (1st Cir. 1993).

[7] The Commission has stated that opportunity costs, "generally are incurred by a utility when the utility accommodates a third party's request for transmission service (*i.e.*, wheeling request) and thereby forgoes an opportunity to reduce its own costs, to the economic detriment of the utility's native load customers." *Penelec*, 58 FERC at 61,871.

[8] See *NU, slip op.* at 44, 45 n.18, _____F.2d _____ (1st Cir. 1993); *Penelec*, 60 FERC at 61,129–2 n.49.

[9] New England Power Company, Opinion No. 335, 49 FERC ¶ 61,129 (1989), *reh'g denied*, Opinion No. 335–A, 50 FERC ¶ 61,151 (1990), *aff'd*, No. 90–1179 (D.C. Cir. Feb. 11, 1991) (unpublished).

[10] Pub. L. No. 102–486, 106 Stat. 2776 (1992).

[11] Some of the materials referenced in the discussion paper will be placed in the Commission's public files in this proceeding and will be available for inspection at the Commission's Public Reference Section, room 3408, 941 North

Continued

In undertaking this inquiry, the Commission recognizes that pricing is only one aspect of ensuring meaningful transmission access and fostering workable competition in the wholesale bulk power market. Other initiatives are currently being considered by the Commission or have already been undertaken.[12] Certain of these initiatives are a direct result of the Energy Policy Act. Others arise as side-issues which will require careful consideration. For example, the Commission will face issues such as what are the appropriate "non-price" terms and conditions of transmission service as well as what constitutes a "good faith" transmission request and reply. The Commission will also face issues regarding the provision of ancillary services, reliability concerns, and determinations of adequate transfer capability. In addition, the Commission recognizes that state regulatory commissions have substantial jurisdiction over transmission facilities. Indeed, transmission facilities are used predominantly to provide service to retail consumers and these facilities are included in retail rate base. Furthermore, most states have siting authority with regard to transmission construction. Consequently, many of the pricing reforms contemplated by this inquiry may implicate state/Federal jurisdictional issues.

We wish to assure commenters that we recognize the spectrum of transmission issues and that we fully intend to address all such issues, whether on a generic basis, or as part of our adjudicative function. Today, we nonetheless have purposefully limited the focus of this inquiry to technical issues related to transmission pricing and certain related legal questions.

II. Public Comment Procedures

The Commission invites all interested persons to submit an original and 14 copies of their written comments. Technical and policy comments on pricing should not exceed 50 pages in length. Comments on legal issues should be submitted in a separate document and should not exceed 25 pages in length. In addition, commenters should submit an executive summary of each set of comments, not to exceed five pages.

The Commission will also permit interested persons to submit reply comments in response to the initial comments filed in this proceeding. Reply comments should not exceed 25 pages in length and should be submitted no later than 30 days after the date that initial comments are due. If reply comments address both technical/policy issues and legal issues, the comments must be divided into two separately labeled sections.

Persons with common interests or views are encouraged to submit joint comments. Commenters should double space their comments, provide a concise description identifying the commenter, and should reference Docket No. RM93–19–000. In addition, commenters should submit a copy of their comments on a 3½ inch diskette in ASCII II format. Initial comments must be filed with the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, no later than September 7, 1993.

All written comments will be placed in the Commission's public files and will be available for inspection at the Commission's Public Reference Section, room 3408, 941 North Capitol Street, NE., Washington, DC 20426, during regular business hours.

A technical conference to discuss transmission pricing issues will be scheduled on a date to be established after the Commission has had an opportunity to review the comments. The Commission invites interested persons to file requests to participate in the technical conference. Requests must be in writing and submitted to the Office of the Secretary no later than the date that comments are due. Persons with common interests or views are requested to file joint requests for participation, so that the Commission can accommodate the maximum number of participants. When the Commission issues a subsequent notice specifying the date, time and place for the technical conference (including format) and the persons who have been selected to participate.

By direction of the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 93–15979 Filed 7–6–93; 8:45 am]

BILLING CODE 6717–01–M

Capitol Street, NE., Washington, DC 20426, during regular business hours.

[12] Earlier this year, the Commission issued a final rule regarding certification of Exempt Wholesale Generators. [Order No. 550 FERC Statutes and Regulations ¶ 30,964; Order No. 55–C, FERC Statutes and Regulations ¶ 30,969 (1933)]. On March 30, 1993, the Commission issued a Notice of Proposed Rulemaking dealing with the transmission information requirements of section 213(b) of the FPA. [FERC Statutes and Regulations ¶ 32,493 (1993)]. The Commission has also requested public comment on the issue of Regional Transmission Groups based upon a consensus proposal which was not included in the Energy Policy Act. [61 FERC ¶ 61,232 (1992)].

[Project Nos. 2366–000 & 2367–000 Maine]

Maine Public Service Co.; Availability of Environmental Assessment

June 30, 1993.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for minor license for the existing Aroostook River Hydroelectric Project located on the Aroostook River in Piscataquis and Arrostook Counties near the City of Caribou, Maine, and has prepared an Environmental Assessment (EA) for the project. In the EA, the Commission's staff analyzed the environmental effects of the project and concluded that approval of the project, with appropriate enhancement measures, would not constitute a major Federal action significantly affecting the quality of the human environment. This EA supersedes the EA for the Aroostook River Hydroelectric Project dated April 30, 1993.

Copies of the EA are available for review in the Public Reference Branch, room 3308, of the Commission's offices at 941 North Capitol Street, NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 93–15926 Filed 7–6–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP93–14–010]

Algonquin Gas Transmission Co.; Filing of Revised Tariff Sheets To Comply With Commission Order

June 30, 1993.

Take notice that Algonquin Gas Transmission Company (Algonquin) on June 24, 1993, filed revised tariff sheets to comply with the Commission's June 9, 1993 letter order in Docket No. RP93–14–000. Algonquin proposes that the Commission accept its revised alternate and primary tariff sheets effective May 1, 1993, and June 1, 1993, respectively.

Algonquin states that the alternate and primary tariff sheets listed on Appendix A and Appendix B to the filing, reflect the removal of certain facility costs identified in the June 9 letter order.

Algonquin requests that the Commission waive § 154.22 of the Commission's regulations to the extent necessary in order to permit this application to take effect as requested.

Algonquin states that copies of this tariff filing were mailed to all customers

of Algonquin and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before July 8, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–15931 Filed 7–6–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. EL93–35–000]

City of Cleveland, Ohio v. Cleveland Electric Illuminating Co.; Filing

June 30, 1993.

Take notice that on June 22, 1993, the City of Cleveland, Ohio tendered for filing a Supplement to its Complaint filed against Cleveland Electric Illuminating Company in this docket on April 22, 1993.

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 18 CFR 385.214). All such motions or protests should be filed on or before July 30, 1993. 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. Answers to the complaint shall be due on or before July 30, 1993.

Lois D. Cashell,

Secretary.

[FR Doc. 93–15939 Filed 7–6–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP89–635–003]

Columbia Gas Transmission Corp.; Petition to Amend

June 30, 1993.

Take notice that on June 21, 1993, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314, filed pursuant to section 7(c) of the Natural Gas Act, as amended, and part 157 of the Federal Energy Regulatory Commission's (Commission) Regulations, to further amend the certificate of public convenience and necessity issued in Docket Nos. CP89–635–000 *et al.*, which authorized the construction and operation of certain natural gas facilities which was part of the ANR Project, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Columbia states that on June 26, 1990, the Commission issued an order for the ANR Project, authorizing Columbia's facilities proposed in Docket No. CP89–635–000, *et al.* and on June 21, 1991, the Commission issued an order modifying certain aspects of its earlier order.[1] The orders authorized Columbia to construct and operate 17.5 miles of 20-inch and 24-inch pipeline, 16,790 horsepower of additional compressor facilities and make various modifications and additions to related facilities in order to provide certain services to Eagle Point Cogeneration Partnership (Eagle Point) and New England Power Company (NEP). This authorized construction would allow Columbia to transport 55,000 Dth/d from a receipt point between Columbia and ANR Pipeline Company (ANR) near Paulding, Ohio to a new point of delivery at West Deptford, New Jersey on behalf of Eagle Point and 60,790 Mdth/d to NEP through an existing interconnection with Algonquin Gas Transmission Company (Algonquin) at Hanover, New Jersey. Columbia states that certain facilities have been completed which provide sufficient capacity to permit delivery of 46,000 Dth/d on a firm basis to Eagle Point. The balance of Eagle Point's firm service (9,000 Dth/d) currently flows subject to interruption. Firm service for the balance of 9,000 Dth/d is dependent on the construction of the Rutledge Compressor Station in Harford County, Maryland. NEP's service is also dependent on the construction of Rutledge Compressor Station as well as the proposed Hellertown Compressor Station.

Columbia states that certain parties, collectively known as the Harford County Citizens Groups, opposed the siting of Columbia's Rutledge Compressor Station and sought review of the Commission's orders in the U.S. Court of Appeals for the District of Columbia Circuit.[2] These same parties also initiated a state appellate review proceeding in Maryland regarding a zoning aspect of the Rutledge Compressor Station. Columbia further states that due to the pendency of the federal and state court proceedings, construction of the Rutledge Compressor Station was delayed. Subsequently, Columbia and the Harford County Citizens Groups reached an agreement pursuant to a mediation program sponsored by the U.S. Court of Appeals for the District of Columbia Circuit. Under the agreement, the Rutledge Compressor Station design will be modified, subject to Commission approval, and the pending federal and state court proceedings will be dismissed.

Columbia proposes to amend its previously issued certificate to implement certain changes to the Rutledge Compressor Station design, as well as authorization for certain other facility related revisions and deletions as set forth below.

(1) With regard to the previously approved Rutledge Compressor Station in Harford County, Maryland, Columbia proposes to install three electric 4,000 HP compressor units, instead of three 3200 HP gas compressors. The electric units will be used to compress the same level of design day volumes as reflected in the original amended application.

(2) At previously approved Hellertown Compressor Station in Northhampton County, Pennsylvania, Columbia proposes to install two 920 HP compressor units, instead of two 600 HP compressor units. Upon review, it was determined that the needed design capacity could not be met with the 600 HP units.

(3) Subsequent to the issuance of the certificate in this proceeding, ANR completed unrelated construction of certain pipeline facilities in Lucas County, Ohio, which, in conjunction with a new interconnection being established between ANR and Columbia near Maumee, Ohio under blanket certificate authorization, will permit Columbia to receive a portion of the NEP volumes at the new interconnection and allow deletion of certain facilities authorized by the Commission's certificate orders in the

[1] See 51 FERC 61,359 and 55 FERC 61,481.

[2] *The Greater Fallston Association, Inc., et al.* v. *FERC*, Case No. 91–1398.

instant proceeding. Columbia proposes to delete construction of Paulding Compressor Station in Paulding County, Ohio; regulation at Greely Chapel Road, Allen County, Ohio; and other miscellaneous pipeline uprating in Allen and Hardin Counties, Ohio.

Columbia states that the total revised estimated cost of the proposed facilities is $56,357,000, and that the cost of the facilities associated with this project, that are completed and in service to date is approximately $18,526,000.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before July 21, 1993, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the 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.

Lois D. Cashell,

Secretary.

[FR Doc. 93–15936 Filed 7–6–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP92–227–002]

Eastern Shore Natural Gas Co.; Proposed Changes in FERC Gas Tariff

June 30, 1993.

Take notice that Eastern Shore Natural Gas Company (ESNG) tendered for filing on June 25, 1993 certain new and revised tariff sheets included in Appendix A attached to the filing. Such sheets are proposed to be effective July 1, 1993.

ESNG states that the instant filing is being made to comply with the Commission's order issued on May 24, 1993 in this proceeding. Such order approved ESNG's Stipulation and Agreement filed on March 26, 1993, pursuant to Rule 602 of the Commission's Rules of Practice and Procedure. More specificially, the filing is submitted in accordance with Article VII and Article VIII of the Stipulation and Agreement.

Article VII provides for the filing of new tariff sheets to implement a Transportation Cost Adjustment Clause to become effective on the first day of the month following the date of such filing, i.e., July 1, 1993. Article VIII provides for ESNG filing revised tariff sheets to reflect its restated Base Tariff Rates, also to become effective on the first day of the month following the date of such filing, namely July 1, 1993.

ESNG states that the restated Base Tariff Rates, as filed herein, also reflect ESNG's most current purchased gas costs and Account 858 transportation costs as of its most recent Purchased Gas Adjustment (PGA) filing in Docket No. TF93–3–000 effective June 1, 1993, as approved by the Commission on June 2, 1993.

ESNG states that copies of the filing have been served upon its jurisdictional customers and interested State Commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before July 8, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–15937 Filed 7–6–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM93–14–4–000]

Granite State Gas Transmission, Inc.; Proposed Changes in Rates

June 30, 1993.

Take notice that on June 28, 1993, Granite State Gas Transmission, Inc. (Granite State) filed Original Sheet No. 28 in its FERC Gas Tariff, Second Revised Volume No. 1, containing changes in rates for effectiveness on July 1, 1993.

According to Granite State, its filing flows through to its customers costs that will be directly billed to Granite State by Algonquin Gas Transmission Company (Algonquin). Granite State further states that Algonquin's restructuring compliance filing in Docket No. RS92–28–000 has been accepted by the Commission effective June 1, 1993. Prior to restructuring, Granite State purchased a portion of its system gas supply from Algonguin under its Rate Schedule F–2 and F–3.

It is further stated that on May 28, 1993, in Docket No. RP93–126–000, Algonquin filed a limited Section 4 filing to recover from its former sales customers the projected balances in its Account Nos. 191 and 186 by direct billings. According to Granite State, on Original Sheet No. 28, it has allocated the direct billed costs to its customers on the same basis used by Algonquin in its direct billings to Granite State.

Granite State further states that copies of its filing were served on its customers and the regulatory commissions of the states of Maine, Massachusetts and New Hampshire.

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 Sections 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 July 8, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–15933 Filed 7–6–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP93–145–000]

K N Energy, Inc.; Proposed Changes in FERC Gas Tariff

June 30, 1993.

Take notice that on June 24, 1993, KN Energy, Inc. (KN), P.O. Box 281304, Lakewood, Colorado 80228, tendered for filing, pursuant to § 154.63 of the Commission's Regulations (18 CFR 154.63), the following revised tariff sheets to First Revised Volume No. 1–B of its FERC Gas Tariff:

First Revised Volume No. 1–B
Fourth Revised Sheet No. 66
Fifth Revised Sheet No. 66

KN states that these tariff sheets reflect requested changes in the monthly D2 billing demand volumes of Minnegasco, an existing wholesale customer. Specifically, KN proposes to reallocate Minnegasco's D2 demand volumes for the month of January between Minnegasco's delivery zones. In addition, KN proposes to increase the D2 demand volumes for Minnegasco's

delivery zones for the month of April and in total.

KN states that in order for Minnegasco to avoid certain overrun charges, KN requests that Fourth Revised Sheet No. 66 be made effective January 1, 1993 and that Fifth Revised Sheet No. 66 be made effective April 1, 1993.

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 July 8, 1993. 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. 93–15928 Filed 7–6–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP93–502–000]

Northern Natural Gas Co.; Request Under Blanket Authorization

June 30, 1993.

Take notice that on June 21, 1993, Northern Natural Gas Company (Northern), 1400 Smith Street, Houston, Texas 77002 filed in Docket No. CP93–502–000 a request pursuant to §§ 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act for authorization to upgrade two existing delivery points to accommodate natural gas deliveries to Peoples Natural Gas Company, a Division of UtiliCorp United Inc. (Peoples) pursuant to its blanket certificate 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 which is on file with the Commission and open for public inspection.

Northern states that it requests authority to upgrade two existing delivery points to accommodate natural gas deliveries to Peoples to accommodate increased service to Robert Ferring (Broadview Trailer Court) in Dubuque County, Iowa and Adair, Iowa Town Border Station (TBS) in Guthrie County, Iowa to accommodate service under Northern's currently effective TF Rate Schedule. Northern indicates that the proposed estimated volumes to be delivered to Peoples/Robert Ferring is 123.0 Mcf/day and 21,546 Mcf on an annual basis with an estimated cost of $22,568 to upgrade the delivery point and to Peoples/Adair TBS is 960.0 Mcf/day and 97,522 Mcf on an annual basis with an estimated cost of $7,965 to upgrade the delivery point. Northern states that the additional natural gas volumes will be used for commercial and residential fuel.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Rules of Practice and Procedure (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 therefor, the proposed activity shall be deemed to be authorized effective the date 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(c) of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 93–15934 Filed 7–6–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP90–104–022]

Texas Gas Transmission Corp.; Report of Refunds

June 30, 1993.

Take notice that on January 21, 1993, Texas Gas Transmission Corporation (Texas Gas) tendered for filing with the Federal Energy Regulatory Commission (Commission) a refund report detailing refunds made to its customers on January 19, 1993, for the periods November 1, 1990 through November 27, 1990 and November 28, 1990 through October 31, 1992.

Texas Gas states that the refunds were made in accordance with provisions of Article I of the Stipulation and Agreement filed in Docket No. RP90–104.

Texas Gas states that copies of report were sent to each affected customer and the respective state regulatory commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before July 8, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–15935 Filed 7–6–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP93–106–002]

Texas Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

June 30, 1993.

Take notice that on June 25, 1993, Texas Gas Transmission Corporation (Texas Gas) tendered for filing certain tariff sheets listed on Appendix A to the filing, to reflect changes to its FERC Gas Tariff, Original Volume No. 1, and First Revised Volume No. 2–A.

Texas Gas states that this filing is being made to comply with Commission Order dated May 28, 1993, wherein Ordering Paragraph (D) of the May 28 Order directed Texas Gas to "file an impact study, minimization plan, and pro forma tariff sheets within 30 days * * *" regarding cost mitigation issues on the primary filing. Ordering Paragraph (E) stated that "Texas Gas shall file a lead-lag study," supplemental lead-lag data, and substitute tariff sheets. Finally, the Order also requested Texas Gas to file, executed contracts associated with the Transco expansion facilities before ruling on removal of the "at-risk" condition in that certificate.

Texas Gas states that copies of the filing are being mailed to all persons listed on the official service list in Docket No. RP93–106.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before July 8, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the

Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–15927 Filed 7–6–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP93–61–002]

U–T Offshore System: Tariff Filing

June 30, 1993.

Take notice that on June 25, 1993, U–T Offshore System (U–TOS) tendered for filing certain revised tariff sheets to Second Revised Volume No. 1 and Original Volume No. 2 of its FERC Gas Tariff, which tariff sheets are contained in Appendix A to the filing. The proposed effective date of the revised tariff sheets is July 1, 1993.

U–TOS states that the purpose of the instant filing is (1) to place into effect on July 1, 1993, upon conclusion of the suspension period in this proceeding, the rates filed herein on December 31, 1992, as adjusted to eliminate any costs associated with enhancing U–TOS' Electronic Bulletin Board, installing gas control and monitoring systems, and acquiring gas needed for system line pack, which costs were included in U–TOS' filed rates but which were not incurred by June 30, 1993, and (2) in compliance with Ordering Paragraph (B) of the Commission's January 28, 1993 order herein, to remove from U–TOS' tariff those provisions whereunder the Annual Charge Adjustment (ACA) has been collected by means of a surcharge.

U–TOS states that copies of the filing have been served on all affected shippers and other interested parties in Docket No. RP93–61.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before July 8, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–15930 Filed 7–6–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP92–48–009]

Viking Gas Transmission Co.; Tariff Filing

June 30, 1993.

Take notice that on June 25, 1993, Viking Gas Transmission Company (Viking), tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheet to be effective July 1, 1993:

First Revised 22nd Revised Sheet No. 6

Viking states that the purpose of this filing is to implement the "Interim Settlement Rates" established pursuant to the Stipulation and Agreement filed by Viking in the referenced docket and approved by the Commission in its May 6, 1993 Order Approving Settlement as Modified.

Viking states that copies of the filing is being served upon each party shown on the Commission's official service list.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before July 8, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–15925 Filed 7–6–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TQ93–4–43–001]

Williams Natural Gas Co.; Proposed Changes in FERC Gas Tariff

June 30, 1993.

Take notice that on June 25, 1993, Williams Natural Gas Company (Williams) tendered for filing as part of this FERC Gas Tariff, First Revised Volume No. 1, the following revised tariff sheets, with effective date of June 1, 1993:

Substitute Second Revised Fifteenth Revised Sheet No. 6
Substitute Second Revised Sixteenth Revised Sheet No. 6A
Substitute Second Revised Seventeenth Revised Sheet No. 9

Williams states that on June 15, 1993, it filed an out-of-cycle PGA in Docket No. TQ93–4–43–000 with a proposed effective date of June 1, 1993. Williams states that the Commission staff has recommended that the June 15 filing be restated as an interim PGA filing pursuant to Section 154.309 of the Commission's regulations. Williams states that the instant filing replaces Williams' June 15, 1993 filing.

Williams states that copies of the filing are being served on all jurisdictional customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before July 8, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–15932 Filed 7–6–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP93–516–000]

Williston Basin Interstate Pipeline Co.; Request Under Blanket Authorization

June 30, 1993.

Take notice that on June 25, 1993, Williston Basin Interstate Pipeline Company (Williston Basin), Suite 300, 200 North Third Street, Bismarck, North Dakota 58501, filed in Docket No. CP93–516–000 a request pursuant to §§ 157.205 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.216) for authorization to add a new meter and appurtenant facilities and to abandon 1,970 feet of transmission lateral pipeline by sale, under Williston Basin's blanket certificate issued in Docket No. CP82–487–000 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.

Williston Basin proposes to construct and operate a new meter station and related facilities, in Yellowstone County, Montana, to effectuate deliveries of gas to Montana-Dakota Utilities Co. (Montana-Dakota) for ultimate delivery to CENEX, an end-use customer connected to Montana-Dakota's system. Williston Basin states that the cost of the construction, which will be reimbursed by Montana-Dakota,

is $32,463. Williston Basin also proposes to abandon 1,970 feet of transmission lateral pipeline, by sale to Montana-Dakota. The facility is located between the proposed meter facilities and the existing meter station owned by Montana-Dakota which is used to meter deliveries to CENEX. Williston Basin states that there would be no impact on service provided by Williston Basin to Montana-Dakota or its end-use customer.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 93–15938 Filed 7–6–93; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–4675–5]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before August 6, 1993.

FOR FURTHER INFORMATION, OR TO OBTAIN A COPY OF THIS ICR, CONTACT: Ms. Sandy Farmer at EPA, (202) 260–2740.

SUPPLEMENTARY INFORMATION:

Office of Air and Radiation

Title: New Source Performance Standards (NSPS) for Small Industrial-Commercial-Institutional Steam Generating Units (Subpart Dc)–Reporting and Recordkeeping Requirements (EPA ICR No. 1564.03; OMB No. 2060–0202). This is a request for renewal of a currently approved information collection.

Abstract: Owners or operators of small industrial-commercial-institutional steam generating units must provide EPA, or the delegated State regulatory authority, with one-time notifications and reports, and must keep records, as required of all facilities subject to the general NSPS requirements. Monitoring techniques vary by fuel type and unit size. Owners or operators of oil- and coal-fired steam generating units with heat input capacities of 10 to 100 million Btu/hr must monitor SO2 emissions and submit quarterly compliance reports. Monitoring of opacity and submission of quarterly excess emissions reports are required for coal-, wood-, and residual oil-fired units greater that 30 million Btu/hr heat input capacity. The notifications and reports enable EPA or the delegated State regulatory authority to determine that best demonstrated technology is installed and properly operated and maintained and to schedule inspections.

Burden Statement: The public reporting burden for this collection of information is estimated to average 1,276 hours per response for reporting, and 626 hours per recordkeeper annually. This estimate includes the time needed to review instructions, search existing data sources, gather and maintain the data needed, and complete and review the collection of information.

Respondents: Owners or operators of small industrial commercial-institutional steam generating units.

Estimated Number of Respondents: 319.

Estimated Number of Responses Per Respondent: 4.

Estimated Total Annual Burden on Respondents: 229,674 hours.

Frequency of Collection: One-time notifications and reports for new facilities; quarterly reporting for existing facilities.

Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to:

Ms. Sandy Farmer, U.S. Environmental Protection Agency,Information Policy Branch (PM–223Y), 401 M Street, SW., Washington, DC 20460.

and

Mr. Chris Wolz, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW.,Washington, DC 20503.

Dated: June 30, 1993.

David Schwarz,

Acting Director, Regulatory Management Division.

[FR Doc. 93–15988 Filed 7–6–93; 8:45 am]

BILLING CODE 6560–50–F

[FRL 4676–2]

New Source Review Reform Subcommittee

AGENCY: Environmental Protection Agency.

ACTION: Notice of public meeting.

SUMMARY: On November 8, 1990, the U.S. Environmental Protection Agency (EPA) gave notice of the establishment of a Clean Air Act Advisory Committee (CAAAC) (55 FR, No. 217, 46993) which was established pursuant to the Federal Advisory Committee Act (5 U.S.C. app I).

Today, EPA announces establishment of the New Source Review (NSR) Reform Subcommittee under the auspices of the CAAAC. The subcommittee's purpose is to provide independent advice and counsel to the EPA on policy and technical issues associated with reforming the NSR rules.

OPEN MEETING DATES: Notice is hereby given that the NSR Reform Subcommittee will hold an open meeting on July 21–22, 1993 from 8 a.m. to 5 p.m. at the Omni Hotel, Durham, North Carolina. Due to the size of the meeting room, seating is limited to approximately 100 individuals and will be made available on a first come, first serve basis.

This meeting will address NSR issues related to best available control technology and Class I areas.

INSPECTION OF COMMITTEE DOCUMENTS: Documents relating to the above noted topics will be publicly available at the meeting. Thereafter, these documents, together with the CAAAC meeting minutes will be available for public inspection in EPA Air Docket No. A–90–37. The docket is available for public inspection and copying between 8:30 a.m. to 12 noon and 1:30 to 3:30 p.m., weekdays, at EPA's Air Docket (LE–131), room M–1500, 401 M Street, SW., Washington, DC 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION: Concerning the NSR Reform Subcommittee or its

activities, please contact Mr. David Solomon, Designated Federal Official to the subcommittee at (919) 541–5375, telefax (919) 541–5509, or by mail at U.S. EPA, Office of Air Quality Planning and Standards, Air Quality Management Division (MD–15), Research Triangle Park, North Carolina 27711.

The subcommittee will be consulted on environmental, technical, scientific, economic, policy, and guidance issues. Specifically, the responsibilities of the NSR Subcommittee include providing the Agency with advice on approaches for reforming the NSR rules in order to reduce the complexity, inflexibility and impediments to speedy review of the current systems, while at the same time maintaining the environmental goals and benefits embodied in the current approach (i.e., protecting and improving air quality and advances in control technologies).

The NSR Subcommittee is composed of 2 members of the CAAAC and 26 other members which were selected and appointed by the Assistant Administrator of the Office of Air and Radiation for a 2-year term. Members of the NSR Subcommittee were selected on the basis of their professional qualifications and diversity of perspectives which will enable them to provide sound advice and guidance to the Agency in reforming the NSR rules.

The NSR Subcommittee membership is a balanced representation from the following sectors: Business and industry, State and local governments, and nongovernmental and environmental groups. All members are appointed as representatives of non-Federal interests.

Meetings will be held approximately four times a year, as determined by the EPA co-chairperson. The meetings will be open to the public and will be announced in the **Federal Register**. The Designated Federal Officer will be present at all meetings and is authorized to adjourn any meeting whenever it is determined to be in the public interest. Each meeting will be conducted in accordance with an agenda approved in advance of the meeting by the Designated Federal Officer.

Dated: June 30, 1993.

John S. Seitz,

Director, Office of Air Quality Planning and Standards.

[FR Doc. 93–16019 Filed 7–6–93; 8:45 am]

BILLING CODE 6560–50–P

[OPP–00355; FRL–4580–1]

Reregistration Eligibility Documents; Completion of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This Notice, pursuant to section 4(g)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), concludes the comment period of the draft reregistration eligibility decision documents for several chemical cases.

ADDRESSES: Copies of these REDs are available from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161, ATTN: Order Desk; telephone no. (703) 487–4650. To obtain copies you must provide the publication number that has been assigned to the RED listed in the table below.

FOR FURTHER INFORMATION CONTACT: Ruby Whiters, Accelerated Reregistration Branch, Special Review and Reregistration Division (H7508W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location: Crystal Station 1, WF34N4, 2800 Crystal Drive, Arlington, VA. By telephone: 1–800–552–8879.

SUPPLEMENTARY INFORMATION: During fiscal years 1991 and 1992, EPA published Notices in the **Federal Register** announcing the availability of Reregistration Eligibility Documents for the listed pesticide active ingredients. These REDs were issued as draft documents, with initiation of a 60–day comment period. In these REDS, EPA provided its regulatory position on the current registered uses of these pesticides and set forth certain requirements for product reregistration eligibility. There were no comments for the REDs cited below.

Therefore, the Agency, by this Notice, considers these documents final decisions on the reregistration eligibility of the pesticides listed in the following table.

Chemical Name	Case Number	RED Date	RED NTIS Number
Alkyl Amine Hydrochloride	3051	8/92	PB92–220219
Capsaicin	4018	6/92	PB93–101434
Carbon & Carbon Dioxide	4019	9/91	PB92–161926
Citric Acid	4024	6/92	PB92–221829
Dried Blood	4030	9/91	PB92–161942
Ethylene	3071	9/92	PB93–100337
Fosetyl-Al (Aliette)	0646	12/90	PB92–114339
Heliothis NPV	0151	1/91	PB92–111863
Indole-3-butyric acid	2330	8/92	PB92–221969
Inorganic Nitrate/Nitrite	4052	1/91	PB92–161975
Methoprene	0030	3/91	PB92–111855
Potassium Bromide	0342	6/91	PB92–114362
Putrescent Whole Egg Solids	4079	8/92	PB92–220227
Silica Gel	4081	9/91	PB92–161900
Sodium Diacetate	4001	9/91	PB92–161934
Sodium Hydroxide	4065	9/92	PB93–124691
Streptomycin/Sulfate	0169	9/92	PB93–100386

Dated: June 25, 1993.

Peter Caulkins,

Acting Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 93–15875 Filed 7–6–93; 8:45 am]

BILLING CODE 6560–50–F

[PF–577; FRL–4631–6]

Ciba-Geigy Corp.; Amended Pesticide Petition for Propiconazole

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received from the Ciba-Geigy Corp. the filing of an amendment to pesticide petition (PP) 8F3674 proposing to establish tolerances for residues of the fungicide propiconazole (1-[[2-(2,4-dichlorophenyl)-4-propyl-1,3-dioxolan-2-yl]methyl]-1*H*-1,2,4-triazole and its metabolites, determined as 2,4-dichlorobenzoic acid and expressed as parent compound) as follows: in or on the raw agricultural commodities corn fodder and corn forage at 12.0 parts per million (ppm), corn grain at 0.1 ppm, sweet corn (kernels plus cobs with husks removed) at 0.1 ppm, pineapples at 0.1 ppm, and pineapple fodder at 0.1 ppm.

ADDRESSES: By mail, submit written comments, identified by the document control number [PF-577], to: Public Response and Program Resources Branch, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1128, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1128 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Susan Lewis, Product Manager (PM 21), Registration Division (H-7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 227, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-6900.

SUPPLEMENTARY INFORMATION: EPA has received from the Ciba-Geigy Corp., P.O. Box 18300, Greensboro, NC 27419, an amendment to the notice of filing under section 408 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a) for pesticide petition (PP) 8F3674, which appeared in the **Federal Register** of October 12, 1988 (53 FR 39783). The original petition proposed to amend 40 CFR 180.434 by establishing tolerances for the fungicide 1-[[2-(2,4-dichlorophenyl)-4-propyl-1,3-dioxolan-2-yl]methyl]-1*H*-1,2,4-triazole and its metabolites, determined as 2,4-dichlorobenzoic acid and expressed as parent compound, in or on the commodities celery at 5.0 ppm, corn fodder and corn forage at 10 ppm, corn grain at 0.1 ppm, sweet corn (kernels plus cobs with husks removed) at 0.1 ppm, pineapples at 0.1 ppm, pineapple fodder at 0.1 ppm, legume vegetables (succulent or dried) at 0.5 ppm, and legume vegetables foliage at 5.0 ppm.

Ciba-Geigy has amended the petition to propose amending 40 CFR 180.434 by establishing a regulation to permit the residues of the fungicide 1-[[2-(2,4-dichlorophenyl)-4-propyl-1,3-dioxolan-2-yl]methyl]-1*H*-1,2,4-triazole and its metabolites, determined as dichlorobenzoic acid and expressed as parent compound, in or on corn forage at 12.0 parts per million (ppm), corn fodder at 12.0 ppm, corn grain at 0.1 ppm, sweet corn (kernels plus cobs with husks removed) at 0.1 ppm, pineapples at 0.1 ppm, and pineapple fodder at 0.1 ppm. The proposed analytical method for determining residues is gas chromatography.

In previous amendments to the cited pesticide petition, requested by Ciba-Geigy, celery was separated out and is the subject of its own petition, and legumes were withdrawn altogether.

Authority: 7 U.S.C. 346a and 371.

Dated: June 24, 1993.

Lawrence E. Culleen,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 93–15985; Filed 7–6–93; 8:45 am]

BILLING CODE 6560–50–F

[OPP–50766; FRL–4631–7]

Receipt of Notification of Intent to Conduct Small-Scale Field Testing; Nonindigenous Microbial Pesticide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received from Stag's Leap Wine Cellars a notification of intent to conduct small-scale field testing on grape vines in California of a strain of *Trichoderma viride* being imported from New Zealand.

DATES: Comments must be received on or before July 21, 1993.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1128, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Information submitted and any comment(s) concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment(s) that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. Information on the proposed test and any written comments will be available for public inspection in Rm. 246 at the Virginia address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Susan T. Lewis, Product Manager (PM-21), Registration Division (H-7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 227, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703)-305-6900.

SUPPLEMENTARY INFORMATION: A notification of intent to conduct small-scale field testing pursuant to the EPA's "Statement of Policy; Microbial Products Subject to the Federal Insecticide, Fungicide, and Rodenticide Act and the Toxic Substances Control Act" of June 26, 1986 (51 FR 23313), has been received from Stag's Leap Wine Cellars, 5766 Silverado Trail, Napa, CA 94558. The purpose of the proposed testing is to evaluate the efficacy of a

nonindigenous strain of *Trichoderma viride* being imported from New Zealand for the control of *Eutypa* die-back of grape vines. The proposed field tests would be conducted in California on a total area of less than 10 acres.

Dated: June 24, 1993.

Lawrence E. Culleen,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 93–15984 Filed 7–6–93; 8:45 am]

BILLING CODE 6560–50–F

FARM CREDIT ADMINISTRATION

[BM–10–JUN–93–03]

Policy Statement Concerning Out-of-Territory Financially Related Services

AGENCY: Farm Credit Administration.

ACTION: Policy statement.

SUMMARY: On June 10, 1993, the Farm Credit Administration Board (Board) adopted a policy statement concerning out-of-territory financially related services. The FCA Board interprets section 1.12 of the Farm Credit Act of 1971, as amended, to authorize the offering of financially related services outside of formally chartered territories. This interpretation will provide consistent authorities to Farm Credit institutions for the lending and financially related services functions.

EFFECTIVE DATE: June 10, 1993.

FOR FURTHER INFORMATION CONTACT: Curtis M. Anderson, Secretary to the Farm Credit Administration Board, Farm Credit Administration, McLean, Virginia 22102–5090, (703) 883–4003, TDD (703) 883–4444.

SUPPLEMENTARY INFORMATION: The text of the Board's policy statement concerning out-of-territory financially related services is set forth below in its entirety:

Board Action Item Policy Statement—FCA Board Action on Policy Statement Concerning Out-of-Territory Financially Related Services

BM–10–JUN–93–03

FCA–PS–##

Effective Date: Upon adoption.

Effect on Previous Action: None; see also December 1983 Federal Farm Credit Board Policy on Financially Related Services.

Source of Authority: Section 1.12 of the Farm Credit Act of 1971 (Act), as amended, 12 U.S.C. 2020; section 5.17(a) of the Act, 12 U.S.C. 2252; 12 CFR 618.8000.

Whereas, Farm Credit institutions are endeavoring to expand customer bases and the financially related services (FRS) that may be offered to them. Certain institutions may have the resources to develop an expertise and an experienced staff in providing FRS that other institutions may not have the capability or desire to develop and provide;

Whereas, the Farm Credit Administration (FCA) has the authority to modify territories and boundaries of Farm Credit districts with the concurrence of the district banks involved and the authority to establish regulations governing financially related services;

Whereas, in 1972, the FCA enacted regulations authorizing out-of-territory lending, subject to the concurrence of the other institutions providing similar credit in the location. Despite adopting numerous amendments to the Act since 1972, Congress has not taken action that restricts FCA's interpretation of its authorities to enact regulations governing out-of-territory activities.

Therefore, the FCA Board Hereby Adopts the Following Statement of Policy:

The FCA Board hereby interprets section 1.12 of the Farm Credit Act of 1971, as amended, to authorize the offering of financially related services outside of formally chartered territories. This interpretation will provide consistent authorities to Farm Credit institutions for the lending and financially related services functions.

Out-of-territory financially related services programs are subject to the following conditions, which will be included in the FCA's approval of any financially related services policy submitted to authorize out-of-territory activities:

(1) Out-of-territory financially related services must be authorized in bank financially related services policies, which require approval from FCA;

(2) Financially related services provided within an institution's chartered territory should remain the primary component of the institution's services;

(3) The institution desiring to provide financially related services outside its chartered territory must obtain the concurrence of all institutions chartered to serve the territory in which the services will be provided; and

(4) Banks in both the providing and receiving districts will continue to be required to fulfill their responsibilities in 12 CFR 618.8000, which include coordinating, monitoring, and reporting requirements. For example, 12 CFR 618.8000(b)(3) requires that the receiving district of an out-of-territory service provide the service through a single program, or, at a minimum, through common programs within a district.

Dated this 10th day of June, 1993.

By Order of the Board.

Dated: June 30, 1993.

Curtis M. Anderson,

Secretary, Farm Credit Administration Board.

[FR Doc. 93–15892 Filed 7–6–93; 8:45 am]

BILLING CODE 6705–01–P

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

June 29, 1993.

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of this submission may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 2100 M Street, NW., suite 140, Washington, DC 20037, (202) 857–3800. For further information on this submission contact Judy Boley, Federal Communications Commission, (202) 632–0276. 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: 3060–0448

Title: Section 63.07, Special procedures for non-dominant domestic common carriers

Action: Extension of a currently approved collection

Respondents: Business or other for-profit

Frequency of Response: On occasion reporting requirement

Estimated Annual Burden: 100 responses; 1 hour average burden per response; 100 hours total annual burden

Needs and Uses: Where a communications facility may have a significant effect on the environment, the Commission rules implement federally mandated laws by requiring that applicants and licensees submit environmental and undergo environmental processing. Section 63.07 of the Commission's rules, subjects domestic, non-dominant, facilities-based common carriers to the same requirements as all other FCC-regulated entities. Specifically, a carrier is required to ascertain

whether its facility may have a significant environmental effect, and if so, the carrier must submit an environmental assessment and await the completion of environmental review prior to commencing construction. Where the circumstances warrant the filing of an environmental assessment, the information contained therein, 47 CFR 1.1311, would be reviewed by attorneys, engineers and paraprofessionals to determine whether the environmental assessment is sufficiently complete and in compliance with the Commission's rules to be acceptable for filing. The Commission would also solicit the views of other agencies with relevant expertise and review their comments in conjunction with the environmental assessment to determine whether the facility will have a significant environmental effect. The staff then would inform the carrier of its findings, and the carrier would have the opportunity to "reduce, minimize or eliminate" the environmental problems. If the environmental problem remains, the agency would prepare Environmental Impact Statements.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 93–15907 Filed 7–6–93; 8:45 am]

BILLING CODE 6712–01–M

Renewal Application Designated for Hearing

1. The Commission has before it the following application for renewal of license:

Applicant	City/state	File No.	MM docket No.
Richard Richards	Sierra Vista, AZ	BRTTL–9211161G	93–176

(Seeking a renewal of the license of Station K33CG (LPTV))

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above application has been designated for hearing in a proceeding upon whose issues are set forth below:

1. To determine, in light of Richard Richards' conviction for violating title 21, United States Code, sections 841(a)(1), 841(b)(1)(D) and 841(b)(5), whether Richards possesses the requisite qualifications to be the licensee of station K33CG.

2. To determine, in light of the evidence adduced pursuant to the foregoing issue, whether the grant of the application to renew the license of station K33CG will serve the public interest, convenience and necessity.

A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 320), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Service, 2100 M Street, NW., suite 140, Washington, DC 20037 (telephone 202–857–3800).

Federal Communications Commission

William Caton,

Acting Secretary.

[FR Doc. 93–15906 Filed 7–6–93; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed; San Francisco Port Authority, et al.

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 800 North Capitol Street, NW., 9th Floor. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224–004070–009.

Title: Port of San Francisco/ Stevedoring Services, of America Terminal Agreement.

Parties: San Francisco Port Commission, Stevedoring Services of America.

Synopsis: The amendment extends the term of the Agreement through August 31, 1993.

Agreement No.: 224–200126–003.

Title: Port of San Francisco/Blue Star Line/Columbus, Lines Terminal Revenue Sharing Agreement.

Parties: San Francisco Port Commission, Blue Star Line, Columbus Lines, Inc.

Synopsis: The amendment extends the term of the Agreement through August 31, 1993.

Dated: June 30, 1993.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 93–15909 Filed 7–6–93; 8:45 am]

BILLING CODE 6730–01–M

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR part 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, DC 20573.

Pellkirk Services, Inc., 631 E. Dania Beach Blvd., Dania, FL 33004, Officer: Shirley Kirano, President/Director.

Beatriz Caputo, 53 Regis Drive, Staten Island, NY 10314, Sole Proprietor.

Sea Bridge International, Ltd., 80 Lafayette Street, Copiague, NY 11726, Officer: Theodore Mikucki, President.

J.M.C. Cargo Services, Inc., 4575 S.W. 128th Ave., Miami, FL 33175, Officer: Fernando J. Ruiz, Pres./V. Pres./Secre.

Fashion Distribution Services, Inc., 148–08 Guy R. Brewer Blvd., Jamaica, NY 11434, Officers: Anthony Turrigiano, President/Exec. V. Pres., Gabriele Gaetani, Director, Filippo Occaso, Secre./Treas./V. Pres. Admin., James Tortorella, Vice President.

T.H. Kelly International Inc., 813 Grandview Dr., So. San Francisco, CA 94080, Officers: Dean Huang, General Manager, Teddy Tam, Stockholder.

Pacific King, 802 E. Francis Ave., La Habra, CA 90631, Jorge H. Vasquez, Sole Proprietor.

Due International, Inc., 19300 South Hamilton Ave., Ste. 220, Gardena, CA 90248, Officers: Keisuke Yoshitome, Director, Takeshi Sekibe, President, Tatsarin Linpisal, Vice President,

Etsuko Nakamura, Asst. Vice President, Michael Lublinski, Secretary.

Dated: June 30, 1993.

By the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 93–15908 Filed 7–6–93; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

[Docket No. R–0804]

Consolidation of Purchases and Sales Service at Federal Reserve Bank of Chicago

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice.

SUMMARY: The Board requests comment on a proposal by the Federal Reserve Banks to consolidate the priced secondary market purchases and sales of securities service, which is currently provided by eight Reserve Banks, at the Federal Reserve Bank of Chicago. The Reserve Banks propose consolidation at the Chicago Reserve Bank to improve efficiency and contain the costs of providing this service to depository institutions nationwide. The service will be included as a part of the Federal Reserve's priced book-entry securities service, beginning January 1, 1994.

DATES: Comments must be submitted on or before August 6, 1993.

ADDRESSES: Comments, which should refer to Docket No. R–0804, may be mailed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551. Comments addressed to Mr. Wiles may also be delivered to the Board's mail room between 8:45 a.m. and 5:15 p.m., and to the security control room outside of those hours. Both the mail room and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, NW. Comments may be inspected on room B–1122 between 9:00 a.m. and 5:00 p.m., except as provided in § 261.8 of the Board's Rules Regarding the Availability of Information, 12 CFR 261.8.

FOR FURTHER INFORMATION CONTACT: Charles W. Bennett, Assistant Director (202/452-3442), Gerald D. Manypenny, Manager (202/452-3954), or Michael L. Bermudez, Financial Services Analyst (202/452-2216), Division of Reserve Bank Operations and Payment Systems, Board of Governors of the Federal Reserve System. For the hearing impaired *only*, Telecommunications Device for the Deaf (TDD), Dorothea Thompson (202/452-3544), Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

Background

The purchases and sales service consists of the secondary market purchase or sale of U.S. Government securities, which are eligible to be held in Federal Reserve book-entry. Purchases and sales are conducted for institutions' own securities as well as for those of customers. Prior to the passage of the Monetary Control Act of 1980, eleven Reserve Banks[1] offered the service to member banks. Generally, smaller depository institutions with no direct relationship with a securities broker or dealer have relied upon Reserve Banks. With the increased acceptance of book entry and the declining availability of Federal agency securities in definitive form, the requests for purchases and sales evolved from the purchase and sale of definitive securities to primarily book-entry securities. Demand for purchases and sales has declined steadily over the past few years, from 74,000 transactions in 1980 to 18,400 transactions in 1992. The service is currently offered by eight Reserve Banks; these are Boston, Philadelphia, Cleveland, Richmond, Chicago, Minneapolis, Kansas City, and Dallas with the Chicago Reserve Bank processing more than half of the System's annual volume.

Consolidation of the purchases and sales service provides an opportunity to reduce cost with little, if any, impact on the level of service offered to depository institutions. All seven Reserve Banks now offering the service are expected to consolidate by the end of 1994. Two Banks (Cleveland and Kansas City) have asked to consolidate as early as possible.

The Chicago Reserve Bank is prepared to support a consolidated purchases and sales operation at Chicago. A toll-free telephone number would be available nationwide for depository institutions to initiate transactions with the Chicago Reserve Bank. A depository institution's representative, with proper authorization on file with the Chicago Reserve Bank, would initiate orders to purchase or sell securities by telephoning the Chicago Reserve Bank on the recorded toll-free line. After determining that an order to *sell* securities is authentic, the Chicago Reserve Bank would confirm that the securities are held in book-entry form at a Federal Reserve Bank;[2] a minimum of two dealers would be contacted if the transaction is an odd lot; and a minimum of five dealers would be contacted for round-lot transactions. The dealer submitting the best price (bid) generally would be given the order.[3] Orders for the *purchase* of securities for depository institutions also would be received via recorded telephone line and verified for authenticity.[4] Like-securities issues (by CUSIP number) would be combined by Chicago, whenever possible, to obtain the best price. For purchases, the dealer submitting the best price (offer) generally would be given the order.

The Monetary Control Act of 1980 requires that the Federal Reserve price its services to depository institutions to recover the costs incurred in providing those services. Based on the analysis which follows, consolidation of the handling of purchases and sales transactions will provide scale economies and other efficiencies not available at eight separate locations.

The Board, after soliciting public comment, approved in October 1992, a set of factors to be used in its analysis of Reserve Bank requests to withdraw from a priced service line. The Board applied these factors in determining whether the System should withdraw from the definitive safekeeping service, which consists of the definitive securities safekeeping service and the purchases and sales service. Also, after soliciting public comment, the Board, in October 1992, approved the request by the Reserve Banks to withdraw from the definitive safekeeping service line by

[1] In 1980, the eleven Reserve Banks offering the purchases and sales service were Boston, New York, Philadelphia, Cleveland, Richmond, Atlanta, Chicago, Minneapolis, Kansas City, Dallas, and San Francisco. However in some districts, such as San Francisco, demand for the service disappeared following the implementation of service pricing.

[2] When depository institutions located outside of the Chicago Head Office region wish to sell securities, Chicago would request that the institution selling the securities or the Reserve Bank holding the book-entry account for the requesting depository institution transfer the securities to Chicago, thus reducing the book-entry holdings at the sending Reserve Bank and increasing the book-entry holdings at Chicago. The offsetting payment is settled through the Inter-District Settlement Fund on settlement day.

[3] Settlement of transactions in United States Treasury or Agency securities of $100,000 or more normally occurs on the business day following the date of execution of the order. Upon request, if an order is received before 11:00 a.m. (Central Time), the Chicago Reserve Bank endeavors to execute the orders for settlement on the same day as the orders are placed.

[4] Purchases for $500,000 or more are authenticated by telephoning another authorized person of the requesting depository institution other than the original caller.

the end of 1993. Secondary market purchase and sale of securities would continue to be offered, but would no longer be included under the definitive safekeeping service line after 1993.

With the declining volume and consequent prospects for cost recovery, the Federal Reserve Banks have requested approval to consolidate the purchases and sales service at the Chicago Reserve Bank. To ensure that appropriate consideration is given to any public policy issues arising from a proposal to consolidate a priced service across district lines, the Board adopted the following factors to be considered when evaluating proposals to consolidate Reserve Bank priced services across district lines. This proposal has been evaluated against those factors as follows:

A. Maintenance or improvement of cost recovery in a service.

The total savings to the System once consolidation is completed will be at least $100,000 per year, primarily as a result of staff reductions.

B. Improvement of the efficiency of Federal Reserve Bank operations.

The Chicago Reserve Bank has the most automated purchases and sales operation and currently has excess capacity. As a result, it will be able to absorb the System's entire volume without increasing staff.

C. Maintenance or improvement of the level or quality of service.

Through consolidation, the level and quality of service are expected to improve. The Chicago Reserve Bank's purchases and sales staff monitors the secondary securities market electronically throughout the day and times its trades according to the movement in that market in order to obtain the best price for the depository institution. Also, because of its level of volume, the Chicago Reserve Bank has more opportunities to combine small trades in order to obtain a better price and to reduce the amount of the broker's fee that must be passed on to the depository institutions; with more volume, the opportunities to combine trades is likely to increase.

D. Responsiveness to changes in the financial-services industry.

The Chicago Reserve Bank's level of automation and market monitoring make it more consistent with and more flexible in responding to changes in the industry.

E. Effect on private-sector providers of the service.

Given the small volume processed by all the Federal Reserve Banks, consolidation is expected to have no measurable impact on private-sector providers of this service.

F. Effect on users of the service.

As indicated in the comments under Factors a. through d., depository institutions will receive an improved level of service, usually at the same or a lower fee. Also, consolidation will enhance on-going cost containment efforts, thereby delaying or reducing possible future fee increases. The depository institutions will be dealing with employees of a different Federal Reserve Bank, but transactions and accounting entries from the depository institutions side will be handled in generally the same manner as before consolidation.

The Board requests comment on the Federal Reserve Banks' proposal to consolidate the purchases and sales service at the Federal Reserve Bank of Chicago. While comments in general are welcome, it would be helpful to the Board in considering this proposal to receive comments that respond to each of the factors.

Board of Governors of the Federal Reserve System, June 30, 1993.

William W. Wiles,

Secretary of the Board.

[FR Doc. 93–15956 Filed 7–6–93; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Availability of Funds: Cooperative Agreements for Managed Care Demonstration Models for SSI Beneficiaries Disabled Due to Addiction to Alcohol and Other Drugs

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Correction notice.

SUMMARY: Public notice was given in the Federal Register on June 7, 1993, Volume 58, No. 107 that the Center for Substance Abuse Treatment, in cooperation with the Social Security Administration, is soliciting State applications for model programs designed for the referral and monitoring of Supplemental Security Income (SSI) recipients disabled due to drug addiction or alcoholism.

On page 31971, under the ELIGIBILITY section, the exclusion of New York City was an error. The list of eligible states should be corrected to read New York. The parentheses excluding New York City should be deleted.

Dated: June 30, 1993.

Joseph R. Leone,

Acting Deputy Administrator, Substance Abuse and Mental Health Services Administration.

[FR Doc. 93–15894 Filed 7–6–93; 8:45 am]

BILLING CODE 4162–20–M

Centers for Disease Control and Prevention

[Program Announcement Number 332]

1993 Capacity Building for Core Components of Tobacco Prevention and Control Programs

Introduction

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 1993 funds for new competing cooperative agreements to improve or initiate state-based tobacco-control programs. Cooperative agreements will be awarded in two priority areas: (A) Core Capacity and (B) Planning.

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 to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority area of Tobacco, with emphasis on targeted populations specified in risk reduction objective 3.4 and reducing the initiation of smoking by children and youth as described in Objective 3.5. (For ordering a copy of Healthy People 2000, see the Section Where To Obtain Additional Information.)

Authority

This program is authorized under Section 301(a) (42 U.S.C. 241(a)) and 317(k) (42 U.S.C. 247b(k)) of the Public Health Service Act, as amended.

Eligible Applicants

Eligible applicants are the official public health agencies of states or their bona fide agents or instrumentalities. This includes the District of Columbia, American Samoa, the Commonwealth of Puerto Rico, the Virgin Islands, the Federated States of Micronesia, Guam, the Northern Mariana Islands, the Republic of the Marshall Islands, the Republic of Palau, and federally-recognized Indian tribal governments. The following states are not eligible applicants: Colorado, Indiana, Maine,

Massachusetts, Michigan, Minnesota, Missouri, New Jersey, New Mexico, New York, Rhode Island, South Carolina, North Carolina, Virginia, Washington, West Virginia, and Wisconsin. The excluded states are currently funded for activities similar to those cited in this program announcement by the National Cancer Institute under the American Stop Smoking Intervention Study (ASSIST) demonstration program. The ASSIST program provides for support for the demonstration of state-of-the-art tobacco control activities at the state health agency level. As a result, those states currently funded by ASSIST have established many of the components of this programmatic announcement. CDC intends to support full and open competition among the states at the termination of the ASSIST demonstration period.

Availability of Funds

Approximately $3 million is available in FY 1993 to fund programs under this announcement.

1. Approximately $2,500,000 is available to fund approximately 10 awards for core capacity programs. It is expected that the average award will be $250,000 ranging from $150,000 to $300,000.

2. Approximately $500,000 is available to fund approximately 8 awards for planning programs. It is expected that the average planning award will be $65,000 ranging from $50,000 to $100,000.

Awards are expected to begin on or about September 30, 1993, and will be funded for a 12-month budget period within a project period of up to 5 years. Funding estimates may vary and are subject to change. Continuation awards within the project period are made on the basis of satisfactory progress and availability of funds.

At the request of the applicant, Federal personnel may be assigned to a program in lieu of a portion of the financial assistance. Federal funds awarded under this program announcement may not be used to supplant state or local funds.

Purpose

The purpose of this program is to support state health departments for one of two priority areas:

1. Core capacity awards to supplement existing tobacco-control efforts and provide assistance in the development of the essential components of a comprehensive public health tobacco-control program, or

2. Planning awards for initial development of infrastructure in preparation for carrying out a tobacco-control program.

Program Requirements

In conducting activities to achieve the purpose of this program, the recipient shall be responsible for the activities under A., below, and CDC shall be responsible for conducting activities under B., below.

A. Recipient Activities

1. Establish a state level tobacco control coalition that includes representation from key private, professional, voluntary and nonprofit tobacco-control organizations, legislators, consumers, departments of education, youth and other high risk groups and communities, local tobacco control leaders, and constituents such as business, insurance, labor and community leaders. Activities of the network should include determining tobacco control intervention needs and identifying effective programs to be implemented at the local level; information collection and dissemination; providing assistance to and networking at the local, region, and national levels; planning and participation in regional conferences; and collaborate with and use existing statewide 800 toll-free information lines. When appropriate 800 toll-free information lines are not available or they are inadequate, funding should be requested to establish 800 toll-free information lines.

2. Develop or improve a state tobacco-control plan that addresses the Healthy People 2000 tobacco-control objectives and describes:

(a) Goals and objectives to address tobacco control issues within the state.

(b) Proposed strategies to meet the objectives. These strategies are described in the document Strategies To Control Tobacco Use in the United States: A blueprint for public health action in the 1990's, Smoking and Tobacco Control Monographs 1 (For ordering a copy of Strategies to Control Tobacco Use in the United States see the section entitled Where to Obtain Additional Information.)

(c) An assessment of existing and needed resources to develop the comprehensive tobacco-control program.

3. Develop and carry out a state-based surveillance system to monitor changes in disease burden and programmatic impact compatible with ongoing CDC surveillance activities, such as the Behavioral Risk Factor Surveillance System (BRFSS), Youth Risk Behavior Survey (YRBS), Pregnancy Risk Assessment Monitoring System (PRAMS), and any available data within the state, to include hospital discharge data. As a part of these surveillance activities, states could choose to monitor the enforcement of minor access laws. Findings of these surveillance systems should be disseminated statewide.

4. In coordination with CDC, develop an evaluation plan to assess program performance that includes formative and process evaluation.

5. Provide assistance and guidance to the local level for staff support, development, and training. Emphasis should be placed on the delivery of established, effective intervention models with the state providing assistance in the identification and implementation of such activities at the local level.

6. Develop and implement a plan to establish a state-based resource center that will provide information on effective tobacco-control strategies and interventions and a comprehensive public health information and education program based on an assessment of the strategies for successful tobacco-control activities.

7. In coordination with CDC cooperate in conducting national tobacco-control campaigns.

B. CDC Activities

1. Convene meetings for training and sharing information among representatives of states that receive awards.

2. Disseminate to state health departments relevant state-of-the-art research findings and public health recommendations related to tobacco control.

3. Collaborate with recipients in planning, conducting, and evaluating strategies in the project's tobacco-control plan.

4. Collaborate with recipients to develop a surveillance system for the tobacco-control program.

5. Collaborate with recipients to analyze and disseminate outcome and evaluation results for integration into ongoing program activities.

6. Provide guidance in the development and establishment of specific morbidity and mortality reduction objectives.

7. Provide program guidance in the development of intervention strategies for tobacco-control programs.

8. Facilitate exchange of information and strategies for intervention from the national, state, and local level including public and private sector activities.

9. Identify and develop national campaigns and materials for use by the states.

10. At the request of the applicant, assign Federal personnel to a project in lieu of a portion of the financial assistance to assist with program management, training, or other specific activities necessary to carry out the purposes of this program.

Evaluation Criteria

Applications will be reviewed and evaluated according to the following criteria:

A. Background and Need (20 Points)
The extent to which the applicant demonstrates need and identifies barriers/gaps to proposed activities.

B. Goals and Objectives (15 Points)
The extent to which the goals and objectives are specific, measurable, realistic, and timely, and support the objectives of Healthy People 2000.

C. Tobacco Control Plan (20 Points—Core; 10 Points—Planning)
The extent to which the existing or proposed plan demonstrates commitment and the ability to conduct a tobacco-control program consistent with their stated objectives and the objectives of Healthy People 2000.

D. Coordination and Collaboration (10 Points—Core; 20 Points—Planning)
The extent to which the applicant demonstrates the ability to assure community and professional support and involvement, to use available resources, and ensure coalition participation in the development of tobacco-control program strategies.

E. Information and Education Resources (15 Points)
The extent to which the applicant indicates it will share materials, information, and successful interventions with CDC and other collaborative agencies.

F. Surveillance System (10 Points)
The quality of the surveillance plan and its ability to collect relevant data, and target and evaluate program activities.

G. Evaluation Plan (10 Points)
The extent to which the plan presents a reasonable methodology for obtaining data, measuring program effectiveness, reporting results, and using the results for programmatic decision making.

H. Budget (Not Weighted)
The extent to which the budget is reasonable and consistent with the intended use of cooperative agreement funds. (Not Weighted)

Funding Priority

Funding priority will be given to those states in which the State Health Agency expended $1,000,000 or less in FY 1989 for tobacco control activities as reported in the manual entitled: "Reducing the Burden of Chronic Disease: Needs of the States," October 1991, published by the Public Health Foundation. (A copy of the relevant material will be included with the application kit.)

Executive Order 12372 Review

Applications are subject to Intergovernmental Review of Federal Programs as governed by Executive Order 12372. E.O. 12372 sets up a system for state and local government review of proposed Federal assistance applications. Applicants (other than federally-recognized Indian tribal governments) should contact their state Single Point of Contact (SPOC) as early as possible to alert them to the prospective applications and receive any necessary instructions on the state process. For proposed projects serving more than one state, the applicant is advised to contact the SPOC for each affected state. A current list of SPOCs is included in the application kit. If SPOCs have any state process recommendations on applications submitted to CDC, they should forward them to Edwin L. Dixon, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, N.E., Atlanta, Georgia 30305. The due date for state process recommendations is 60 days after the application deadline date for new and competing continuation awards. The granting agency does not guarantee to "accommodate or explain" for state process recommendations it receives after that date.

Public Health System Reporting Requirements

This program is not subject to the Public Health System Reporting Requirement cited in PHS Circular 92.01.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance number is 93.283.

Other Requirements

Paperwork Reduction Act

Projects that involve the collection of information from 10 or more individuals and funded by the cooperative agreement will be subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

Application Submission and Deadline

The original and two copies of the application PHS Form 5161–1 must be submitted to Edwin L. Dixon, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., room 300, Mailstop E–14, Atlanta, Georgia 30305, on or before July 8, 1993.

1. *Deadline:* Applications shall be considered as meeting 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 to the objective review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

2. *Late Applications:* Applications which do not meet the criteria in 1.(a) or 1.(b) above are considered late applications. Late applications will not be considered in the current competition 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 Leah D. Simpson, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., room 300, Mailstop E–14, Atlanta, Georgia 30305, telephone (404) 842–6803. Programmatic technical assistance may be obtained from Corinne R. Meltzer, M.P.H., State Activities Program, Office of Smoking and Health, National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention (CDC), 4770 Buford Highway, NE., Mailstop K–50, Atlanta, Georgia 30341, telephone (404) 488–5707.

Please refer to Announcement Number 332 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) as referenced in the Introduction, and as referenced in the Recipient Activities

section, copies of Strategies To Control Tobacco Use in the United States: a blueprint for public health action in the 1990's, Smoking and Tobacco Control Monographs 1, (NIH Publication No. 92–3316), through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325, telephone (202) 783–3238.

Dated: June 30, 1993.

Robert L. Foster,

Acting Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).

[FR Doc. 93–15947 Filed 7–6–93; 8:45 am]

BILLING CODE 4160–18–P

Meetings

The National Center for Environmental Health (NCEH) of the Centers for Disease Control and Prevention (CDC) announces the following meeting.

Name: Idaho Community Forum for the Department of Health and Human Services' (HHS) Energy-Related Health Research.

Time and Date: 6 p.m.–9 p.m., July 19, 1993.

Place: Blackfoot City Hall, 157 North Broadway, Second Floor Council Chambers, Blackfoot, Idaho 83221.

Status: Open to the public, limited only by space available.

Purpose: To discuss a draft plan for the Idaho Community Forum for HHS energy-related health research.

Matters To Be Discussed: The meeting will be lead by CDC staff who will begin the meeting with background information on HHS activities at the Idaho National Engineering Laboratory and a presentation of a community involvement plan. From 7 p.m.–9 p.m. the meeting will be open for public comments and discussion of the community involvement plan.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Leeann Denham, Program Analyst, Radiation Studies Branch, Division of Environmental Hazards and Health Effects, NCEH, CDC, 4770 Buford Highway, NE, (F35), Atlanta, Georgia 30341–3724, telephone 404/488–7040.

Dated: July 1, 1993.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control and Prevention (CDC).

[FR Doc. 93–16073 Filed 7–6–93; 8:45 am]

BILLING CODE 4160–18–M

Food and Drug Administration

Committee on Food Chemicals Codex, Institute of Medicine, National Academy of Sciences; Notice of Open Workshop on Analytical Methods for Food Ingredients

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the Institute of Medicine's Committee on Food Chemicals Codex will hold an open workshop on Analytical Methods for Food Ingredients. The workshop will be held in conjunction with the Association of Official Analytical Chemists International 107th Annual Meeting.

DATES: The workshop will be held on Thursday, July 29, 1993, 2 p.m. to 5 p.m., and Friday, July 30, 1993, 9 a.m. to 12 p.m. The workshop is open to the public. No registration is required.

ADDRESSES: The workshop will be held at the Ramada Renaissance Hotel, 999 Ninth St. NW., Washington, DC 20001.

FOR FURTHER INFORMATION CONTACT: Fatima N. Johnson, Committee on Food Chemicals Codex, Food and Nutrition Board, National Academy of Sciences, 2101 Constitution Ave. NW., Washington, DC 20418, 202–334–2580, or Paul M. Kuznesof, Center for Food Safety and Applied Nutrition (HFS–247), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–254–9537.

SUPPLEMENTARY INFORMATION: As the committee prepares a new fourth edition of the Food Chemicals Codex, it recognizes the need to explore the state-of-the-art methodologies that are being used by industry and to discuss whether these methodologies are applicable for routine compliance and quality monitoring of food chemicals. Specifically, the committee will examine the determination/quantitation of trace element impurities and organic volatile and nonvolatile impurities to ensure the safety and high quality of food chemicals. Food Chemicals Codex specifications, FDA regulations, and efforts at international harmonization will also be addressed. Each half-day session will feature six speakers and a panel discussion.

Dated: June 30, 1993.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 93–15895 Filed 7–6–93; 8:45 am]

BILLING CODE 4160–01–F

National Institutes of Health

National Heart, Lung, and Blood Institute; Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meetings of the following Heart, Lung, and Blood Special Emphasis Panels.

These meetings will be closed in accordance with the provisions set forth in section 552b(c)(4) and 552(b)(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92–463, for the review, discussion and evaluation of individual grant applications, contract proposals, and/or cooperative agreements. These applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Panel: NHLBI SEP on Collaborative Projects (R01) on Minority Health (Pulmonary)

Dates of Meeting: July 18–19, 1993

Time of Meeting: 8 p.m.

Place of Meeting: Ramada Inn, Bethesda, Maryland

Agenda: To review and evaluate grant applications.

Contact Person: Carl A. Ohata, Ph.D., 5333 Westbard Avenue, room 5A09, Bethesda, Maryland 20892. (301) 594–7483

Name of Panel: NHLBI SEP on Collaborative Projects (R01) on Minority Health (Cardiovascular Diseases)

Dates of Meeting: July 19–20, 1993

Time of Meeting: 7:30 p.m.

Place of Meeting: Holiday Inn, Bethesda, Maryland

Agenda: To review and evaluate grant applications.

Contact Person: Anthony M. Coelho, Ph.D., 5333 Westbard Avenue, room 648, Bethesda, Maryland 20892. (301) 594–7485.

(Catalog of Federal Domestic Assistance Program Nos. 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; and 93.839, Blood Diseases and Resources Research, National Institutes of Health.)

Dated: June 30, 1993.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 93–16002 Filed 7–6–93; 8:45 am]

BILLING CODE 4140–01–M

National Cancer Institute; Meeting (President's Cancer Panel Special Commission on Breast Cancer)

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the President's Cancer Panel Special

Commission on Breast Cancer, National Cancer Institute, July 21–22, 1993 at Hyatt Regency at Reston, 1800 President Street, Reston, Virginia 20090.

This meeting will be open to the public on July 21, 1993 from 8:30 a.m. to approximately 4 p.m. The topics will include public policy and legislative issues.

In accordance with provisions set forth in section 552b(c)(9)(B), title 5, U.S.C. and section 10(d) of Public Law 92–463, the meeting will be closed to the public on July 21 from approximately 4 p.m. to recess and on July 22 from 8 a.m. to adjournment. The Commission needs to meet in closed session in order to evaluate the information obtained from previous open sessions, and to prepare a draft report formulating recommendations to be provided to the Director, NCI and the Chairman of the President's Cancer Panel. It is likely that premature disclosure of these findings and recommendations would significantly frustrate their implementation by the National Cancer Institute.

Ms. Carole Frank, Committee Management Specialist, National Cancer Institute, Executive Plaza North, room 630, 9000 Rockville Pike, National Institutes of Health, Bethesda, Maryland 20892 (301/496–5708) will provide a summary of the meeting and roster of the committee members upon request.

Individuals who plan to attend and need special assistance such as sign language interpretation or other reasonable accommodations should contact Ms. Nora Winfrey, (301/496–1148), in advance of the meeting.

Ms. Iris Schneider, Executive Secretary, President's Cancer Panel Special Commission on Breast Cancer, National Cancer Institute, Building 31A, room 11A48, 9000 Rockville Pike, National Institutes of Health, Bethesda, Maryland 20892 (301–496–5534) will furnish substantive program information.

This notice is being published less than 15 days prior to the meeting due to conflict of schedules of committee members.

Date: June 30, 1993.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 93–16003 Filed 7–6–93; 8:45 am]

BILLING CODE 4140–01–M

Division of Research Grants; Meetings

Pursuant to Public Law 92–463, notice is hereby given of meetings of the Division of Research Grants Behavioral and Neurosciences Special Emphasis Panel.

The meetings will be closed in accordance with the provisions set forth in section 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92–463, for the review, discussion and evaluation of individual grant applications and Small Business Innovation Research Program Applications in the various areas and disciplines related to behavior and neuroscience. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Office of Committee Management, Division of Research Grants, Westwood Building, National Institutes of Health, Bethesda, Maryland 20892, telephone 301–594–7265, will furnish summaries of the meetings and rosters of panel members.

Meetings to Review Small Business Innovation Research Program Applications

Scientific Review Administrator: Dr. Joseph Kimm (301) 594–7257
Date of Meeting: July 21, 1993
Place of Meeting: Embassy Suites Hotel, Chevy Chase, MD
Time of Meeting: 9 a.m.

Scientific Review Administrator: Dr. Keith Murray (301) 594–7145
Date of Meeting: July 28–29, 1993
Place of Meeting: OMNI Georgetown Hotel, Washington, DC.
Time of Meeting: 9 a.m.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: June 30, 1993.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 93–16004 Filed 7–6–93; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–964–4230–05–P; F–14909–A]

Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of section 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(a), will be issued to Kuugpik Corporation, Inc. for approximately 23,038.51 acres. The lands involved are in the vicinity of Nuiqsut, Alaska.

Umiat Meridian, Alaska

T. 11 N., R. 4 E.
T. 13 N., R. 4 E.
T. 10 N., R. 5 E.
T. 11 N., R. 5 E.
T. 12 N., R. 5 E.
T. 10 N., R. 6 E.
T. 11 N., R. 6 E.
T. 12 N., R. 6 E.

A notice of the decision will be published once a week, for four (4) consecutive weeks, in the North Slope Sentinal. Copies of the decision may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599 ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government or regional corporation, shall have until August 6, 1993 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, subpart E, shall be deemed to have waived their rights.

Carolyn A. Bailey,

Lead Land Law Examiner, Branch of Doyon/Northwest Adjudication.

[FR Doc. 93–15948 Filed 7–6–93; 8:45 am]

BILLING CODE 4310–JA–P

Fish and Wildlife Service

Notice of Intent to Conduct a Public Meeting to Present Alternatives for the Master Plan/EIS for Bayou Sauvage National Wildlife Refuge in Orleans Parish, Louisiana

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that the Fish and Wildlife Service (FWS) intends to conduct a public meeting to present alternatives for the Master Plan/EIS for the 22,770-acre Bayou Sauvage National Wildlife Refuge in Orleans Parish, Louisiana. Alternatives will be for the physical facilities and programs in response to the purpose for which the refuge was established and project goals.

The purposes for which the refuge was established are:

(1) To enhance the population of migratory, shore, and wading birds;

(2) To encourage natural diversity of fish and wildlife species;

(3) To protect endangered and threatened species, and to provide for the conservation of fish and wildlife;

(4) To fulfill the international treaty obligations of the United States respecting fish and wildlife;

(5) To protect the archaeological resources;

(6) To provide opportunities for scientific research and environmental education, with emphasis being given to the ecological and other values of wetlands; and

(7) To provide opportunities for fish- and wildlife-oriented public use and recreation in an urban setting.

Previous public meetings were held on December 17, 1992, and January 13, 1993. Public input was received and project goals were formulated. Project goals are:

Habitat Preservation Goal—To maintain and restore the presence, natural diversity, productivity, vigor and natural integrity of all natural habitats.

Fish and Wildlife Resource Protection Goal—To enhance, maintain, and protect the natural diversity of fish and wildlife species in balance with their habitats.

Archaeological Resource Protection Goal—To identify, preserve, describe, and interpret archaeological resources.

Public Use Goal—To provide public use in the form of environmental education, wildlife and habitat interpretation, wildlife/wildlands oriented recreation, and scientific research in a manner that it is not detrimental to habitat, fish, and wildlife resources and archaeological resources.

Environmental Integrity Goal—To foster a strong resource stewardship ethic of the Refuge in the New Orleans Metropolitan Area, the State of Louisiana, and the Nation.

This meeting will be the third in a series of four. At this meeting, alternatives will be presented for public review and comment.

This notice is being furnished as required by the National Environmental Policy Act (NEPA) Regulations (40 CFR 1501.7) to obtain suggestions and information from other agencies and the public on the alternatives presented in the Master Plan/EIS. Comments and participation at this Public Meeting are solicited.

DATES: Written comments should be received by September 4, 1993. A public meeting will be held Wednesday, August 4, 1993, at 7 p.m. at the Sarah T. Reed High School, 5316 Michoud Blvd., New Orleans, LA 70126.

ADDRESSES: Comments should be addressed to: U.S. Fish and Wildlife Service, 1010 Gause Blvd., Bldg. 936, Slidell, LA 70458.

FOR FURTHER INFORMATION CONTACT:

Dan Tabberer, Wildlife Biologist, 1010 Gause Blvd., Bldg. 936, Slidell, LA 70458, (504) 646–7579.

SUPPLEMENTARY INFORMATION: Howard E. Poitevint is the primary author of this document. The document is being prepared under contract by the consulting firm of Cashio, Cochran, Torre/Design Consortium Ltd., N.Y. Associates, Inc., and Coastal Environments, Inc., 5005 Magazine Street, New Orleans, LA 70115.

The FWS, Department of the Interior, proposes to develop and evaluate four alternatives. The alternatives will be in the form of a Master Plan/EIS detailing and discussing the intended Program for Bayou Sauvage National Wildlife Refuge pursuant to governing laws and regulations. The Plan will detail and discuss the existing natural and socioeconomic environment; the management objectives and strategies; rationale for selecting management objectives and strategies; and anticipated results from achievement of management objectives. Management of the natural environment for fish and wildlife conservation, public use, research, and environmental education shall be discussed in detail in a Master Plan. The Plan will detail the concept, location on a map, general size, capacity for handling Program needs, and order of magnitude costs of physical facilities.

Bayou Sauvage National Wildlife Refuge is in custodial status without a Refuge Management Plan. Four alternatives have been identified. Significant issues to be covered in the alternatives are habitat preservation, fish and wildlife conservation, public use, environmental education, endangered species protection, research, and development of physical facilities.

The environmental review of this project will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4371 et. seq.), NEPA Regulations (40 CFR 1500–1508), other appropriate Federal regulations, and FWS procedures for compliance with those regulations.

We estimate DEIS will be made available to the public by December 31, 1993.

Dated: June 30, 1993.

James W. Pulliam, Jr.,

Regional Director, Region 4, Atlanta, GA.

[FR Doc. 93–15944 Filed 7–6–93; 8:45 am]

BILLING CODE 4310–55–M

INTERSTATE COMMERCE COMMISSION

[Section 5a Application No. 1 and Amendment No. 9]

Household Goods Carriers' Bureau, Inc.—Agreement

AGENCY: Interstate Commerce Commission.

ACTION: Notice of decision and opportunity for comment.

SUMMARY: Household Goods Carriers' Bureau, Inc. (HGCB), has filed a petition seeking approval of a minor amendment to its collective ratemaking agreement, which was previously approved under 49 U.S.C. 10706(b). The amendment would allow HGCB to: (a) Merge with the American Movers Conference (AMC); (b) change its name to the American Movers Conference; (c) adopt the existing AMC bylaws with appropriate changes; (d) create the Household Goods Carriers' Bureau Committee as a standing autonomous committee; and (e) reframe the HGCB "bylaws" as an "agreement", with appropriate changes. The Commission has issued a decision proposing to approve the amendment.

Copies of HGCB's No. 1 approved agreement and the amendment are available for public inspection and copying at the Public Docket Room (Room 1227) of the Commission in Washington, DC, and from HGCB's representatives: Thomas M. Auchincloss, Jr., and Brian L. Troiano 1920 N Street, NW., suite 420, Washington, DC 20036.

DATES: Comments from interested persons are due August 7, 1993. Replies are due August 23, 1993. If no timely filed adverse comments are received, the sought relief will automatically become effective at the close of the comment period. If opposition comments are filed, the comments and any reply will be considered, and the Commission will issue a final decision.

ADDRESSES: An original and 10 copies, if possible, of comments referring to Section 5a Application No. 1 should be sent to: Office of Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423. A copy of any comments filed with the Commission must also be served on applicant's representatives.

FOR FURTHER INFORMATION CONTACT: Richard Felder, (202) 927–5610, [TDD for hearing impaired: (202) 927–5721].

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pickup in person from: Dynamic Concepts, Inc., room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289–4357/4359. [Assistance for the hearing impaired is available through TDD services (202) 927–5721.]

Authority: 49 U.S.C. 10321 and 10706 and 5 U.S.C. 553.

Decided: June 25, 1993.

By the Commission, Chairman McDonald, Vice Chairman Simmons, Commissioners Phillips, Philbin, and Walden.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc 93–15978 Filed 7–6–93; 8:45 am]

BILLING CODE 7035–01–P

[Docket No. AB–6; Sub-No. 350X]

Burlington Northern Railroad Company—Abandonment Exemption—in Okanogan County, WA

Burlington Northern Railroad Company (BN) has filed a notice of exemption under 49 CFR Part 1152 Subpart F—Exempt Abandonments to abandon its 1.238-mile line of railroad between milepost 122.772 and milepost 124.000 in Oroville, in Okanogan County, WA.

BN has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period; and (4) that the requirements at 49 CFR 1105.7, 49 CFR 1105.8, 49 CFR 1105.11, 49 CFR 1105.12, and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandoment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on August 6, 1993, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29[3] must be filed by July 19, 1993. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by July 27, 1993, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any pleading filed with the Commission should be sent to applicant's representative: Sarah J. Whitley, Burlington Northern Railway Company, 3800 Continental Plaza, 777 Main Street, Forth Worth, TX 76102.

If the notice of exemption contains false or misleading information, the use of the exemption is void *ab initio.*

BN has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. The Section of Energy and Environment (SEE) will issue an environmental assessment (EA) by July 12, 1993. Interested persons may obtain a copy of the EA by writing to SEE (Room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief of SEE, at (202) 927–6248. Comments on environmental and historic preservation matters must be filed within 15 days after the EA is available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: June 29, 1993.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–15977 Filed 7–6–93; 8:45 am]

BILLING CODE 7035–01–M

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[1] A stay will be issued routinely by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Commission's Section of Energy and Environment in its independent investigation) cannot be made prior to the effective date of the notice of exemption. See Exemption of Out-of-Service Rail Lines, 5 I.C.C.2d 377 (1989). Any entity seeking a stay on environmental concerns is encouraged to file its request as soon as possible in order to permit the Commission to review and act on the request before the effective date on this exemption.

[2] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

[3] The Commission will accept a late-filed trail use request as long as it retains jurisdiction to do so.

[Docket No. AB–55 (Sub-No. 409X)]

CSX Transportation, Inc.—Abandonment Exemption—in Richmond County, NC

CSX Transportation, Inc. (CSXT) has filed a notice of exemption under 49 CFR part 1152 Subpart F—*Exempt Abandonments* to abandon its approximately 1.4-mile line of railroad in Rockingham, Richmond County, NC, between: (1) Valuation Station 317+27=0+00 and Valuation Station 47+45; and (2) Valuation Station 45+35=0+00 and Valuation Station 25+25.

CSXT has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or by a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7(b) (service of environmental report on agencies), 49 CFR 1105.8(c) (service of historic report on State Historic Preservation Officer), 49 CFR 1105.12 (newspaper publication) and 49 CFR 1152.50(d)(1) (notice to government agencies) has been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on August 6, 1993, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and

[1] A stay will be issued routinely by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Commission's Section of Energy and Environment in its independent investigation) cannot be made before the effective date of the notice of exemption. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any entity seeking a stay involving environmental concerns is encouraged to file its request as soon as possible in order to permit this Commission to review and act on the request before the effective date of this exemption.

[2] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

trail use/rail banking requests under 49 CFR 1152.29[3] must be filed by July 19, 1993. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by July 27, 1993, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20403.

A copy of any pleading filed with the Commission should be sent to applicant's representative: Charles M. Rosenberger, 500 Water Street J150, Jacksonville, FL 32202.

If the notice of exemption contains false or misleading information, the use of the exemption is void *ab initio*.

Applicant has filed an environmental report which addresses the abandonment's effects, if any, on the environmental and historic resources. The Section of Energy and Environment (SEE) will issue an environmental assessment (EA) by July 12, 1993. Interested persons may obtain a copy of the EA by writing to SEE (Room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief of SEE, at (202) 927–6248. Comments on environmental and historic preservation matters must be filed within 15 days after the EA is available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: June 29, 1993.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–15976 Filed 7–6–93; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OMB)

BACKGROUND: The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. chapter 35), considers comments on the reporting/recordkeeping requirements that will affect the public.

LIST OF RECORDKEEPING/REPORTING REQUIREMENTS UNDER REVIEW: As necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of the particular submission they are interested in.

Each entry may contain the following information:

The Agency of the Department issuing this recordkeeping/reporting requirement.

The title of the recordkeeping/reporting requirement.

The OMB and/or Agency identification numbers, if applicable.

How often the recordkeeping/reporting requirement is needed.

Whether small businesses or organizations are affected.

An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements and the average hours per respondent.

The number of forms in the request for approval, if applicable.

An abstract describing the need for and uses of the information collection.

COMMENTS AND QUESTIONS: Copies of the recordkeeping/reporting requirements may be obtained by calling the Departmental Clearance Officer, Kenneth A. Mills ((202) 219–5095). Comments and questions about the items on this list should be directed to Mr. Mills, Office of Information Resources Management Policy, U.S. Department of Labor, 200 Constitution Avenue, NW., room N–1301, Washington, DC 20210. Comments should also be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for (BLS/DM/ESA/ETA/OLMS/MSHA/OSHA/PWBA/VETS), Office of Management and Budget, room 3001, Washington, DC 20503 ((202) 395–6880).

Any member of the public who wants to comment on recordkeeping/reporting requirements which have been submitted to OMB should advise Mr. Mills of this intent at the earliest possible date.

Extension

Mine Safety and Health Administration

Main Fan Operation and Inspection (30 CFR 57.22204)

1219–0030

Daily

Businesses or other for-profit; Small businesses or organizations 8 respondents; 187.5 hours per response; 1,500 total hours Requires main fans for underground gassy mines to have pressure-recording systems. The fans are required to be examined daily while operating if persons are underground. Records of pressure-recording system testing are required to be kept one year and are to be made available upon request to authorized representatives of the Secretary of Labor.

Extension

Mine Safety and Health Administration

1219–0043

Other: Upon application for an MSHA identification number Businesses or other for-profit; Small businesses or organizations 1,465 respondents; 8 minutes per response; 190 total hours Provides that independent contractors may voluntarily obtain a permanent MSHA identification number by submitting to MSHA their trade name, telephone number and business address of the independent contractor, and an estimate of the annual hours worked by the independent contractor on mine property for the previous calendar year.

Revision

Employment Standards Administration

FECA Medical Report Forms 1215–0103; CA–16b; 17b, 20, 20a, 1090, 1302, 1303, 1305, 1306, 1314, 1316, 1331, 1332, 1336, OWCP–5a, 5b, 5c

As needed

Businesses or other for-profit; Small businesses or organizations

Form No.	Number of responses	Min. per response
CA–16b	157,000	30
CA–17b	134,000	5
CA–20	92,000	30
CA–20a	20,000	30
CA–1090	1,800	30
CA–1302	7,000	30
CA–1303	11,250	45
CA–1305	1,000	20
CA–1306	900	10
CA–1314	2,000	20
CA–1316	10,000	10
CA–1331	1,500	5
CA–1332	1,500	30
CA–1336	20,000	5
OWCP–5a	7,000	40
OWCP–5b	5,000	20
OWCP–5c	15,000	20
175,198 total hours		

Information obtained through the use of these FECA medical report forms is necessary to determine whether or not a Federal employee who has filed a claim under the Federal Employees Compensation Act (FECA) 5 U.S.C. 8101 et seq., is entitled to compensation.

[3] The Commission will accept a late-filed trail use request as long as it retains jurisdiction to do so.

Signed at Washington, DC, this 1st day of July, 1993.

Kenneth A. Mills,

Departmental Clearance Officer.

[FR Doc. 93–15992 Filed 7–6–93; 8:45 am]

BILLING CODE 4510–43–P

Employment and Training Administration

[TA–W–28,493 and TA–W–28,493A]

Charm Corp., Ridgeway, SC, and Charmtex Corp., New York, NY; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on May 28, 1993, applicable to all workers of the Charm Corporation in Ridgeway, South Carolina. The Notice was published in the **Federal Register** on June 15, 1993 (58 FR 33122).

At the request of the workers the Department reviewed the certification for workers of the Charm Corporation in Ridgeway, South Carolina. New information from the company shows that worker separations occurred at the New York, New York merchandising and design affiliate of the Charm plant Ridgeway, South Carolina.

The intent of the Department's certification is to include all workers of the Charm Corporation and its merchandising and design affiliate in New York, New York. The amended notice applicable to TA–W–28,493 is hereby issued as follows:

"All workers of the Charm Corporation in Ridgeway, South Carolina and its manufacturing and design facility Charmtex Corporation in New York, New York engaged in employment related to ladies' loungewear and children's sportswear who became totally or partially separated from employment on or after March 15, 1992 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974."

Signed at Washington, DC, this 25th day of June 1993.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 93–15993 Filed 7–6–93; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–28, 651]

Ciba-Geigy Corp., Toms River, NJ; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on May 10, 1993 in response to a worker petition which was filed on behalf of workers at Ciba-Geigy Corporation, Toms River, New Jersey.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC this 24th day of June, 1993.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 93–15994 Filed 7–6–93; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–27,877]

General Electric Co., Aerospace Electronic Systems a/k/a Martin Marietta, Utica, NY; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on December 4, 1992, applicable to the workers at General Electric Aerospace Electronic Systems in Utica, New York. The certification notice was published in the **Federal Register** on December 30, 1992 (57 FR 62389).

At the request of the New York State Agency, the Department reviewed the certification for workers of the subject firm. The investigation findings show that Martin Marietta purchased the Aerospace Electronics Systems from General Electric in March, 1993 and is a successor-in-interest firm. The same product is being produced at Martin Marietta with the same workforce as employed earlier by General Electric. Martin Marietta is experiencing worker separations in 1993.

Accordingly, the Department is amending the certification to show the correct worker group.

The intent of the Department's certification is to include all workers of the Aerospace Electronic Systems Division of General Electric Company and Martin Marietta in Utica, New York who were adversely affected by increased imports of printed circuit boards.

The amended notice applicable to TA–W–27,877 is hereby issued as follows:

All workers of General Electric Company, Aerospace Electronic Systems also known as Martin Marietta Aerospace Electronic Systems in Utica, New York who became totally or partially separated from employment on or after October 26, 1992 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 28th day of June 1993.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 93–15995 Filed 7–6–93; 8:45 am]

BILLING CODE 4510–30–M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under title II, chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than July 19, 1993.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than July 19, 1993.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC, this 21st day of June 1993.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (union/workers/firm)	Location	Date received	Date of petition	Petition No.	Articles produced
Highland Co (Workers)	Odessa, TX	6/21/93	6/10/93	28,784	Barrels, plungers, fittings.
Cable Electric Prod. Leviton Mfg (Workers).	Providence, RI	6/21/93	6/11/93	28,785	Electronic products.
Doulgas Aircraft Co (Workers)	Phoenix, AZ	6/21/93	5/13/93	28,786	Computer systems.
Owens-Brockway (Co)	Minneapolis, MN	6/21/93	5/26/93	28,787	Plastic closures.
Schindler Elevator Corp (Workers)	Gettysburg, PA	6/21/93	5/03/93	28,788	Door operators and safety edges.
Quality Manufacturing, Inc (Workers)	Saxton, PA	6/21/93	6/09/93	28,789	Ladies' dresses and suits.
Quality Manufacturing, Inc (Workers)	Martinsburg, PA	6/21/93	6/09/93	28,790	Ladies' dresses and suits.
Union Apparel (ACTWU)	Norvelt, PA	6/21/93	6/15/93	28,791	Men's and women's sportcoats.
Pyke Mfg Coarel (Co)	Manti, UT	6/21/93	6/11/93	28,792	Women's apparel.
Petroleum Testing Service (Workers)	Santa Fe Springs, CA.	6/21/93	12/11/93	28,793	Oil Services.
Oxford of Alma, South (Workers)	Alma, GA	6/21/93	5/28/93	28,794	Ladies' dresses, pants, shorts & jackets.
L & J Leather Coats & Jackets, Inc (Workers).	New York, NY	6/21/93	3/11/93	28,795	Leather coats and jackets.
Hexcel Corp (Workers)	Graham, TX	6/21/93	5/06/93	28,796	Honeycomb core for aircraft bodies.
H.F.S. Apparel Manufacturing, Inc (Workers).	Weissport, PA	6/21/93	6/09/93	28,797	Activewear T-shirts, pants and shorts.
Hermitage Hospital Products (Co)	Niantic, CT	6/21/93	6/09/93	28,798	Gauze pads and dressings.
IMC Fertilizer, Inc (Co)	Bartow, FL	6/21/93	6/04/93	28,799	Phosphate rock and ore.
Iwatsu America, Inc (Workers)	Carlstadt, NJ	6/21/93	6/08/93	28,800	Telecommunicati on products.
Gage Marketing Group (Workers)	El Paso, TX	6/21/93	6/01/93	28,801	Provide coupons & coupon refunds.
Digital Equipment Corp (Workers)	Maynard, MA	6/21/93	6/02/93	28,802	Support services for digital equip.
Suburban Sportswear (ILGWU)	Orange, NJ	6/21/93	6/09/93	28,803	Coats.
Digicon Geophysical Corp (Workers)	Houston, TX	6/21/93	6/10/93	28,804	Oil and gas.
Bull HN Information Systems (Workers)	Phoenix, AZ	6/21/93	5/13/93	28,805	Large computers.
Brown Group, Inc (Workers)	Trenton, TN	6/21/93	6/03/93	28,806	Transporting of shoes.
ACPC, Inc (ABGW)	Massena, NY	6/21/93	6/11/93	28,807	Electrical cable products.

[FR Doc. 93–15996 Filed 7–6–93; 8:45 am]
BILLING CODE 4510–30–M

Labor Surplus Area Classification Under Executive Orders 12073 and 10582; Notice of an Addition to the Annual List of Labor Surplus Areas

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

DATES: This addition to the annual list of labor surplus areas is effective July 1, 1993.

SUMMARY: The purpose of this notice is to announce an addition to the annual list of labor surplus areas.

FOR FURTHER INFORMATION CONTACT: Richard Hardin, Chief, Division of Planning, USES, Employment and Training Administration, 200 Constitution Avenue NW., room N–4470, Attention: TEESS, Washington, DC 20210. Telephone: 202–219–5185.

SUPPLEMENTARY INFORMATION: Executive Order 12073 requires executive agencies to emphasize procurement set-asides in labor surplus areas. The Secretary of Labor is responsible under that Order for classifying and designating areas as labor surplus areas. Executive agencies should refer to Federal Acquisition Regulation Part 20 (48 CFR part 20) in order to assess the impact of the labor surplus area program on particular procurements.

Under Executive Order 10582 executive agencies may reject bids or offers of foreign materials in favor of the lowest offer by a domestic supplier, provided that the domestic supplier undertakes to produce substantially all of the materials in areas of substantial unemployment as defined by the Secretary of Labor. The preference given to domestic suppliers under Executive Order 10582 has been modified by Executive Order 12260. Federal Acquisition Regulation Part 25 (48 CFR part 25) implements Executive Order 12260. Executive agencies should refer to Federal Acquisition Regulation Part 25 in procurements involving foreign businesses or products in order to assess its impact on the particular procurements.

The Department of Labor regulations implementing Executive Orders 12073 and 10582 are set forth at 20 CFR part 654, subparts A and B. Subpart A requires the Assistant Secretary of Labor to classify jurisdictions as labor surplus areas pursuant to the criteria specified in the regulations and to publish annually a list of labor surplus areas. Pursuant to those regulations the Assistant Secretary of Labor published the annual list of labor surplus areas on October 6, 1992 (57 FR 46050).

Subpart B of part 654 states that an area of substantial unemployment for purposes of Executive Order 10582 is any area classified as a labor surplus area under subpart A. Thus, labor surplus areas under Executive Order 12073 are also areas of substantial unemployment under Executive Order 10582.

The area described below has been classified by the Acting Assistant Secretary as a labor surplus area pursuant to 20 CFR 654.5(b) (48 FR 15615 April 12, 1983) and is effective July 1, 1993.

The list of labor surplus areas is published for the use of all Federal agencies in directing procurement activities and locating new plants or facilities.

Signed at Washington, DC on June 25, 1993.

Carolyn M. Golding,

Acting Assistant Secretary.

ADDITION TO THE ANNUAL LIST OF LABOR SURPLUS AREAS

[July 1, 1993]

Labor surplus areas	Civil jurisdictions included
Maryland:	
Wicomico County ...	Wicomico County.

[FR Doc. 93–15997 Filed 7–6–93; 8:45 am]
BILLING CODE 4510–30–M

Occupational Safety and Health Administration

National Advisory Committee on Occupational Safety and Health

AGENCY: Occupational Safety and Health Administration (OSHA), U.S. Department of Labor.

ACTION: Request for nominations—extension of time for submissions.

SUMMARY: On June 1, 1993, the Assistant Secretary of Labor for Occupational Safety and Health published a notice requesting nominations for membership on the National Advisory Committee on Occupational Safety and Health (NACOSH). Nominations were to be submitted by June 30, 1993. That deadline is now extended 30 days until July 30.

NACOSH was established under 7(a) of the Occupational Safety and Health Act of 1970 to advise the Secretary of Labor and the Secretary of Health and Human Services on matters relating to the administration of the Act.

Nominations will be accepted for 12 vacancies occurring in the following categories: Four public representatives; two management representatives; two labor representatives; two occupational safety representatives; and two occupational health representatives. The terms for six members will be for one year and the terms for the remaining six members will be for two years. Any interested person or organization may nominate one or more qualified persons for membership. Nominees should be identified by name, place of birth, occupation or position, address, and telephone number. The category which the candidate would represent should be specified and a resume of the nominee's background, experience, and qualifications included. In addition, the nomination should state that the nominee is aware of the nomination and is willing to serve as a committee member for a two year term.

DATES: Nominations must be submitted no later than July 30, 1993.

ADDRESSES: Nominations should be submitted to Tom Hall, Division of Consumer Affairs, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, room N–3647, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington DC 20210.

Signed at Washington, DC this 30th day of June, 1993.

David C. Zeigler,

Acting Assistant Secretary.

[FR Doc. 93–15998 Filed 7–6–93; 8:45 am]
BILLING CODE 4510–26–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 93–059]

NASA Advisory Council (NAC), Aeronautics Advisory Committee (AAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Aeronautics Advisory Committee.

DATES: August 4, 1993, 8 a.m. to 5 p.m.

ADDRESSES: National Aeronautics and Space Administration, Room 6H46, 300 E Street, SW., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Ms. Catherine Smith, Office of Aeronautics, National Aeronautics and Space Administration, Washington, DC 20546 (202/554–0501).

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Aeronautics Update
—High Speed Research Plan
—Rotorcraft Technology Roadmap
—Subsonic and Transonic Facilities
—Computational Aerosciences Planning
—Final Report on U.S. General Aviation Task Force
—NASA Involvement in Manufacturing Technology
—Situational Awareness Research
—Future Program Directions
—Future AAC Emphasis

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants.

Dated: June 30, 1993.

Timothy M. Sullivan,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 93–16000 Filed 7–6–93; 8:45 am]
BILLING CODE 7510–01–M

NUCLEAR REGULATORY COMMISSION

Biweekly Notice of Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law 97-415, the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. Public Law 97-415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from June 14, 1993, through June 24, 1993. The last biweekly notice was published on June 23, 1993 (58 FR 34069).

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period.

However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish in the Federal Register a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this Federal Register notice. Written comments may also be delivered to Room P-223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

By August 6, 1993, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, 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 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 248-5100 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to (Project Director): petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for

amendment which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the local public document room for the particular facility involved.

Boston Edison Company, Docket No. 50-293, Pilgrim Nuclear Power Station, Plymouth County, Massachusetts

Date of amendment request: May 20, 1993

Description of amendment request: The proposed amendment reduces the main steam isolation valve low turbine inlet pressure (MSIVLTIP) setpoint from greater than or equal to 880 pounds per square inch gauge (psig) to greater than or equal to 810 psig, and reduces the minimum pressure in the definition of RUN mode from 880 psig to 785 psig.

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 operation of Pilgrim Station in accordance with the proposed amendment will not involve a significant increase in the probability or consequences of an accident previously identified.

The MSIVLTIP setpoint is associated with the primary containment and reactor vessel isolation control system. The safety purpose of this system is to automatically initiate closure of isolation valves to ensure radiological releases to the environs are less than the maximum allowed by 10CFR100. However, the MSIVLTIP setpoint does not affect the safety function of the primary containment and reactor vessel isolation control system. While the MSIV low-pressure setpoint can initiate isolation of the primary containment and reactor vessel, assessments of radiological releases do not take credit for automatic isolation initiated by a trip of the MSIV low-pressure setpoint. For the design basis steam line break, radiological releases are assessed assuming automatic isolation initiated by a high steam line flow rate. For a small steam line break, radiological releases are assessed assuming automatic isolation initiated by high radiation in the steam tunnel or high temperature in the turbine building. MSIVLTIP setpoint is nevertheless important to power operations. The MSIVLTIP setpoint prevents excessive vessel depressurization should the nuclear system pressure regulator fail open. Excessive vessel depressurization can impose significant thermal stresses on the nuclear system process barrier, resulting in an increase in the nuclear system process barrier's lifetime fatigue usage factor. NEDO-31296 and BECO calculation I-N1-30 show the lifetime fatigue usage factor, assuming eight pressure regulator failure (open) events, is not significantly increased by reducing the allowable value MSIVLTIP setpoint from greater than or equal to 880 to greater than or equal to 810 psig.

Other potential effects were analyzed:

a. Reducing the MSIVLTIP setpoint will have no impact on the Minimum Critical Power Ratio (MCPR). As noted in the analysis (NEDO-31296), MSIV closure following a pressure regulator failure transient with the current setpoint of greater than or equal to 880 psig corresponds to a neutron flux of less than 1%. This result is based on the assumption Turbine Control Valves (TCVs) open instantaneously upon failure of the pressure regulator. A lower setpoint will postpone MSIV closure. However, this postponement is not of concern because MCPR is not near the safety limit due to the very low reactor powers involved and remain bounded by the MCPR associated with the transients in the reload license submittal. This conclusion remains valid in the event the TCV's open slowly.

b. Reducing the MSIV low-pressure isolation setpoint does result in an extended depressurization time prior to isolation. An extended depressurization results in a greater bulk water level swell with the potential of reaching the stem line nozzle, thereby trapping liquid in the steam line between the vessel and the in-board MSIV. However, a GE analysis of this event (MDE-70-0586), using a bounding set of initial conditions chosen to maximize the severity of the water level swell, shows water level will not increase to the bottom of the steam line nozzle elevation. Hence, no liquid would be trapped in the steam lines, and SRV performance would not be affected.

c. If the MSIV low-pressure isolation setpoint were removed, a rapid depressurization of the reactor vessel due to a pressure regulator failure while the reactor is near full power could result in differential pressures across the fuel channels sufficient to cause mechanical deformation of the channels. From a safety perspective, these deformations are bounded by the deformations associated with the steam line break accident and do not challenge Pilgrim's accident analysis.

d. Reducing the MSIV low-pressure setpoint to greater than or equal to 810 psig continues to provide automatic protection of the low-pressure core thermal power safety limit (less than or equal to 25% of rated core thermal power for reactor pressure less than 785 psig).

The other proposed change reduces the minimum pressure in the definition of RUN mode from 880 psig to 785 psig. Reactor modes are determined by the position of the mode switch. The safety function of the mode switch is to select the necessary scram functions for various plant conditions. The mode switch also provides necessary scram bypasses to facilitate operation.

Reducing the minimum pressure of the reactor to be in the RUN mode affects none of these functions. Specifically, the scram on high flux at less than 25% power (with the reactor in STARTUP) will not be bypassed before 785 psig is exceeded. This pressure is the minimum pressure for using the minimum critical power ratio (MCPR) as the basis for fuel cladding protection. Below this pressure, the scram at less than 25% of rated power provides the basis for protecting fuel cladding.

Based on the results of the various analyses, reducing the MSIVLTIP setpoint from greater than or equal to 880 psig and reducing the minimum pressure in the RUN mode definition to 785 psig will not result in a significant increase in the probability or consequences of an accident previously identified.

2. The operation of Pilgrim Station in accordance with the proposed amendment will not create the possibility of a new or different kind of accident from any accident previously analyzed.

This proposed change modifies an existing instrument setpoint and reduces the minimum pressure for the reactor to be in the RUN mode. No other modifications to Pilgrim are involved. All plant scenarios affected by this setpoint have been reanalyzed as described in the above Part 1. For this reasonit is concluded that this change does not create a new or different kind of accident from any accident previously analyzed.

3. The operation of Pilgrim Station in accordance with the proposed amendment will not involve a significant reduction in the margin of safety.

As discussed in (1), the MSIVLTIP setpoint does not affect the safety function of the primary containment and reactor vessel isolation control system, and assessments of radiological releases related to 10CFR100 requirements do not take credit for it. Also, the MSIVLTIP does not affect the margin of safety for any system or component that is indirectly impacted by this setpoint function and the minimum pressure in which the reactor mode switch may be in RUN remains consistent with the bases for ensuring the integrity of the fuel cladding. Therefore, operating Pilgrim in accordance with the proposed changes does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis, and based on this review, it appears that the three standards of 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: Plymouth Public Library, 11 North Street, Plymouth, Massachusetts 02360.

Attorney for licensee: W. S. Stowe, Esquire, Boston Edison Company, 800 Boylston Street, 36th Floor, Boston, Massachusetts 02199.

NRC Project Director: Walter R. Butler

Boston Edison Company, Docket No. 50-293, Pilgrim Nuclear Power Station, Plymouth County, Massachusetts

Date of amendment request: June 7, 1993

Description of amendment request: The proposed amendment will allow Boston Edison Company (BECo) to change existing plant surveillance intervals and in some cases setpoints to accommodate a 24-month fuel cycle. The proposed change to surveillance intervals and system setpoints have been analyzed in accordance with the guidance provided in Generic Letter 91-04.

This change requires that Technical Specifications (TS) specifying 18-month surveillance intervals be changed to reflect that these surveillances are now to be performed once per refueling interval. The frequency for the interval would then be changed from 18 months to "at least once every 24 months." This would extend the time limit for completing these surveillances from 22.5 months (18 x 1.25) to 30 months (24 x 1.25).

Also, the frequency of the calibration/functional test for the analog trip system will be changed from 1 month to 3 months. This is consistent with the setpoint calculations and Note 1 of the Pilgrim Nuclear Power Station TS Tables 4.1.1 and 4.2.A through 4.2.G.

This proposed change affects Definitions 1.0.P and 1.0.V; TS Sections 3.1, 4.1, 3.2, 4.2; Tables 3.1.1, 4.1.1, 4.1.2, 3.2.A, 3.2.B, 3.2.G, and notes to the subject Tables.

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 operation of Pilgrim Station in accordance with the proposed amendment will not involve a significant increase in the probability or consequences of an accident previously identified.

The proposed modifications involve a change in the surveillance testing intervals to facilitate the change in Pilgrim's refueling interval from 18 months to 24 months. The proposed changes do not impact design or functional requirements of the associated systems. That is, the proposed changes do not degrade the performance or increase the challenges of any associated safety systems assumed to function in the accident analyses. The proposed changes do not impact the surveillance requirements themselves nor the way the surveillances are performed. Additionally, the proposed Technical Specification changes do not introduce any new accident initiators since no accidents previously evaluated have, as their initiators, anything related to the change in the frequency of surveillance testing. Also, the proposed Technical Specification changes do not affect the availability of equipment or systems required to mitigate the consequences of an accident or the availability of redundant systems or equipment. The review of surveillance testing conducted in accordance with guidance provided in Generic Letter 91-04 indicates there is no evidence that would invalidate the above conclusions. Therefore, the proposed change does not significantly increase the probability or consequences of an accident previously evaluated.

2. The operation of Pilgrim Station in accordance with the proposed amendment will not create the possibility of a new or different kind of accident from any accident previously analyzed.

The proposed Technical Specification changes involve a change in the surveillance testing intervals to facilitate the change in Pilgrim's refueling cycle from 18 months to 24 months. The proposed Technical Specification changes do not introduce any failure mechanisms of a different type than those previously evaluated since there are no physical changes being made to the facility except setpoint changes that have been evaluated and will be performed using approved procedures under the control of our Quality Assurance program. In addition, the surveillance test requirements and the way surveillance tests are performed will remain unchanged. Since the intended operation and function of the analyzed systems do not change as a result of the setpoint analysis, no new initiators were introduced which are capable of initiating an accident that would render these systems unable to provide their required protection. Furthermore, a review of surveillance test results conducted in accordance with guidance provided in Generic Letter 91-04 indicates there is no evidence that would invalidate the above conclusions. Therefore, the proposed Technical Specification changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The operation of Pilgrim Station in accordance with the proposed amendment will not involve a significant reduction in the margin of safety.

Although the proposed Technical Specification changes will result in an increase in the interval between surveillance tests, the impact on Pilgrim's equipment is small. The proposed changes will either increase the plant safety margin or retain the existing margin. There is no evidence this change would significantly impact the availability of the affected system. Therefore, the assumptions in the licensing basis are not impacted, and the proposed Technical Specification changes do not signficantly reduce a margin of safety.

The NRC staff has reviewed the licensee's analysis, and based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Plymouth Public Library, 11 North Street, Plymouth, Massachusetts 02360.

Attorney for licensee: W. S. Stowe, Esquire, Boston Edison Company, 800 Boylston Street, 36th Floor, Boston, Massachusetts 02199.

NRC Project Director: Walter R. Butler

Carolina Power & Light Company, et al., Docket Nos. 50-325 and 50-324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of amendments request: December 31, 1992, as supplemented June 10, 1993

Description of amendments request: The proposed amendments to the Technical Specifications (TS) consist of two parts.

Part 1: Core Alterations—The definition of core alterations would be revised to specify that the movement of incore instruments, including the under vessel replacement of these instruments, is not considered a core alteration. The definition would also specify that control rod movement with other than the normal control rod drive is not considered a core alteration, provided there are no fuel assemblies in the associated core cell.

Part 2: TS 3/4.9.3, Control Rod Position—The proposed change to TS 3.9.3 would clarify the Limiting Condition for Operation (LCO) applicability, surveillance requirements, and associated Bases to specify that the requirement to maintain all control rods inserted is only applicable during the loading of fuel assemblies into the core. The Action Statement would be revised to reflect this clarification.

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 amendments do not involve a significant increase in the probability or consequences of an accident previously evaluated.

Part 1: Core Alterations

The purpose of the definition of core alterations is to identify operations which have the potential for adding reactivity to the core while the vessel head is removed and fuel is in the vessel. While such operations are in progress, special precautions must be taken to preclude the possibility of an inadvertent criticality. These precautions are comprised mainly of additional safety system operability requirements.

The BSEP Updated Final Safety Analysis Report (UFSAR) for Units 1 and 2 contain analyses for the following refueling accidents involving the possibility of an inadvertent criticality:

—Control Rod removal error during refueling (UFSAR section 15.4.5.1)

—Fuel assembly insertion error during refueling (UFSAR section 15.4.5.2)

The movement of incore instruments (excluded from the proposed core alterations

definition) does not apply to either of these analyses because the amount of fissile material contained in the detectors is so minimal that their movement does not result in a significant change in core reactivity. As such, the additional safety systems would not be required or necessary for incore instrument movement. Control rod movement with other than the normal control rod drive with no fuel assemblies in the associated core cell does not have an impact on the reactivity of the remaining core. Therefore, control rod movement with other than the normal control rod drive with no fuel assemblies in the associated cell does not involve an increase in the probability of an inadvertent criticality; consequently, no special precautions are necessary to preclude such an event and there is no associated significant increase in the probability of an accident. The deletion of the phrase "addition, removal, relocation" from the definition eliminates redundancy and does not change the meaning of the definition. In addition, the incorporation of the phrase "components, or other components affecting reactivity" will key Technical Specification users to consider other types of operations affecting core reactivity. Therefore, the noted revisions to the definition of core alterations does not involve a significant increase in the probability of an accident previously evaluated.

Since the incore instruments are not factored into the current analyses for previously evaluated accidents, their removal from the definition of core alterations, along with the minor text changes noted above, would have no impact on previously evaluated accident consequences. The additional safety systems would also not be required operable for incore instrument movement and, therefore, would not impact the consequences of an accident previously evaluated.

Control rod movement with other than the normal control rod drive with no fuel assemblies in the associated cell is also being excluded from this definition because movement of a control rod blade with fuel assemblies removed from the core does not have an impact on the reactivity of the remaining core. Therefore, control rod movement with other than the normal control rod drive with no fuel assemblies in the associated cell does not involve an increase in the probability of an inadvertent criticality; consequently, no special precautions are necessary to preclude such an event and there is no associated impact on the consequences of an accident previously evaluated.

From the discussion presented above, the noted revisions to the definition of core alterations do not involve a significant increase in the probability or consequences of an accident previously evaluated.

Part 2: Specification 3.9.3, Control Rod Position

The Specification 3.9.3 requirement for all control rods to be inserted is appropriate only during the loading of fuel assemblies into the reactor core. The one-rod-out interlock is specifically designed to allow a single control rod to be withdrawn when in Operational Condition 5. Since control rod movement is a core alteration by definition, it is contradictory that the control rod position specification is applicable in "CONDITION 5, during CORE ALTERATIONS".

Prevention and mitigation of prompt reactivity excursions while in Operational Condition 5 is provided by the one-rod-out interlock (BSEP Specification 3.9.1 and 3.9.2), maintaining proper shutdown margin (BSEP Specification 3.1.1), the Intermediate Range Monitor neutron flux scram (BSEP Specification 3.3.1), the Average Power Range Monitor neutron flux scram (BSEP Specification 3.3.1), and the control rod block instrumentation (BSEP Specification 3.3.4). These precautions prevent an unexpected prompt criticality in Operational Condition 5. The proposed change indicates that all control rods must be inserted during loading of fuel assemblies into the core.

The action statement for BSEP Technical Specification 3.9.3 and Surveillance Requirement 4.9.3 are also revised to provide consistency with the revised applicability of Technical Specification 3.9.3. Currently, when the action statement is not satisfied (i.e., all control rods not inserted), the control rod scram solenoid valves must be de-energized, which causes a reactor scram. The appropriate action is to suspend loading of fuel assemblies into the reactor core. Incorporating this action will make the language congruent with the applicability language. In addition, the revision to the surveillance requirement, deleting the reference to "CORE ALTERATIONS" and incorporating the phrase "during loading of fuel assemblies into the core" will also make the language congruent to the language in the specification applicability. The Chapter 15 analysis for refueling accidents are not affected by the changes to Specification 3.9.3. The new phraseology to replace "CORE ALTERATIONS" better articulates the conditions where control rods are required to be fully inserted. In addition, the proposed changes to Specification 3.9.3 still preserve the basis of this specification, which is to prevent two positive reactivity changes from occurring simultaneously.

Based on the above, therefore, the changes to Specification 3.9.3 do not involve a significant increase in the probability of an accident previously evaluated.

The Chapter 15 accidents associated with refueling are not affected by this specification change. In addition, the various features for the prevention and mitigation (i.e., consequences) of prompt reactivity excursions, discussed above, are not impacted by this change. As such, the proposed changes to Specification 3.9.3 do not involve a significant increase in the consequences of an accident previously evaluated.

Therefore, based on the discussion above, the proposed amendments do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed amendments do not create the possibility of a new or different kind of accident from any accident previously evaluated.

Part 1: Core Alterations

As discussed previously, the amount of fissile material contained in the incore instruments is so minimal that instrument movement does not result in a significant change in core reactivity. Therefore, instrument movement of this type could not cause an inadvertent criticality.

Control rod movement with other that the normal control rod drive with no fuel assemblies in the associated core cell does not have an impact on the reactivity of the remaining core and therefore does not increase the probability of an inadvertent criticality.

Deletion of the redundant phrase "addition, removal, relocation" from the definition eliminates redundancy and does not change the meaning of the definition. In addition, the incorporation of the phrase "components, other components affecting reactivity" will key Technical Specification users to consider other types of operations affecting core reactivity.

The other minor text changes "vessel" and "position" were made for consistency with the Improved STS [Standard Technical Specifications] and have no impact on the intent of the revised definition.

From the discussion presented above, the noted revisions to the definition of core alterations does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Part 2: Specification 3.9.3, Control Rod Position

The revision to Specification 3.9.3 does not involve physical changes to any safety related equipment or changes to plant operation. The method by which any equipment performs will also not be altered by these changes. The revision to specification 3.9.3 eliminates unnecessary and inappropriate requirements regarding reactivity control. As discussed previously, inadvertent criticality is prevented by the one-rod-out interlock feature in Operational Condition 5. As such, it is not necessary to have all control rods inserted at times other than during loading of fuel assemblies into the reactor core. Therefore, the proposed changes to Specification 3.9.3 do not create the possibility of a new or different kind of accident from any previously evaluated.

3. The proposed amendment does not involve a significant reduction in the margin of safety.

Part 1: Core Alterations

Since the definition of CORE ALTERATION has no impact on any safety limits, setpoints, or plant design, the proposed changes have no affect on the margin of safety. The proposed definition changes further detail what constitutes a core alteration. Therefore, the proposed changes to the definition of core alterations do not involve a significant reduction in the margin of safety.

Part 2: Specification 3.9.3, Control Rod Position

The revisions to Specification 3.9.3 have no impact on any safety limits, setpoints, or plant design and have no affect on the margin of safety. Reactivity control functions and associated surveillance frequencies are not impacted by these changes. Therefore, the proposed changes to Specification 3.9.3. do

not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: University of North Carolina at Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403-3297.

Attorney for licensee: R. E. Jones, General Counsel, Carolina Power & Light Company, Post Office Box 1551, Raleigh, North Carolina 27602

NRC Project Director: S. Singh Bajwa

Carolina Power & Light Company, et al., Docket Nos. 50-325 and 50-324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of amendments request: January 25, 1993, as supplemented June 10, 1993

Description of amendments request: The proposed amendment requests two changes. The first adds a statement to exempt Technical Specification (TS) 3.1.3.1, Action b, from the requirements of TS 3.0.4 and revises its associated Bases section to reflect the change. The second proposed change revises TS 3.1.3.5, Control Rod Scram Accumulators, and its associated Bases section to address operation with more than one inoperable accumulator. The current specification does not address operating with more than one inoperable scram accumulator, thus requiring entry into TS 3.0.3. Provisions for operating with one inoperable scram accumulator are also being revised to be more consistent with the guidance of the Revised Standard Technical Specifications (NUREG-1433).

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:

Proposed Change 1:

1. The proposed change does not involve a significant increase in the probability of an accident previously evaluated in the Updated Final Safety Analysis Report (FSAR).

Exemption of Technical Specification 3.1.3.1, ACTION b from the requirements to Specification 3.0.4 allows entering OPERATIONAL CONDITION 1 from OPERATIONAL CONDITION 2 with one or more inoperable control rods. The operability status and function of a control rod does not change when the OPERATIONAL CONDITION of the plant changes; therefore, a change in OPERATIONAL CONDITION is not precursor of any accident and cannot increase the probability of any accident previously evaluated.

The proposed change does not involve a significant increase in the consequence of any accident previously evaluated in the Updated Final Safety Analysis Report (FSAR).

Exemption of Technical Specification 3.1.3.1, ACTION b from the requirements of Specification 3.0.4 allows entering OPERATIONAL CONDITION 1 from OPERATIONAL CONDITION 2 with one or more inoperable control rods. Continued operation in OPERATIONAL CONDITION 1 is currently permitted when no more than eight control rods are inoperable. The consequences of accidents in all OPERATIONAL CONDITIONS are bounded by the consequences of accidents previously evaluated and allowing a change from OPERATIONAL CONDITION 2 to OPERATIONAL CONDITION 1 does not increase the consequences of any accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Exemption of Technical Specification 3.1.3.1, ACTION b from the requirements of Specification 3.0.4 allows entering OPERATIONAL CONDITION 1 from OPERATIONAL CONDITION 2 with one or more inoperable control rods. Withdrawn inoperable control rods do not affect power any differently than movable and operable withdrawn control rods. Changing from OPERATIONAL CONDITION 2 to OPERATIONAL CONDITION 1 occurs prior to power ascension and is not impacted by the presence of control rods that are inoperable. Therefore, changing from OPERATIONAL CONDITION 2 to OPERATIONAL CONDITION 1 does not create the possibility of a new of different kind of accident.

3. The proposed change does not involve a significant reduction in a margin of safety as defined in the basis of any operating license technicalspecification.

Exemption of Technical Specification 3.1.3.1, ACTION b from the requirements of Specification 3.0.4. allows entering OPERATIONAL CONDITION 1 from OPERATIONAL CONDITION 2 with one or more inoperable control rods. Operation in OPERATIONAL CONDITION 1 is currently permitted when no more than eight control rods are inoperable. The proposed change only allows moving from OPERATIONAL CONDITION 2 to OPERATIONAL CONDITION 1 within the restrictions previously evaluated; therefore, this addition does not involve a significant reduction in the margin of safety as defined in the basis of any operating license technical specification.

Proposed Change 2:

1. The proposed change does not involve a significant increase in the probability of an accident previously evaluated in the Updated Final Safety Analysis Report (FSAR).

Control rod scram accumulators contribute to the mitigation of accidents and anticipated operational occurrences and the operability of scram accumulators is not a precursor to any accident previously evaluated. Therefore, multiple inoperable control rod scram accumulators do not increase the probability of any accident previously evaluated.

The proposed change does not involve a significant increase in the consequence of any accident previously evaluated in the Updated Final Safety Analysis Report (FSAR).

Control rod scram accumulators assist in the rapid insertion of control rods as part of a reactor scram. The consequences of many accidents and anticipated operational occurrences are mitigated by reactor scram. The consequences of anticipated operational occurrences are evaluated assuming the scram insertion of control rods will insert a specified amount of negative reactivity as a function of time and with a certain distribution. In addition to the individual control rod scram accumulator, the reactor steam dome pressure contributes to the rapid insertion of control rods when a scram occurs.

The scram reactivity function or scram curve that is assumed for the evaluation of operating limits for anticipated operational occurrences is enforced by the requirements of Technical Specification 3.1.3.3 and 3.1.3.4 with all controls rods operable. In the event one or more control rods become inoperable, the requirements of Technical Specificating 3.1.3.1, ACTION a and 3.1.3.1, ACTION b in combination with the requirements of Technical Specification 3.1.3.3. and 3.1.3.4 ensure that the assumed scram curve and associated operating limits remain applicable and valid.

Although a withdrawn control rod will still scram without an operable scram accumulator as a result of the reactor steam dome pressure when this pressure is within the normal operating range, some degradation of the scram insertion time may occur. By declaring all control rods with inoperable scram accumulators inoperable and imposing the requirements of Technical specification 3.1.3.1, ACTION b, the negative reactivity of the inoperable control rods in not needed to ensure that the assumed scram curve remains applicable.

With the reactor steam dome pressure below the normal operating range, rapid insertion of all withdrawn control rods is accomplished by the individual scram accumulators. The requirement to verify the available charging header pressure ensures that all operable scram accumulators are maintained at a sufficient level to accomplish rapid insertion to meet the required scram curve. Furthermore, withdrawn control rods without an operable scram accumulator may not be inserted by the available reactor steam dome pressure and are required to be fully inserted.

The requirements of the proposed change will maintain the applicability of the scram curve assumed in evaluation of the consequences of accidents and anticipated operational occurrences. By maintaining the applicability of these evaluations and the associated consequences, the proposed

change does not increase the consequences of any accident previous evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change allows multiple control rod scram accumulators to be inoperable under conditions that ensure that any such control rods that are withdrawn are capable of insertion or are fully inserted. Scram insertion of control rods serves to mitigate many accidents and anticipated operational occurrences. Operation with multiple scram accumulators inoperable within the guidance of the existing control rod specification does not create the possibility of a new or difference kind of accident from any previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety as defined in the basis of any operating license technical specification.

Control rod scram accumulators assist in the rapid insertion of control rods as part of reactor scram. The consequences of many accidents and anticipated operational occurrences are mitigated by reactor scram. The consequences of anticipated operational occurrences are evaluated assuming the scram insertion of control rods will insert a specified amount of negative reactivity as a function of time and with a certain distribution. The assumptions and results of these evaluations form the basis for certain Technical Specification requirements and operating limits that protect safety limits defined in the operating license technical specification. By maintaining the applicability of these evaluations and associated safety limits, the proposed change does not involve a significant reduction in the margin of safety as defined in the basis of any operating license 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: University of North Carolina at Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403-3297.

Attorney for licensee: R. E. Jones, General Counsel, Carolina Power & Light Company, Post Office Box 1551, Raleigh, North Carolina 27602

NRC Acting Project Director: S. Singh Bajwa

Commonwealth Edison Company, Docket Nos. 50-237 and 50-249, Dresden Nuclear Power Station, Units 2 and 3, Grundy County, Illinois; Dockets Nos. 50-254 and 50-265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois

Date of amendment request: October 15, 1992, as supplemented March 9, 1993

Description of amendment request: Commonwealth Edison Company (CECo) has initiated a Technical Specification Upgrade Program (TSUP) to improve the quality of the current Technical Specifications (TS) for Dresden and Quad Cities. A comparison study of the boiling-water reactor (BWR) Standard Technical Specifications (STS), newer operating plants TS provisions, and the Quad Cities TS was performed by CECo. The study identified requirements which are no longer consistent with current industry practices and the need for potential improvements in clarifying requirements. As a result CECo has committed to upgrade the current Dresden and Quad Cities TS, in their entirety, to more closely follow the provisions of the BWR STS. Wherever possible (except for design differences) the TSUP for both Dresden and Quad Cities will be identical.

By letters dated October 15, 1992, as supplemented March 9, 1993, the licensee proposed upgrades to TS Section 3/4.4 (Standby Liquid Control System).

The proposed amendment would combine the present Specifications for the Standby Liquid Control System (SLCS) into one Specification 3.4.A/4.4.A, thus implementing a STS arrangement. The proposed Applicability statement is equivalent to the present provisions while the proposed Action statements correspond to STS guidelines. The "Objective" statements will be deleted. All surveillance requirements are replaced by STS provisions, where applicable, and quarterly Inservice Testing (IST) guidelines replace the current monthly pump flow verification and head requirements. The proposed amendment would add a daily verification of the operability of the heat tracing circuit and a monthly check of continuity of the explosive charge and valve lineups. The STS controls for explosive charge replacement would also be implemented.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's review is presented below:

1. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated because:

The proposed changes to Technical Specification 3/4.4 involve combining the present requirements into one specification. These changes are based on the evaluated STS provisions that are in use at many operating BWRs with similar design and operating configurations as Dresden and Quad Cities Stations. The proposed changes, which delete the present Applicability and Objective sections, represent administrative changes to format and presentation providing better accessibility to information. The inclusion of additional Applicability and Action requirements represent a clarification of the intended requirements which presently do not state all required conditions of operability or provide clear Action statements when the requirements are not met.

The proposed changes replace current Surveillance Requirements with STS provisions, where applicable. These changes implement testing frequencies for SLCS pumps in accordance with proven IST guidelines, delete unnecessary testing of redundant components, and add STS testing requirements. The proposed changes do not affect accident precursors or involve an increase in the probability of a previously evaluated accident. Operability of the SLCS is maintained in all reactor Operational Modes where control rods can be withdrawn. Furthermore, allowed out-of-service times for inoperable components and other Action provisions follow STS provisions.

The proposed changes do not alter the intent of the existing setpoints or accident assumptions. Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated because:

The proposed changes to Specification 3/4.4 are administrative changes which do not affect the technical requirements, change any assumptions of previous accident or transient analyses concerning the operability of the SLCS, or implement design modifications to the SLCS. The proposed changes enhance the usability

of the TS and provide clear and concise Applicability and Action statements.

The proposed changes maintain the operability of the SLCS within the assumptions of the present transient and accident analysis and do not create the possibility of a new or different kind of accident.

3. The proposed changes do not involve a significant reduction in the margin of safety because:

The proposed changes include administrative changes in format and clarification of requirements that do not involve a significant reduction in the margin of safety. The importance of the operability of the SLCS is apparent by comparison of Operational Modes 1 and 2 to Operational Mode 5. Inoperable components in the SLCS subsystem are allowed longer out-of-service times in Mode 5 than in Modes 1 or 2. These requirements maintain the current margin of safety for inoperable components.

The changes to the surveillance requirements are more conservative than the STS provisions and also preserve the present level of operational readiness of the SLCS. Implementation of quarterly pump flow and head measurements specified by the IST program conforms to current operating BWR testing which have demonstrated successful maintenance of system operational readiness. The proposed changes do not involve any significant reduction in the margin of safety since the SLCS is maintained at current or greater levels of operability.

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 Dresden, the Morris Public Library, 604 Liberty Street, Morris, Illinois 60450; for Quad Cities, the Dixon Public Library, 221 Hennepin Avenue, Dixon, Illinois 61021

Attorney for licensee: Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60690

NRC Project Director: James E. Dyer

Commonwealth Edison Company, Docket Nos. 50-373 and 50-374, LaSalle County Station, Units 1 and 2, LaSalle County, Illinois

Date of amendment request: February 22, 1993

Description of amendment request: The proposed amendment would change Technical Specification 3/4.8.1 to allow continued operation of one unit for a period of 7 days while the common plant Division 1 diesel generator, "O" DG, is out of service for the performance of specified Technical Specification surveillance requirements and the performance of planned maintenance and/or modification work. In addition, clarification of the equipment necessary to determine the operability of a diesel generator air start receiver is 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, which is presented below:

1) Involve a significant increase in the probability or consequences of an accident previously evaluated because:

The total amount of time that the "O" Diesel Generator is inoperable during a refuel outage will not increase as a result of this change, only the type of work being performed is expanded. In addition to the surveillances already permitted by the current footnote, this work will include planned maintenance and modifications.

The proposed amendment to surveillance requirement 4.8.1.1.2.a.7 clarifies that a diesel generator is operable with the receivers of one air start subsystem to be pressurized to greater than or equal to 200 psig instead of all air start receivers. Per the UFSAR and the LaSalle SER, NUREG-0519, each subsystem (two per diesel generator) is independent and full capacity, thus fully meeting the design criteria for the diesel generator. Both of the air start subsystems are normally operable, so that this change only pertains to cases where a failure of one subsystem occurs or one subsystem is removed from service for inspections, surveillance, or preventative maintenance. A normally closed crosstie valve is located downstream of the subsystem air start receivers. This valve is used to keep the receivers for both subsystems pressurized using only one air compressor while one compressor or associated moisture removal equipment is inoperable, thus minimizing the time the receivers for a subsystem are less than 200 psig.

Therefore, there is no change to the assumptions or initiators of any previously evaluated accident and there is no change to the consequences of an accident previously evaluated.

2) Create the possibility of a new or different kind of accident from any accident previously evaluated because:

This amendment request does not change the length of time that the "O" diesel generator is allowed to be inoperable with one unit in cold shutdown, refuel, or defueled and the other unit in normal operation, only the work allowed is changed. Therefore, the possibility of a new or different kind of accident than the accidents previously evaluated is not created.

The change to the surveillance requirement for the diesel generator air start receivers does not change the starting capability of the diesel generator. The diesel was designed to start with only one air start subsystem, and the surveillance assures the availability of the starting air required to start the diesel. Therefore, the possibility of a new or different kind of accident than the accidents evaluated is not created.

3) Involve a significant reduction in the margin of safety because:

The requested change to the work allowed to be performed on the "O" diesel generator during a seven day allowed outage time, with one unit in cold shutdown or a lower condition, is limited to the "O" diesel generator. Due to the physical and electrical separation between the diesel generator divisions, no other diesel generators will be effected by the work on the "O" diesel generator. Also, compensatory measures are taken to assure that the remaining required diesel generators and offsite AC sources are operable during the time the "O" diesel generator is out of service. The term pre-planned maintenance excludes any repairs that are required due to a "valid failure" of the "O" diesel generator, thus preventing use of the seven day allowed outage time where the potential for a known condition exists that may effect more than one diesel generator. Therefore, this change is administrative in nature and does not involve a reduction in the margin of safety.

The air start receiver surveillance change would allow a diesel generator to be considered operable with the receivers of only one air start subsystem to be pressurized rather than all receivers pressurized. The UFSAR states that each air start system consists of two full capacity subsystems, therefore one subsystem meets the starting air required by design to start the associated diesel generator. The required essential service system redundancy is met by each diesel generator, not by the redundancy of the supporting systems for each diesel generator. Both subsystems are normally in service for each diesel generator, and therefore the only time when this would not be true is upon component failure, maintenance, or surveillance. Air start system work is considered to be high priority, so the time an air start subsystem is out of service is inherently kept to a minimum by the work request priority system and planning department practices. By allowing a diesel generator to remain operable with one air start subsystem pressurized, unnecessary diesel generator starts are avoided, thus compensating for any slight reduction in the margin of safety by this change.

Therefore, there is no significant reduction in the margin of safety for the above 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: Public Library of Illinois Valley Community College, Rural Route No. 1, Ogelsby, Illinois 61348

Attorney for licensee: Michael I. Miller, Esquire; Sidley and Austin, One

First National Plaza, Chicago, Illinois 60690

NRC Project Director: James E. Dyer

Commonwealth Edison Company, Docket Nos. 50-373 and 50-374, LaSalle County Station, Units 1 and 2, LaSalle County, Illinois

Date of amendment request: February 25, 1993

Description of amendment request: The proposed amendment would change Technical Specification 4.8.1.1.2.c to update the diesel fuel oil testing requirements to the standards of ASTM-D4057-88 (new fuel oil test), ASTM-D975-88 (water and sediment content testing), and ASTM-D2276-89 (impurity levels). The updated standards would be referenced in the Technical Specification Bases.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1) Involve a significant increase in the probability or consequences of an accident previously evaluated because:

a) Replacing the sampling procedure ASTM-D270-1975, which has been discontinued but which is presently required by Technical Specifications, with the upgraded sampling procedure ASTM-D4057-88 will not adversely impact on the quality of the obtained diesel fuel oil sample or the analysis of the sample so as to affect the operability of the diesel generators.

b) Replacing the Technical Specification required procedure, "Standard Specification For Diesel Fuel Oils", ASTM-D975-77, with the updated ASTM-D975-88 Standard will not adversely impact on the quality of the analysis of the sample for water and sediment content, and kinematic viscosity so as to affect the operability of the diesel generators. The updated ASTM Standard offers the advantage of included guidance for long term storage of fuel oil. The inclusion of this guidance should provide for enhanced fuel oil control and maintenance, and continued reliable operation of the diesel generators.

c) Replacing the fuel oil test procedure, ASTM-D2274-70, currently required by Technical Specifications at least once per 92 days, with the updated ASTM-D2276-89 Standard will enhance the maintenance of acceptable fuel oil and the continued operability of the diesel generators. ASTM-D2276-89 is more effective in detecting unsatisfactory fuel oil and will be performed at least once per 31 days.

Referencing the updated applicable ASTM Standards in the Bases will allow the most current applicable Standards to be used without the need for a Technical Specification amendment. The 10 CFR 50.59 Safety Evaluation Screening and Station On-Site Review for a proposed change to ASTM Standards referenced in the Bases will assure up-to-date sampling technique and sample analysis methods to assure continued reliable operation of the diesel generators.

Since the acceptable fuel quality under the current specification will be maintained or even upgraded by this proposed amendment, the reliability of diesel generator operation will not be affected. Thus the initial assumptions of the accidents previously analyzed are not affected.

2) Create the possibility of a new or different kind of accident from any accident previously evaluated because:

This proposed Technical Specification Amendment does not create the possibility of a new or different accident from any accident previously evaluated. The upgraded ASTM Standard, ASTM-D975-88, will maintain fuel oil sample quality and fuel oil acceptance criteria. The intended purpose and use of the diesel generators and auxiliary equipment remains the same, and the safe and reliable operation of this equipment is maintained.

Therefore, this proposed amendment will replace present ASTM Standards with updated applicable Standards which will neither create the possibility of a new and different kind of accident, nor adversely impact on any previous accident evaluations. Diesel generator reliability is maintained.

3) Involve a significant reduction in the margin of safety because:

a) This proposed amendment maintains fuel oil sample quality and fuel oil acceptance criteria. The safe and reliable operation of the diesel generators is maintained.

b) This proposed amendment increases the surveillance for the detection of particulate contamination in fuel oil from quarterly to monthly. Severe degradation of the fuel oil which could affect diesel engine performance would be detectable during the periodic tests which are performed at least once per 31 days.

Therefore this proposed amendment does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Public Library of Illinois Valley Community College, Rural Route No. 1, Ogelsby, Illinois 61348

Attorney for licensee: Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60690

NRC Project Director: James E. Dyer

Commonwealth Edison Company, Docket Nos. 50-373 and 50-374, LaSalle County Station, Units 1 and 2, LaSalle County, Illinois

Date of amendment request: March 2, 1993

Description of amendment request: The proposed amendment would change the Snubber Visual Inspection Intervals and Corrective Actions in Technical Specification surveillance requirements 4.7.9.b and 4.7.9.c to the alternative requirements provided in Generic Letter 90-09, "Alternative 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) Involve a significant increase in the probability or consequences of an accident previously evaluated because:

The proposed schedule for snubber visual inspection intervals will maintain the same level of confidence as the existing schedule as documented in Generic Letter 90-09, Alternative Requirements for Snubber Visual Inspection Intervals and Corrective Actions, dated December 11, 1990. Also, the surveillance requirement and schedule for snubber functional testing remains the same providing a 95 percent confidence level that 90 to 100 percent of the snubbers operate within the specified limits. The proposed visual inspection schedule is separate from the functional testing and adds to the confidence level that the installed snubbers will serve their design function and are being maintained operable. Accident analyses assume that snubbers are initially operable, and by complying with the Technical Specification Surveillance Requirements for functional testing in conjunction with the revised visual inspection schedule assure continued operability of the snubbers. Therefore, no initial assumptions are being changed and thus neither the probability nor consequences of any accidents previously evaluated are significantly increased.

2) Create the possibility of a new or different kind of accident from any accident previously evaluated because:

The proposed schedule for snubber visual inspection intervals will maintain the same level of confidence as the existing schedule as documented in Generic Letter 90-09, Alternative Requirements for Snubber Visual Inspection Intervals and Corrective Actions, dated December 11, 1990. Also, the surveillance requirement and schedule for snubber functional testing remains the same providing a 95 percent confidence level that 90 to 100 percent of the snubbers operate within the specified limits. The proposed visual inspection schedule is separate from functional testing and adds to the confidence level that the installed snubbers will serve their design function and are being maintained operable. As a result, the supported piping, components, etc. will be maintained OPERABLE, so that supported safety systems will perform as designed. Also, this amendment is not a modification or the result of a modification to the facility. Therefore, the possibility of a new or different kind of accident is not created.

3) Involve a significant reduction in the margin of safety because:

a) Through the current snubber functional testing and the revised snubber visual inspection schedule and the associated corrective action requirements, the proposed amendment maintains the same level of confidence as the current technical specification that snubbers are operable.

b) Initially, since the new schedule begins at the same frequency or interval specified by the current surveillance schedule, the effect on snubber operability confidence level will be neutral or negligible during the transition to the new means of determining snubber visual inspection frequency.

c) Provided there continue to be zero or few snubber visual inspection failures, the amendment will allow snubber visual inspections to continue to coincide with planned outages and will reduce personnel radiation exposure. LaSalle has not had snubber visual inspection failures to date, so that inspections have been performed during planned outages. However, as a result of this change, there is a lower potential for special unit outages required for the sole purpose of snubber inspection, thus the units will be subjected to fewer shutdowns and startups, which in itself increases the margin of safety.

Therefore, there is no significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 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 for licensee: Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60690

NRC Project Director: James E. Dyer

Connecticut Yankee Atomic Power Company, Docket No. 50-213, Haddam Neck Plant, Middlesex County, Connecticut

Date of amendment request: May 17, 1993

Description of amendment request: The proposed amendment will replace License Condition 2.C.(4), relating to the implementation and maintenance of the approved Fire Protection Program, in its entirety with a new standard Condition 2.C.(4), regarding fire protection, as recommended in Generic Letter (GL) 86-10. In addition, as recommended by GL 86-10, the licensee has proposed to remove all Technical Specification provisions related to the Fire Protection Program.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed changes do not involve a significant hazards consideration because the changes would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes simply remove the provisions of the Fire Protection Program that are contained in the technical specifications and places them in the [Final Safety Analysis Report] FSAR. Review of the Fire Protection Program and its revisions will be the responsibility of the [Plant Operations Review Committee] PORC, just as it has always been the responsibility of this group to review changes to fire protection requirements when they were part of the technical specifications. The fire protection license condition is revised to reflect the proposed change, include the applicable NRC safety evaluation reports, and provide the standard wording from GL 86-10.

2. Create the possibility of a new or different kind of accident from any previously evaluated.

There are no new failure modes associated with the proposed changes. Since the plant will continue to operate as designed, the proposed changes will not modify the plant response to the point where it can be considered a new accident.

3. Involve a significant reduction in a margin of safety.

No change is being proposed for the Fire Protection Program requirements themselves. The relevant technical specifications are being deleted, and the requirements contained therein are being incorporated into the FSAR. The FSAR will continue to provide the specific instructions necessary for theimplementation of the requirements, just as when the requirements resided in the technical specifications. Fire Protection Program changes will be governed by the provisions of the fire protection license condition, 10CFR50.59 and 10CFR50.71(e).

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

Consumers Power Company, Docket No. 50-155, Big Rock Point Plant, Charlevoix County, Michigan

Date of amendment request: June 11, 1993

Description of amendment request: The proposed amendment would add acceptance criteria for the electric and diesel fire pumps based upon the Emergency Core Cooling System (ECCS) performance requirements of the primary and backup core spray and containment spray systems, and would also remove a portion of the Fire Protection Requirements from the Specifications in response to the Commission's Interim Policy Statement on Technical Specification (TS) Improvement.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Will the proposed change[s] involve a significant increase in the probability or consequences of an accident previously evaluated?

[Three of the changes] are administrative in nature and do not affect the current extent of surveillance testing performed on the electric and diesel fire pumps. [As discussed in the licensee's submittal], duplication currently exists between the fire protection and ECCS sections of the [TS]. With the proposed change, duplication is eliminated and the testing requirements are appropriately located in the ECCS section.

[Three of the changes] are associated with flow testing requirements for both the electric and diesel fire pumps. Currently testing is only required at one point (1,000 gpm, 110 psi) which is outside the operating range of the pumps when performing the ECCS function.

By requiring that pump testing encompass the complete ECCS operating range for both fire pumps, increased assurance of Loss of Coolant Accidents and Main Steam Line Breaks mitigation is realized. By assuring that the fire pumps can perform their ECCS function and out of service (LCO's) are not being altered, the consequences of core inventory accidents are not affected. Although fires are not classified as Chapter 15 accidents, the analysis in the previous section shows that the two pumps still exceed the fire system flow requirements even though the proposed performance curves are slightly below the previous (1,000 gpm [at] 110 psi) design point.

Since the proposed change only involves testing of the ECCS and fire protection pumps, and is not associated with modification to plant systems, probabilities or consequences of previously evaluated accidents remain unchanged.

2) Will the proposed change(s) create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed changes only affect the surveillance testing program for the electric and diesel fire pumps and does not result in any change to plant systems, structures or components. Testing modes and limiting conditions for operation are also not changed, thus not creating the possibility for a different type of accident.

3) Will the proposed change[s] involve a significant reduction in the margin of safety?

With respect to ECCS requirements, the proposed changes add new acceptance criteria for fire pump performance, to assure that if required adequate core cooling flows of 292 gpm (primary) or 296 gpm (back-up) are achieved. Although the proposed acceptance curve for the electric pump at the 1,000 gpm flowrate is slightly lower than previous criteria in [TS] 4.7.11.1.1.d.3, under LOCA/MSLB conditions the operating range is between [approximately] 100 [to] 750 gpm and thus does not impact ECCS performance.

For fire protection purposes the required flow rate is 2,500 gpm at 72 psig. The current acceptance criteria for both pumps results in a total flow of 3,000 gpm at 72 psig. The new acceptance curves result in a total flow of [approximately] 2,700 gpm at 72 psig which is above the required flow rate and not considered a significant reduction.

Therefore, the proposed changes do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: North Central Michigan College, 1515 Howard Street, Petoskey, Michigan 49770

Attorney for licensee: Judd L. Bacon, Esquire, Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201

NRC Project Director: W. M. Dean, Acting

Duquesne Light Company, et al., Docket Nos. 50-334 and 50-412, Beaver Valley Power Station, Unit Nos. 1 and 2, Shippingport, Pennsylvania

Date of amendment request: December 30, 1992, as supplemented March 12, and June 8, 1993.

Description of amendment request: The proposed amendments would modify the Technical Specifications (TS) to allow sleeving at the steam generator tube support plate and tubesheet regions in accordance with processes performed by Westinghouse. Previously, on June 1, 1993, the Commission approved that part of the proposed amendments dealing with Babcock and Wilcox processes. The remaining portion, which deals with the Westinghouse sleeving process, is still under review. A supplement to the amendments, dated June 8, 1993, stated that the licensee was changing the criteria for evaluating sleeve imperfection depth. The new criteria would result in a "through wall" imperfection limit of 25% instead of 31%, a change in the conservative direction.

On April 6, 1993, the NRC published in the **Federal Register** (58 FR 17912) its preliminary analysis of the issue of no significant hazards consideration based on the amendments proposed December 30, 1992, andsupplemented March 12, 1993. The effect of the June 8, 1993, supplement is evaluated in the no significant hazards analysis herein.

Basis for proposed no significant hazards consideration determination: Under the Commission's regulations, three standards are provided in 10 CFR 50.92 to be evaluated in determining whether an amendment request involves no significant hazards consideration. These three standards are stated below:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

2. Does the change create the possibility of a new or different kind of accident previously evaluated?

3. Does the change involve a significant reduction in a margin of safety?

In its previous evaluation of no significant hazards consideration (58 FR 17912), the licensee addressed the three standards above the Westinghouse sleeving process and concluded there was no significant hazards consideration. The staff's review of the licensee's evaluation agreed with that determination. The only change proposed by the June 8, 1993, supplement is to use design criteria instead of repair criteria for evaluating sleeve integrity. Since design criteria are stricter than repair criteria, and limit the operational stress in the sleeved tubes to a lower value, they are more conservative than repair criteria. The use of design criteria instead of repair criteria means that the "through wall" imperfection limit will be 25% instead of 31%, a more conservative limit. Therefore, all of the arguments made in the previous evaluation of no significant hazards consideration are still applicable, only more so, because the sleeved tubes would have to be removed earlier in their service life.

Based on the NRC staffs' evaluation above, it appears that the three standards of 10 CFR 50.92 are satisfied.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Attorney for licensee: Gerald Charnoff, Esquire, Jay E. Silberg, Esquire, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: Walter R. Butler

Duquesne Light Company, et al., Docket Nos. 50-334 and 50-412, Beaver Valley Power Station, Unit Nos. 1 and 2, Shippingport, Pennsylvania

Date of amendment request: June 8, 1993

Description of amendment request: The proposed amendments would modify Unit 1 and Unit 2 Technical Specifications (TS) Section 6.9.1.14, to specify the use of the BASH methodology instead of an earlier Westinghouse methodology. The BASH methodology is a Westinghouse improved and updated methodology which can be used to evaluate a large break loss-of-coolant accident. The BASH methodology was approved by the NRC on November 13, 1986. Unit 1 is already using BASH, and the change for Unit 1 is to update the TS reference. Unit 2 is changing from the BART model to BASH using the 10 CFR 50.59 process; the TS change will update the reference.

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 following evaluation is provided for the no significant hazards consideration standards.

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

For BVPS [Beaver Valley Power Station] Unit No. 1, the proposed change to Specification 6.9.1.14 to reference the BASH methodology is editorial in nature since this change does not represent a model change.

Therefore, since this change is editorial, it does not increase the probability or consequences of an accident previously evaluated.

For BVPS Unit No. 2, the proposed change to Specification 6.9.1.14 to reference the BASH methodology will allow the plant to utilize a NRC approved methodology. The actual plant implementation will be performed under the 10 CFR 50.59 process. Since the BASH methodology has been determined to be safe through previous NRC reviews, the proposed change to the reference in Specification 6.9.1.14 does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change does not change the plant configuration in a way which introduces a new potential hazard to the plant. Since design requirements continue to be met and the integrity of the reactor coolant

system pressure [boundary] is not challenged, no new failure mode has been created. As a result, an accident which is different than any already evaluated in the Updated Final Safety Analysis Report will not be created due to this change.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the change involve a significant reduction in a margin of safety?

The proposed change to reference the BASH methodology in the BVPS Unit No. 1 Technical Specifications is editorial in nature. BVPS Unit No. 1 currently utilizes the BASH methodology to perform the LBLOCA analysis. The current reference to the 1981 Version of the Westinghouse ECCS [Emergency Core Cooling System] Evaluation Model methodology was incorrectly added when Specification 6.9.1.14 was revised in accordance with GL 88-16. Therefore, the proposed revision to reference the BASH methodology does not affect the margin of safety at BVPS Unit No. 1.

The proposed change will allow BVPS Unit No. 2 to use the BASH methodology. This change will provide an improved level of realism combined with an acceptable level of conservation for the LBLOCA analysis, such that the level of safety and margin of conservatism has been retained.

Therefore, the proposed revision to allow the use of the BASH methodology will provide the same level of safety and margin of conservatism as the current methodologies used at BVPS Unit No. 2 to perform LBLOCA analyses. The use of the BASH methodology, therefore, does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Attorney for licensee: Gerald Charnoff, Esquire, Jay E. Silberg, Esquire, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: Walter R. Butler

Duquesne Light Company, et al., Docket Nos. 50-334 and 50-412, Beaver Valley Power Station, Unit Nos. 1 and 2, Shippingport, Pennsylvania

Date of amendment request: June 11, 1993

Description of amendment request: The proposed amendment would modify Technical Specification 5.3.1 to allow limited substitution of zirconium alloy or stainless steel filler rods for fuel 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:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The reconstituted fuel assemblies meet essentially the same designrequirements and satisfy the same design criteria as other assemblies with similar operating history. The use of reconstituted fuel assemblies will not result in a reduction in any existing safety criteria or design limits. Reconstitution will tend to reduce the dose effect of some accidents by reducing or eliminating defective fuel rods that would otherwise contribute to an increase in primary coolant fission product inventory. Justification for the acceptability of replacing fuel rods with filler rods is determined by a cycle specific reload safety evaluation using an NRC approved methodology to verify that the safety criteria and design limits are met. This change is consistent with the requirements recommended in Generic Letter 90-02, Supplement 1 and the STS [Standard Technical Specifications]. This change does not affect the UFSAR [updated final safety analysis report] and is consistent with the regulations, therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

Reconstituted fuel assemblies are designed, installed and used in the same manner as the other fuel assemblies in the core and all design and interface requirements remain unchanged. The use of reconstituted fuel assemblies has been evaluated by Westinghouse as described in WCAP-13060-P, "Westinghouse Fuel Assembly Reconstitution Evaluation Methodology." The evaluation was performed to address the concerns identified in Generic Letter 90-02 and Supplement 1 and has been reviewed and approved by the NRC. A reload core design with reconstituted fuel will evaluate the following issues: Mechanical Design, Nuclear Design, Thermal and Hydraulic Design, Non-LOCA [Non-Loss-of-Coolant Accident] Transient Analysis, LOCA Analysis, Steam Generator Tube Rupture and Containment Integrity Analysis. The reconstituted fuel assemblies will meet the design requirements in all these areas and will not introduce any new mode of plant operation or require any physical modification to the plant. Therefore, this change will not create the possibility of a new or different kind of accident from any accident previously evaluated in the UFSAR.

3. Does the change involve a significant reduction in a margin of safety?

The safety and design limits will not be changed as a result of installing reconstituted fuel. All safety and design limits will continue to be confirmed in accordance with the reload safety evaluation methodology. Technical Specification 3/4.5 defines the ECCS [emergency core cooling system] performance criteria upon which the LOCA analyses are based and Technical Specification 2.1 defines the limiting safety system parameters which form the basis upon which the non-LOCA analyses are based. These criteria ensure that the plant remains within the limits of the safety analyses for all evaluated operating conditions, therefore, the margin of safety is not 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: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Attorney for licensee: Gerald Charnoff, Esquire, Jay E. Silberg, Esquire, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: Walter R. Butler

Florida Power and Light Company, Docket Nos. 50-250 and 50-251, Turkey Point Plant Units 3 and 4, Dade County, Florida

Date of amendment request: May 21, 1993

Description of amendment request: The proposed amendment would revise the Technical Specifications (TS) for the Turkey Point Units 3 and 4 relating to the containment design pressure. Specifically, the proposed amendment would revise TS 5.2.2, "Design Pressure and Temperature," to change the existing maximum containment design internal pressure from 59 psig to 55 psig. Consistent with this change, revision to the associated TS bases and other administrative corrections are also 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, which is presented below:

(l) Operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The containment structure has been designed as one of three principal fission barriers to ensure that offsite doses resulting from pipe break events within containment do not result in offsite doses in excess of the 10 CFR Part 100 limits. The maximum containment design pressure criterion establishes a basis to ensure that the structural integrity of containment is not compromised following an accidental pressurization of this structure. Consequently, a clarification of the maximum

containment design pressure criteria and associated containment structural integrity will have no effect on the probability of occurrence of any initiating accident; and the probability of occurrence of any accident or plant event previously evaluated in the Updated [Final Safety Analysis Report] FSAR has not been increased.

Since the Large Break Loss of Coolant Accident (LOCA) analysis remains the bounding containment transient analysis case with a peak containment pressure of 49.9 psig and the containment design pressure of 55 psig continues to satisfy the original (and current) Atomic Energy Commission (AEC) structural margin criterion of 10%, the use of a containment design pressure equal to the original licensed value of 55 psig (and the associated minimum required prestress forces for the containment post-tensioning system) will not increase the consequences of an accident previously analyzed in the Updated FSAR.

A minor technical change has been proposed for BASES 3/4.6.1.4 to limit the initial containment pressure conditions to be consistent with the stated Limiting Conditions for Operation (LCO) of [Tecnical Specifications] T.S. 3.6.1.4. This will require changing the conservative bounding value of +5.0 psig to +3.0 psig for maximum initial containment pressure. T.S. 3.6.1.4 states that "primary containment internal pressure shall be maintained [below] +3 psig." The original bounding LOCA analyses did not rely on the value of +5.0 psig, and an initial containment pressure of up to +3.0 psig (which supports the LCO requirements) will not result in a post-accident pressure that exceeds the licensed design pressure of 55 psig. For these reasons, this change in BASES 3/4.6.1.4 will have no effect on the probability of occurrence of any initiating accident and it will not increase the consequences of an accident previously analyzed in the Updated Final Safety Analysis Report (UFSAR).

In addition, the capabilities of Engineered Safety Features equipment to operate within the post-accident containment environment and the conclusions of UFSAR Sections 6.3 and 6.4 remain unchanged. Engineered Safety Features equipment has been designed to provide acceptable performance and is qualified for a pressure of 59 psig, which envelopes the original licensed containment design pressure of 55 psig. Consequently, no increase in equipment failures or reductions in performance associated with a revised containment design pressure would occur, and no increase in the consequences of any accident would be expected.

(2) Operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated.

The containment structure has been designed as one of three principal fission barriers to ensure that offsite doses resulting from pipe break events within containment do not result in offsite doses in excess of the 10 CFR Part 100 limits. The maximum containment design pressure criteria establishes a basis to ensure that the structural integrity of containment is not compromised following an accidental pressurization of this structure.

Since the Large Break LOCA analysis remains the bounding containment transient analysis case with a peak containment pressure of 49.9 psig and the licensed containment design pressure of 55 psig continues to satisfy the original AEC containment structural margin criterion (which remains the current NRC criterion) of 10%, no new or different kind of accident has been created. Consequently, the use of a containment design pressure equal to the original licensed pressure of 55 psig (and the associated minimum required prestress forces for the containment post-tensioning system) will not create the possibility of a new or different kind of accident from any accident previously evaluated in the Updated FSAR.

A technical change has been proposed for BASES 3/4.6.1.4 to limit the initial containment pressure conditions to be consistent with the stated LCO. This will require changing the conservatively bounding value of +5.0 psig to +3.0 psig for maximum initial containment pressure. The original bounding LOCA analyses did not rely on the value of +5.0 psig, and an initial containment pressure of up to +3.0 psig (which support the LCO requirements) will not result in a post-accident pressure that exceeds the licensed design pressure of 55 psig. For these reasons, this change in BASES 3/4.6.1.4 will not create the possibility of a new or different kind of accident from any accident previously evaluated in the Updated FSAR.

(3) Operation of the facility in accordance with the proposed amendment would not involve a significant reduction in the margin of safety.

Since the Large Break LOCA analysis remains the bounding containment transient analysis case with a peak containment pressure of 49.9 psig and the licensed containment design pressure of 55 psig continues to satisfy the original (and current) AEC structural margin criterion of 10%, the use of a containment design pressure equal to the original licensed pressure of 55 psig (and the associated minimum required prestress forces for the containment post-tensioning system) will have no effect on the margin of safety from that previously licensed by the AEC and documented in the original operating license SER.

A minor technical change has been proposed for BASES 3/4.6.1.4 to limit the initial containment pressure conditions to be consistent with the stated Limiting Conditions for Operation of T.S. 3.6.1.4. This will require changing the conservatively bounding value of +5.0 psig to +3.0 psig for maximum initial containment pressure. The original bounding LOCA analyses did not rely on the value of +5.0 psig, and an initial containment pressure of up to +3.0 psig (which support the LCO requirements) will not result in a post-accident pressure that exceeds the licensed design pressure of 55 psig. For these reasons, this change in BASES 3/4.6.1.4 does not involve any reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Florida International University, University Park, Miami, Florida 33199

Attorney for licensee: Harold F. Reis, Esquire, Newman and Holtzer, P.C., 1615 L Street, NW., Washington, DC 20036

NRC Project Director: Herbert N. Berkow

Gulf States Utilities Company, Docket No. 50-458, River Bend Station, Unit 1, West Feliciana Parish, Louisiana

Date of amendment request: January 13, 1993

Description of amendment request: The proposed amendment would revise the license to reflect a change in ownership of Gulf States Utilities (GSU). Upon approval by the NRC and other regulatory agencies, GSU, which owns a 70 percent undivided interest in River Bend Station, will become a wholly owned subsidiary company of Entergy Corporation. The license would be changed by adding a footnote that describes this change in ownership of GSU. The merger will not affect the ownership, design, or operation of the River Bend Station. The opportunity to provide comments or information relating to any antitrust issues believed to be raised by the GSU ownership change was noticed in the **Federal Register** on March 25, 1993 (58 FR 16246). The opportunity, if any, for intervention and a hearing in connection with antitrust issues will be the subject of a **Federal Register** notice at the appropriate time.

Basis for proposed no significant hazards determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's review is presented below:

1. The proposed change would not increase the probability or consequences of a previously evaluated accident.

As a result of the proposed license amendment, there will be no physical change to the River Bend facility, and all limiting conditions for operation, limiting safety system settings and safety limits specified in the technical specifications will remain unchanged.

2. The proposed change would not create the possibility of a new or different kind of accident from any previously evaluated.

The proposed amendment will have no effect on the physical configuration of River Bend or the manner in which it will operate. The plant design and design basis will remain the same. The current plant safety analyses will therefore remain complete and accurate in addressing the design basis events and in analyzing plant response and consequences. The limiting conditions for operation, limiting safety system settings, and safety limits specified in the technical specifications are not affected by the proposed amendment. As such, the plant conditions for which the design basis accident analyses have been performed will remain valid.

3. The proposed change would not involve a significant reduction in the margin of safety.

Plant safety margins are established through limiting conditions for operation, limiting safety system settings and safety limits specified in the technical specifications. Since there will be no change to the physical design or operation of the plant, there will be no change to any of these margins.

Based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Government Documents Department, Louisiana State University, Baton Rouge, Louisiana 70803

Attorney for licensee: Mark Wetterhahn, Esq., Bishop, Cook, Purcell and Reynolds, 1401 L Street, N.W., Washington, D.C. 20005

NRC Project Director: Suzanne C. Black

Gulf States Utilities Company, Docket No. 50-458, River Bend Station, Unit 1, West Feliciana Parish, Louisiana

Date of amendment request: January 13, 1993

Description of amendment request: The proposed amendment would revise the license to include Entergy Operations, Inc. (EOI), as a licensee and would authorize EOI, as agent for the owners to use and operate River Bend Station and to possess and use related licensed nuclear materials. EOI is a wholly owned subsidiary of Entergy Corporation whose function would be to serve as the managing agent for River Bend. At the time of effectiveness, responsibility for the management, operation, and maintenance of River Bend would transfer to EOI from Gulf States Utilities (GSU).

In order to assure that the role of EOI is solely to act as the managing agent for the plant, the staff will condition the license to prohibit EOI from marketing or brokering power or energy from the plant. In addition, the license condition would indicate that all licensees other than EOI are responsible and accountable for the actions of their agent to the extent said agent's actions effect the marketing or brokering of power and energy from River Bend Station.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's review is presented below:

1. The proposed change would not increase the probability or consequences of a previously evaluated accident.

The employees of GSU presently engaged in the operation of River Bend will become employees of EOI. Personnel qualification, therefore, will remain the same as those discussed in the technical specifications and the Updated Final Safety Analysis Report. The organizational structure of EOI will provide for clear management control and effective lines of authority and communication among the organizational units involved in the management, operation, and technical support of the facility. Accordingly, the technical qualifications of EOI will be at least equivalent to those of GSU presently. As a result of the proposed amendment, there will be no physical changes to the facility, and all limiting conditions for operation, limiting safety system settings, and safety limits specified in the technical specifications will remain unchanged. With the exception of administrative changes to reflect the role of EOI, the quality assurance program, the emergency plan, security plan, and training program are unaffected. Operating agreements will ensure continued compliance with General Design Criterion 17 as well as EOI control over all activities within the exclusion area.

2. The proposed change would not create the possibility of a new or different kind of accident from any previously evaluated.

The limiting conditions for operation, limiting safety system settings, and safety limits are not affected by the proposed amendment. With the exception of administrative changes to reflect the role of EOI, plant procedures are unaffected. As such, the plant conditions for which the design basis accident analyses have been performed are still valid.

3. The proposed change would not involve a significant reduction in the margin of safety.

Plant safety margins are established through limiting conditions for operation, limiting safety system settings, and safety limits specified in the technical specifications. There will be no change to the physical design or operation of the plant or to any of these margins.

Based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Government Documents Department, Louisiana State University, Baton Rouge, Louisiana 70803

Attorney for licensee: Mark Wetterhahn, Esq., Bishop, Cook, Purcell and Reynolds, 1401 L Street, N.W., Washington, D.C. 20005

NRC Project Director: Suzanne C. Black

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 application for amendment: May 27, 1993

Description of amendment request: Houston Lighting & Power Company, et.al., (the licensee or HL&P) requests amendments to the South Texas Project, Units 1 and 2, Technical Specifications (TS) to upgrade the fuel used in the South Texas Project reactors to Westinghouse VANTAGE 5 Hybrid (V5H) design and to implement several analytical and operational upgrades into the South Texas Project Updated Final Safety Analysis Report (UFSAR). In order to accomplish this, the licensee proposes to modify related setpoints, limiting conditions for operation, surveillance requirements, design features information, and associated bases in the following specifications: TS Table 2.2-1, "Reactor Trip System Instrumentation Trip Setpoints," TS Figure 3.1-1, "Required Shutdown Margin for Modes 1 and 2," TS Figure 3.1-2, "Required Shutdown Margin for Mode 5," TS Figure 3.1-2a, "MTC versus Power Level," TS 3/4.2.5, "Power Distribution Limits - DNB Parameters," TS Table 3.3-4, "Engineered Safety Features Actuation System Instrumentation Trip Setpoints," TS 3/4.6.1 1, "Primary Containment - Containment Integrity," TS 3/4.6.1.2, "Containment Systems -

Containment Leakage," TS 3/4.6.1.3, "Containment Systems - Containment Air Locks," TS 3/4.6.1.5, "Containment Systems - Air Temperature," TS 3/4.7.1.2, "Plant Systems - Auxiliary Feedwater System," TS 5.2.1, "Containment - Configuration," TS 5.3.1, "Reactor Core - Fuel Assemblies," TS 5.6.1, "Fuel Storage - Criticality," and add TS Figure 5.6-7, "Minimum IFBA Content for In-Containment Rack Fuel Storage." Additionally, changes are made for clarity to the TS Index and TS 5.2.2, "Containment - Design Pressure and Temperature."

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Each proposed change has been evaluated with respect to the above question. The evaluations are presented below.

The changes to the Updated Safety Analysis Report (UFSAR) due to the mechanical changes to the fuel have been reviewed internally by HL&P, per 10 CFR 50.59 [Title 10, Code of Federal Regulations, Section 50.59], have been found not to constitute an unreviewed safety question and, therefore do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The only directed effect of these fuel mechanical changes on the non-LOCA safety analyses is the potential for a change in the rod drop time (from gripper release to release to dashpot entry). The currently licensed rod drop time of 2.8 seconds has been shown to be sufficiently conservative to remain bounding even with V5H fuel and zircaloy mid-grids.

The STP analyses supporting this amendment request have incorporated the following changes to the methodology/model used in the previous licensing basis:

1) Revised Thermal Design Procedure
2) 10% steam generator tube plugging
3) Increased allowable range for T_{AVE}
4) Reduced AFW flow rate (Technical Specification (TS) 3/4.7.12) [sic;3/4.7.1.2]
5) Revised reactor containment building volume and P_a (TS 3/4.6.1.1, 3/4.6.1.2, 3/4.6.1.3, 3/4.6.1.5, 5.2.2). [sic;5.2.1]
6) Increased core peaking factor allowance in COLR
7) Positive moderator temperature coefficient (TS Fig. 3.1-2a
8) Tolerance for pressurizer safety valve drift and loop seal purge time
9) Tolerance for steam line safety valve drift
10) Revised DNB parameters (TS 3/4.2.5)
11) Shutdown margin reduction from 1.75% delta k/k to 1.3% delta k/k (Fig. 3.1-1, 3.1-2).

The proposed changes to page viii of the index and the Section 5.2.2 are editorial for consistency and clarity. They have no impact on any of the 10 CFR 50.92 criteria and involve no significant hazards consideration.

[UFSAR] Chapter 15 accidents have been analyzed considering the cumulative effects of all proposed changes, including revised setpoints described in the proposed changes to Technical Specification Tables 2.2-1 and 3.3-4. No significant increase in consequences were identified in the analyses other than small increases in the PCT [peak clad temperature] results for certain Condition IV events (LOCA [loss of coolant accident] and non-LOCA). In any case, these results were found to be within the limits of 10 CFR 50.46.

Accident probability is influenced by changes which increase the frequency of initiating events. The change described above are analytical revisions and do not involve system modifications other than setpoint changes. The changes are expected to benefit operational flexibility overall and, in the case of OT delta T [overtemperature delta temperature] setpoint changes, reduce the potential for reactor trip. Consequently, HL&P has concluded that there is no significant increase in accident probability.

In addition to the re-analysis of the [UFSAR] Chapter 15 non-LOCA transients, the Steamline Break Mass and Energy releases for use in a containment pressure and temperature analysis were calculated. V5H fuel and the associated plant changes were included in those calculations.

The containment and safety-related systems inside containment remain operable as previously analyzed. The changes in the containment volume, pressure, and temperature do not increase or cause an increase in the likelihood of a LOCA, MSLB [main steam line break], or any other DBA [design basis accident]. The increase in peak containment post accident pressure and temperature resulting from the reduced free volume is bounded by the original containment and equipment design pressure (Reference 3) [HL&P Plant Analysis, "Effects of Reduced Containment Free Volume, Reduced Initial Temperature and V5H Fuel Upgrade", February 1993.]

Criticality analyses, including IFBA [Integral Fuel Burnable Absorbers] Credit Reactivity Equivalencing and a review of postulated accidents that would increase reactivity, concluded that the acceptance criteria for criticality is met for the New Fuel and In-Containment Fuel Storage Racks for storage of all Westinghouse 17X17 fuel assemblies with the specified configurations and enrichment limits. Reanalysis of the New and In-Containment fuel racks criticality analysis does not compromise the performance of any safety-related components or system.

The licensing basis of maintaining of K_{eff} [effective multiplication factor] of less than or equal to 0.95 is met by the physical design of both he New Fuel racks and the In-containment storage racks and by the use of administrative controls. Based upon SER [Safety Evaluation Report] Supplement 6 (Reference 12) [NUREG-0781, Safety Evaluation Report Related to the Operation of South Texas Project, Units 1 and 2, including Supplements 1 through 7, Section 3.11 and 6.2] which presents the NRC acceptance criteria, the proposed changes to the UFSAR and to the Section 5.6 of the Technical Specifications meet the accepted NRC acceptance criteria for rack subcriticality. Therefore, the changes in the utilization of the New Fuel racks and the In-containment Fuel racks do not involve a significant increase in the probability or consequences of an accident previously evaluated.

No new performance requirements are being imposed on any system or component in order to support the revised analysis assumptions. Subsequently, overall plant integrity remains consistent with that established by the original licensing basis. Furthermore, the features of V5H which are different from Standard fuel and the associated fuel upgrade related changes included as modifications to the safety analyses procedures or input are associated with features used as limits or mitigators to assumed accident scenarios and not accident initiators.

The evaluation of the impact of the proposed changes specified in Section 3.0 of the Safety Evaluation is discussed in Section 4 of the Safety Evaluation and Plant Safety Evaluation (PSE)

Sections 5.4 and 5.6 (Reference 1) [≥Plant Safety Evaluation for South Texas Project Units 1 and 2 Fuel Upgrade." February 1993, FAL-93-116]. The evaluation addressed a full core of V5H as well as transition cores consisting of V5H and Standard fuel.

Therefore, the probability of occurrence of an accident previously evaluated in the safety analysis report is not increased, and there is no significant increase in the consequences of an accident previously evaluated in the safety analysis report.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

As noted below, each of the elements of the revised analyses for the proposed Technical Specification changes has been reviewed and determined to be acceptable. These analytical changes do not impact the way systems are operated or introduce new or different failure mechanisms.

The accident parameters which have a direct impact on dose (including fuel damage, offsite steam releases and primary to secondary leakage) have been reviewed. The results of the accident analysis show that these parameters are not adversely affected by the upgrade to V5H and the associated changes. Since these parameters are not adversely affected, the radiological consequences of the accidents do not create the possibility of a different accident or malfunction of equipment important to safety.

Mechanical evaluations have been performed on equipment important to safety to confirm that their function and reliability are not negatively impacted due to the upgrade to V5H and the additional changes discussed in Section 3.0 of the Safety Evaluation [of May 27, 1993 submittal]. No new accident scenarios, failure mechanisms or limiting single failures are introduced as a result of the fuel transition. The presence of V5H fuel assemblies in the core or the

revised analytical assumptions have no adverse effect and do not challenge the performance of any other safety related system.

All safety related equipment remain operable and will continue to perform their functions under the conditions of the new analyses, and, therefore, the probability of failure of such equipment initiating an accident is not increased.

No new performance requirements are being imposed on any system or component in order to support the revised analysis assumptions. Subsequently, overall plant integrity remains consistent with that established by the original licensing basis. Furthermore, the features of V5H which are different from Standard fuel and the associated fuel upgrade related changes included as modifications to the safety analysis procedures or input (see Section 3.0 of the Safety Evaluation [of May 27, 1993 submittal]) are associated with features used as limits or mitigators to assumed accident scenarios and not accident initiators. Therefore, the probability of a malfunction of equipment important to safety previously evaluated in the safety analysis report is not increased.

The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The upgrade to V5H fuel, use of RTDP [Revised Thermal Design Procedure] and the other changes discussed in this application were evaluated against the applicable acceptance criteria.

1) Fuel-related criteria:

a) DNBR greater than safety analysis limit

b) PCT less than 2200°F for LOCA

c) Fuel centerline temperature less than 4900°F (BOL), 4800°F (EOL)

d) Average fuel pellet enthalpy less than 200 cal/gm for rod ejection

e) Fuel melting limited to 10 percent for rod ejection

f) Remainder of 10 CFR 50.46 criteria (clad oxidation, hydrogen generation, coolable geometry, long-term cooling)

2) RCS pressure boundary-related criteria:

a) Pressure less than 110 percent for Condition II and III events

b) Pressure less than 116 percent for Condition IV events.

3) Containment pressure:

a) Peak pressure maintained below design pressure, and long-term pressure below 50% of design within 24 hours

DNB [departure from nucleate boiling] margin is maintained by the use of the revised thermal design procedure. The non-LOCA analyses confirm that the DNB design basis is met for Standard 17X17 and V5H fuel.

LOCA-related analyses demonstrate that the margins of safety with respect to blowdown reactor vessel and loop forces is preserved, thus satisfying the 10 CFR 50.46 criteria that the core remain amendable to cooling after a LOCA. Long-term cooling and post-LOCA subcriticality concerns are satisfied by the increased RWST [Reactor Water Storage Tank) boron concentration. Increased RWST boron concentration, in turn, affects the concern with boron precipitation. The analysis shows hot-leg switchover must be accomplished 10.5 hours after accident initiation, which is acceptable.

The containment and safety-related systems inside containment remain operable as previously analyzed. The increase in peak containment post accident pressure and temperature resulting from the reduced free volume is bounded by the original containment and equipment design pressure.

The margin of safety in the plant licensing basis which is affected by the upgrade to V5H fuel and associated changes discussed in Section 3.0 of the Safety Evaluation [of May 27, 1993 submittal] is defined in the BASES to those technical specification. These BASES and the supporting technical specification values are defined by the accident analyses which are performed to conservatively bound the operating basis defined by the technical specifications and to demonstrate compliance with the regulatory acceptance limits.

The upgrade to V5H fuel and the other changes discussed in Section 3.0 of the Safety Evaluation [of May 27, 1993 submittal] were evaluated against the applicable acceptance criteria and determined to be acceptable. Performance of analyses and evaluations for the upgrade to V5H and associated changes have confirmed that the operating envelope defined by the technical specifications continues to be bounded by the revised analytical basis, which is no case exceeds the acceptance limits.

Therefore, the margin of safety provided by the analyses in accordance with these acceptance limits is maintained and not 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 request for amendments involves no significant hazards consideration.

Local Public Document Room 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, N.W., Washington D.C. 20036

NRC Project Director: Suzanne C. Black

Niagara Mohawk Power Corporation, Docket No. 50-220, Nine Mile Point Nuclear Station Unit No. 1, Oswego County, New York

Date of amendment request: May 26, 1993

Description of amendment request: The proposed license amendment would revise Technical Specifications 6.8.2 and 6.8.3c to require approval of plant procedures and administrative policies (and changes thereto) by the branch manager for the functional area of the procedure or administrative policy rather than requiring approval of these procedures and administrative policies by the Plant Manager.

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 operation of Nine Mile Point Unit 1 in accordance with the proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendment incorporates administrative changes and does not affect assumptions contained in any safety analyses nor do the changes affect Technical Specifications that preserve safety analyses assumptions. Additionally, these proposed changes do not modify the physical design or operation of the plant. Furthermore, the quality of plant procedures will be preserved since approval will rest with the branch managers in the area of expertise for the procedure. Niagara Mohawk believes that it is prudent to have plant procedures approved by the appropriate branch manager. This allows the person most familiar with the procedure the opportunity to approve it. Any safety concerns regarding a procedure change can be elevated to higher levels of management. The proposed changes are intended to enhance the overall management capability and performance of Nine Mile Point Unit 1 by freeing the Plant Manager for other duties involving plant safety. Therefore, the proposed amendment will not increase the probability or consequences of an accident previously evaluated.

The operation of Nine Mile Point Unit 1 in accordance with the proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.

Since there are no changes in the way the plant is operated and plant equipment and physical features are not affected, the potential for an unanalyzed accident is not created. The proposed changes are administrative in nature and do not affect any accident initiators for Nine Mile Point Unit 1. Therefore, no new failure modes are introduced. Furthermore, the quality of plant procedures will be preserved since approval will rest with the branch managers in the area of expertise for the procedure. Niagara Mohawk believes that it is prudent to have plant procedures reviewed by the appropriate branch manager. This allows the person most familiar with the procedure the opportunity to approve it. Any safety concerns regarding a procedure change can be elevated to higher levels of management. The proposed changes are intended to enhance the overall management capability and performance of Nine Mile Point Unit 1 by freeing the Plant Manager for other duties involving plant safety. The proposed amendment will, therefore, not create the possibility of a new or different kind of accident from any accident previously evaluated.

The operation of Nine Mile Point Unit 1 in accordance with the proposed amendment will not involve a significant reduction in a margin of safety.

Plant safety margins are established through LCO's [Limiting Condition for Operations], limiting safety system settings, and safety limits specified in the Technical Specifications. As a result of the proposed amendment, there will be no changes to either the physical design of the plant or to any of these settings and limits. No margin of safety is affected by this change. The initial conditions utilized in the conduct of the accident analyses are unchanged. The methodologies used for the analyses are unchanged. The analysis results are not impacted. Sufficient controls are included in the procedure review methodology to ensure that the plant conditions and equipment availability required to support the integrity of the analyses, and hence the margin of safety, will continue to be maintained.

The proposed amendment does not involve a significant reduction in a margin of safety because Niagara Mohawk, through its Quality Assurance programs and other required controls, maintains ANSI standard or Regulatory Guide 1.8, as appropriate, qualified personnel in positions of responsibility. This assures that procedures and procedure changes are approved at a high level of competence.

The proposed changes are administrative in nature and do not affect the safe operation of the plant. Therefore, there will be no changes to any of the margins 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: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Attorney for licensee: Mark J. Wetterhahn, Esquire, Winston & Strawn, 1400 L Street, NW., Washington, DC 20005-3502.

NRC Project Director: Robert A. Capra

Niagara Mohawk Power Corporation, Docket No. 50-410, Nine Mile Point Nuclear Station, Unit 2, Oswego County, New York

Date of amendment request: May 26, 1993

Description of amendment request: The proposed license amendment would revise Technical Specifications (TSs) 6.8.2 and 6.8.3c to require approval of plant procedures (and changes thereto) by the branch manager for the functional area of the procedure rather than requiring approval of these procedures by the Plant Manager. The proposed license amendment would also make a typographical correction to the spelling of the word "DOSE" in TS 6.8.1.i and would delete a footnote on TS page 6-16; the intent of this footnote would be incorporated in the proposed revision to TS 6.8.2.

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 operation of Nine Mile Point Unit 2 in accordance with the proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendment incorporates administrative and editorial changes and does not affect assumptions contained in any safety analyses nor do the changes affect Technical Specifications that preserve safety analyses assumptions. Additionally, these proposed changes do not modify the physical design or operation of the plant.

Furthermore, the quality of plant procedures will be preserved since approval will rest with the branch managers in the area of expertise for the procedure. Niagara Mohawk believes that it is prudent to have plant procedures approved by the appropriate branch manager. This allows the person most familiar with the procedure the ability to approve it. Any safety concerns regarding a procedure change can be elevated to higher levels of management. The proposed changes are intended to enhance the overall management capability and performance of Nine Mile Point Unit 2 by freeing the Plant Manager for other duties involving plant safety. The proposed changes to delete the footnote on page 6-16 and to replace the reference to SORC [Station Operations Review Committee] in Specifications 6.8.2 and 6.8.3.c with a reference to Specification 6.5.2 are being requested for clarification purposes and do not change what is currently allowed by the Nine Mile Point Unit 2 Technical Specifications. In addition, an editorial change has been proposed to correct the spelling of "DOES" to "DOSE" in Section 6.8.1.i. Therefore, the proposed amendment will not increase the probability or consequences of an accident previously evaluated.

The operation of Nine Mile Point Unit 2 in accordance with the proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.

Since there are no changes in the way the plant is operated and plant equipment and physical features are not affected, the potential for an unanalyzed accident is not created. The proposed changes are administrative and editorial in nature and do not affect any accident initiators for Nine Mile Point Unit 2. Therefore, no new failure modes are introduced. Furthermore, the quality of station procedures will be preserved since approval will rest with the branch managers in the area of expertise for the procedure. Niagara Mohawk believes that it is prudent to have plant procedures reviewed by the appropriate branch manager. This allows the person most familiar with the procedure the ability to approve it. Any safety concerns regarding a procedure change can be elevated to higher levels of management. The proposed changes are intended to enhance the overall management capability and performance of Nine Mile Point Unit 2 by freeing the Plant Manager for other duties involving plant safety. The proposed changes to delete the footnote on page 6-16 and to replace the reference to SORC in Specifications 6.8.2 and 6.8.3.c with a reference to Specification 6.5.2 are being requested for clarification purposes and do not change what is currently allowed by the Nine Mile Point Unit 2 Technical Specifications. In addition, an editorial change has been proposed to correct the spelling of "DOES" to "DOSE" in Section 6.6.1.i. The proposed amendment will, therefore, not create the possibility of a new or different kind of accident from any accident previously evaluated.

The operation of Nine Mile Point Unit 2 in accordance with the proposed amendment will not involve a significant reduction in a margin of safety.

Plant safety margins are established through LCO's [Limiting Condition for Operations], limiting safety system settings, and safety limits specified in the Technical Specifications. As a result of the proposed amendment, there will be no changes to either the physical design of the plant or to any of these settings and limits. No margin of safety is affected by this change. The initial conditions utilized in the conduct of the accident analysis are unchanged. The methodologies used for the analyses are unchanged. The analyses results are not impacted. Sufficient controls are included in the procedure review methodology to ensure that the plant conditions and equipment availability required to support the integrity of the analyses, and hence the margin of safety, will continue to be maintained.

The proposed amendment does not involve a significant reduction in a margin of safety because Niagara Mohawk, through its Quality Assurance programs and other required controls, maintains ANSI standard or Regulatory Guide 1.8, as appropriate, qualified personnel in positions of responsibility. This assures that procedures and procedure changes are approved at a high level of competence.

The proposed changes are administrative and editorial in nature and do not affect the safe operation of the plant. Therefore, there will be no changes to any of the margins 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: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Attorney for licensee: Mark J. Wetterhahn, Esquire, Winston & Strawn, 1400 L Street, NW., Washington, DC 20005-3502.

NRC Project Director: Robert A. Capra

Niagara Mohawk Power Corporation, Docket No. 50-410, Nine Mile Point Nuclear Station, Unit 2, Oswego County, New York

Date of amendment request: June 7, 1993

Description of amendment request: The proposed changes would, in part, change the Action requirements and associated Bases for Technical Specification (TS) 3/4.8.1, "AC Sources - Operating," to eliminate unnecessary emergency diesel generator testing when a diesel generator or an off-site power source becomes inoperable. These changes are intended to increase diesel generator reliability by reducing the stresses on the diesel generators caused by unnecessary testing. Additional changes have also been proposed to TS 3/4.8.1 to further enhance diesel generator reliability and to make certain administrative changes.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The operation of Nine Mile Point Unit 2, in accordance with the proposed amendment, will not involve a significant increase in the probability or consequences of an accident previously evaluated.

Technical Specification 3.8.1.1, Actions b, c, d and g, require that the operable diesel generator(s) be started and loaded to offsite power to demonstrate their operability in the event any diesel generator(s) becomes inoperable due to any cause other than preplanned preventive maintenance or testing. The proposed change would add wording to Technical Specification 3.8.1.1 Actions b, c, d, and g which would allow verification that the cause of the diesel generator(s) being inoperable does not impact the operability of the operable diesel generator(s). This will allow station personnel to determine whether the potential for a common mode failure exists rather than requiring unnecessary testing of the operable diesel generators.

The normal Technical Specification surveillance testing schedule established in accordance with GL [Generic Letter] 84-15 assures that operable diesel generator(s) are capable of performing their intended safety functions. A failure of a different diesel generator does not reduce the reliability of an otherwise operable diesel generator(s) if the cause of failure is not common to the diesel generator(s). Deleting the requirement to demonstrate the operability of an otherwise operable diesel generator, once the potential for a common mode failure has been dismissed, does not affect the design or performance characteristics of a diesel generator. Therefore, the diesel generator(s) maintain their ability to perform their design function.

Technical Specification 3.8.1.1, Actions b, c, d and g, also require that the operable diesel generator(s) be started and loaded to offsite power to demonstrate their operability in the event any diesel generator becomes inoperable due to any cause other than preplanned preventive maintenance or testing. The proposed change would delete the requirement to load a diesel generator(s) to offsite power. As addressed in Information Notice 84-69, when a diesel generator is operated connected to an offsite power source and its associated non-vital loads, disturbances on the non-vital loads and offsite power systems can adversely affect diesel generator reliability. Therefore, diesel generator availability can be adversely affected by a demonstration of operability requiring connection of the diesel generators to offsite power sources and associated non-vital loads. At a time when at least one diesel generator is already inoperable, these Action [S]tatements increase the risk of losing the remaining operable diesel generator(s). Deleting the requirement to load the operable diesel generator(s) does not affect the design or performance characteristics or the reliability of the diesel generator(s). Therefore, the diesel generators maintain their ability to perform their design function.

Technical Specification 3.8.1.1, Actions b, c, and d, require that all operable diesel generator(s) be started and loaded to offsite power to demonstrate their operability in the event any diesel generator becomes inoperable due to any cause other than "preplanned preventive maintenance or testing." The proposed change would revise Technical Specification 3.8.1.1, Actions b, c, and d, to remove the word "preventive" from the phrase "preplanned preventive maintenance." This requirement could cause unnecessary testing of the operable diesel generators if preplanned "corrective" maintenance was performed. Since, by its nature, preplanned corrective maintenance could be delayed without declaring the diesel generator inoperable, the condition requiring corrective maintenance has not prevented the diesel generator from being capable of performing its intended safety function. Under the current requirements, minor corrective maintenance could be delayed in order to prevent having to demonstrate the operability [of] the operable diesel generators. The ability to perform types of maintenance other than preventive without subsequent testing does not affect the design or performance characteristics of the diesel generators.

Technical Specification 3.8.1.1, Actions a and f, require that the operable diesel generator(s) be started and loaded to offsite power to demonstrate its operability in the event an offsite source becomes inoperable. The inoperability of an offsite AC power source in no way affects the reliability of a diesel generator. Accordingly, the proposed Technical Specification change would delete the requirement to demonstrate the operability of the operable diesel generator(s) when an offsite power source is determined to be inoperable. Deleting the requirement to demonstrate the operability of the diesel generator(s) when offsite power is lost does not affect the design or performance characteristics of the diesel generator(s). Therefore, the diesel generator(s) maintain their ability to perform their design function.

Technical Specification 3.8.1.1 Action e requires that, within 2 hours of a Division I or II diesel generator becoming inoperable, all required systems, subsystems, trains, components and devices that depend on the remaining operable Division I or II diesel generators as a source of emergency power be verified as operable. If this condition cannot be met, the plant is required to be placed in HOT SHUTDOWN within the next 12 hours and in COLD SHUTDOWN within the following 24 hours. Technical Specification 3.8.1.1 Action e can result in an unnecessary plant shutdown when the current Technical Specification Action for the affected equipment allows continued plant operation for a time period longer than 2 hours when both redundant pieces of equipment are inoperable.

Therefore, Niagara Mohawk proposes to change Action e to add the option of declaring inoperable the redundant system, subsystem, train, component or device served by the inoperable diesel generator and taking the Actions required by the associated specification(s) for both divisional systems, subsystems, trains, components or devices being inoperable versus shutting down the plant. The current Action requirements for the affected equipment will be used to determine if an immediate plant shutdown should be initiated. These Action statements have been established to support safe operation based upon the affect of the loss of the equipment's safety function(s). Therefore, plant safety is not adversely affected nor is the diesel generator(s) ability to perform its design function affected.

Niagara Mohawk also proposes to add the word "redundant" to Technical Specification 3.8.1.1 Action e to remove the requirement to verify operability of equipment which is served by only one diesel generator. The accident analyses does not take credit for operation of equipment which is not served by both EDG*1 and EDG*3 since a single failure during a design basis accident would prevent such equipment from performing its safety function(s). In addition, there are some systems that are supplied power by both diesel generator(s) that are not required for safe shutdown of the plant. Revised Bases for this Action statement clearly define which equipment is required to be verified operable per Action e. The proposed changes to Action e continue to limit plant operation to those periods of time allowed by the current Action statements for the affected equipment. Therefore, the same level of safety for those significant critical systems is maintained and plant safety is not adversely affected nor is the diesel generator(s) ability to perform its design function.

Technical Specification 3.8.1.1 Action d requires that when Division III diesel generator EDG*2 is found to be inoperable, EDG*2 be restored to an operable status within 72 hours or HPCS [High Pressure Core

Spray] be declared inoperable and the actions required by Technical Specifications 3.5.1 and 3.7.1.1 be taken. Niagara Mohawk proposes to delete the reference made to Technical Specification 3.7.1.1. Technical Specification 3.7.1.1 provides the operability requirements of the plant service water system. The service water system consists of two loops, Division I and Division II. The inoperability of the Division III diesel generator does not affect the operability of the Division I or II service water systems. Therefore, the reference made to Technical Specification 3.7.1.1 should be deleted. This is an administrative change and does not affect the diesel generator design or performance.

The word "test" has been deleted from the note (indicated by the asterisk (*)) in Technical Specification 3.8.1.1. Currently Technical Specification 3.8.1.1, Actions b, c, d, and g, require that a "test" be performed to demonstrate diesel generator operability. Because of the changes proposed above, a "test" is no longer always required to meet the Action requirements. Therefore, the word "test" will be deleted. This is an administrative change and does not affect the diesel generator design or performance.

Because the proposed changes do not affect the design or performance of the diesel generators or their ability to perform their design function, the changes will not result in an increase in the consequences of an accident previously evaluated. Because these changes do not affect the probability of accident precursors, the proposed changes do not affect the probability of an accident previously evaluated. The proposed changes will increase diesel generator reliability, thereby increasing overall plant safety.

The operation of Nine Mile Point Unit 2, in accordance with the proposed amendment, will not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes to Technical Specification 3.8.1.1 Actions and Bases do not introduce any new modes of plant operation or new accident precursors, involve any physical alterations to plant configurations, or make any changes to system setpoints which could initiate a new or different kind of accident. The changes proposed do not affect the design or performance characteristics of any diesel generator or their ability to perform their design functions. The proposed changes will eliminate unnecessary diesel generator testing, increasing diesel generator reliability and thereby having an overall positive affect on plant safety. Accidents concerning loss of offsite power and a single failure (e.g., loss of a diesel generator) have previously been evaluated. Therefore, the proposed amendment will not create the possibility of a new or different kind of accident from any previously evaluated.

The operation of Nine Mile Point Unit 2, in accordance with the proposed amendment, will not involve a significant reduction in a margin of safety.

The proposed changes to Technical Specification 3.8.1.1 Actions and Bases will not reduce the equipment required by Technical Specification Limiting Condition for Operation 3.8.1.1. The changes do not affect the design or performance of any diesel generator, but will increase diesel generator reliability by reducing the stresses on the diesel generator from unnecessary testing. This will result in an overall increase in plant safety. Niagara Mohawk proposes to change Action statement e to add the option of declaring inoperable the redundant system, subsystem, train, component, or device served by the inoperable diesel generator and taking the Actions required for both divisional systems, subsystems, trains, components or devices, being inoperable versus shutting down the plant. This allows the current action requirements, which have been established to support safe operation based upon the affect of the loss of the equipment's safety failure, to determine if an immediate plant shutdown is required. 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 request involves no significant hazards consideration.

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Attorney for licensee: Mark J. Wetterhahn, Esquire, Winston & Strawn, 1400 L Street, NW., Washington, DC 20005-3502.

NRC Project Director: Robert A. Capra

Northeast Nuclear Energy Company, Docket No. 50-245, Millstone Nuclear Power Station, Unit 1, New London County, Connecticut

Date of amendment request: May 25, 1993

Description of amendment request: The proposed change removes the operability and associated surveillance requirements for the main steam line radiation monitor (MSLRM) scram and Group I containment isolation functions. Justification for removal of the MSLRM trip function was described in Licensing Topical Report NEDO-31400, "Safety Evaluation For Eliminating the Boiling Water Reactor Main Steam Line Isolation Valve Closure Function and Scram Function of the Main Steam Line Radiation Monitor," which was approved by the NRC staff on May 15, 1991. The proposed change also moves the requirements for MSLRM calibration to Surveillance Requirement 4.6.K.2 and makes some editorial changes to Limiting Condition for Operation Section 3.6.K.1.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

In accordance with 10 CFR 50.92, NNECO [Northeast Nuclear Energy Company] has reviewed the attached proposed changes and has concluded that the changes do not involve a significant hazards consideration (SHC). The basis for this conclusion is that the three criteria of 10 CFR 50.92(c) are not compromised. The proposed changes do not involve an SHC because the changes would not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed technical specification changes associated with removal of the Group 1 isolation and the reactor scram functions of the MSLRM do not involve a significant increase in the probability of an accident previously evaluated. The trip function was in place only to react to a previously evaluated accident, the CRDA [Control Rod Drop Accident], and as such, cannot increase the probability of occurrence of previously evaluated accidents.

The consequences of a previously evaluated accident are not significantly increased since the Millstone Unit No. 1 design basis accident analysis currently does not take credit for the trip function. Although the CRDA does assume MSIV [Main Steam Isolation Valve] closure, no credit was taken for this, as the analysis assumes that all activity calculated to be available for release is transported to the condenser before the closing of the MSIVs. Additionally, the main steam activity detected by the MSLRMs will be removed by the SJAEs [Steam Jet Air Ejectors], be monitored by the redundant off-gas monitors, and be directed to the off-gas treatment system. The sensitivity of the off-gas monitors is much greater than in the MSLRMs. The noble gas activity required to cause the MSLRMs to exceed their alarm setpoint will be well above the trip setpoint for the off-gas monitors. The off-gas monitors will automatically initiate closure of the off-gas system discharge valve after a 15-minute time delay and hence, trap all activity within the off-gas system. No significant activity is expected to be released to the public, since it would be contained within the off-gas system.

Furthermore, not closing the MSIVs automatically will reduce the potential dose, as the SJAE will remain available to direct activity to the off-gas system. If the MSIVs were closed, the activity would remain in the condenser. More activity would be expected to leak out of the condenser than the off-gas system. Therefore, the consequences of the previously evaluated CRDA are not increased.

(2) Create the possibility for a new or different kind of accident from any previously evaluated.

The proposed changes do not involve any plant hardware changes which could introduce any new failure modes or effects. The MSLRM monitors will remain active and will still alarm in the control room. The direct impact on the plant is that this

particular trip function (i.e., MSIV closure and reactor scram) will no longer actuate. Since the design basis accident analysis does not credit this trip function to demonstrate acceptable radiological consequences, the proposed changes have effectively been evaluated previously and are enveloped by the existing analysis. In the CRDA, all activity from failed fuel rods is assumed to be immediately transported to the condenser and is available for leakage from the condenser. Thus, the removal of the Group I isolation and scram functions does not create the possibility of a new or different kind of accident than those previously evaluated.

(3) Involve a significant reduction in a margin of safety.

The proposed changes do not affect the calculated off-site dose consequences. Furthermore, the changes will improve the overall reliability of the plant when compared to the existing system, since the proposed changes will reduce the chances of an unnecessary plant transient occurring as a result of an inadvertent MSIV closure.

A reliability assessment of the elimination of the MSLRM scram function on reactivity control failure frequency and core damage frequency was performed in NEDO-31400. The results of this analysis indicate a negligible increase in reactivity control frequency with the deletion of the MSLRM trip function. However, this increase is offset by the reduction in the transient initiating events (inadvertent scrams). This reduction in transient initiating events represents a reduction in core damage frequency and thus, results i[n] a net improvement to safety.

Removal of the MSLRM scram and MSIV closure functions do not increase the consequences of any design basis accidents, including CRDA. Other Group I isolation signals for the MSIVs remain unaffected. Procedures will be changed to require a manual scram and MSIV closure on receipt of an MSLRM alarm followed by an SJAE Hi-Hi alarm. This will ensure that any significant increase in main steam line radioactivity levels is controlled expeditiously. No other protective boundary is adversely affected. Therefore, there is no significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Learning Resources Center, Thames Valley State Technical College, 574 New London Turnpike, Norwich, Connecticut 06360.

Attorney for licensee: Gerald Garfield, Esquire, Day, Berry & Howard, Counselors at Law, City Place, Hartford, Connecticut 06103-3499.

NRC Project Director: John F. Stolz

Omaha Public Power District, Docket No. 50-285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of amendment request: May 21, 1993

Description of amendment request: The proposed amendment to the Technical Specification (TS) would reflect the relocation of the old 10 CFR 20.106 requirements to the new 10 CFR 20.1302, and implement administrative changes. The changes in 10 CFR Part 20, reflect the new Part 20 subsection numbers, and revise the term "Very High Radiation Area". Also the release rate limits are changed to add needed operational flexibility to facilitate new 10 CFR Part 20 requirements for liquid and gaseous effluent concentrations from nuclear power reactors. Administrative changes will correct typographical errors, and revise equipment identification numbers and reporting requirements.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed changes do not involve significant hazards considerations because operation of Fort Calhoun Station Unit No. 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 to the liquid and gaseous release rate limits and the relocation of the old 10 CFR 20.106 requirements to the new 10 CFR 20.1302 does not effect the probability or consequences of an accident previously evaluated. The proposed changes will not change the types or amounts of effluents that will be released, nor will there be an increase in individual or cumulative occupational radiation exposures.

The proposed changes to the submittal requirements of the annual radioactive effluent report do not affect the probability or consequences of an accident previously evaluated. The required submittal is a reporting requirement only. The proposed change will continue to meet the reporting requirement of 10 CFR 50.36a and further clarifies when the report is to be submitted.

The proposed changes to the equipment identification numbers do not affect the probability or consequences of an accident previously evaluated. The changes reflect a modification which will replace three existing radiation monitors with two monitors which will have the same measurement range of detection and meet the post accident requirements of the present monitors.

(2) Create the possibility of a new or different kind of accident from any previously analyzed.

The proposed changes to the liquid and gaseous release rate limits and the relocation of the old 10 CFR 20.106 requirements to the new 10 CFR 20.1302 will not create the possibility of a new or different kind of accident. The proposed changes will not change the types or amounts of effluents that will be released, nor will there be an increase in individual or cumulative occupational radiation exposures.

The proposed changes to the equipment identification numbers will not create the possibility of a new or different kind of accident. The function and operation of the radiation monitors which will replace the existing monitors remains the same as the present monitors.

(3) Involve a significant reduction in a margin of safety.

The proposed changes to the liquid and gaseous release rate limits and the relocation of the old 10 CFR 20.106 requirements to the new 10 CFR 20.1302 will create the possibility of a new or different kind of accident. The proposed changes will not change the types or amounts of effluents that will be released, nor will there be an increase in individual or cumulative occupational radiation exposures.

The proposed changes to the submittal requirements for the annual radioactive effluent report and equipment identification numbers are administrative and will not involve a reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102

Attorney for licensee: LeBoeuf, Lamb, Leiby, and MacRae, 1875 Connecticut Avenue, N.W., Washington, D.C. 20009-5728

NRC Project Director: Terence L. Chan (Acting)

Portland General Electric Company, et al., Docket No. 50-344, Trojan Nuclear Plant, Columbia County, Oregon

Date of amendment request: April 1, 1993

Description of amendment request: The proposed amendment would revise Trojan Operating License No. NPF-1 by removing the Radiological Effluent Technical Specifications (RETS) from the Trojan Technical Specifications (TTS) and relocating them to the Offsite Dose Calculation Manual (ODCM) and Process Control Program (PCP). This action is proposed in accordance with the guidance provided in Generic Letter 89-01, "Implementation of Programmatic Controls for Radiological Effluent Technical Specifications in the Administrative Controls Section of the Technical Specifications and Relocation

of Procedural Details of RETS to the Offsite Dose Calculation Manual or Process Control Program."

In conjunction with relocating the RETS, this License Change Amendment also proposes to change the required frequency for submittal of the Radioactive Effluent Release Report from semiannually to annually in accordance with Title 10 to the Code of Federal Regulations, Part 50.36(a) (10 CFR 50.36(a)) made in 1992 to reduce the regulatory burden on licensees (57 FR 39353, August 31, 1992).

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 based upon the following items:

1. Would operation of the facility in accordance with the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated. This change is administrative in nature since the existing RETS requirements will be relocated to the ODCM and PCP and will be controlled by the requirements stipulated in the Administrative Controls section of the TTS. The proposed changes do not involve modifications to existing Plant equipment, the addition of new equipment, or operation of the Plant in a different manner than previously evaluated.

2. Would operation of the facility in accordance with the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

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. As stated above, the requirements of the RETS will be incorporated into the ODCM and PCP with specific administrative controls remaining in the TTS. Additionally, this change is administrative in nature and is consistent with the guidance provided in Generic Letter 89-01. The proposed changes do not involve alterations to Plant operating philosophy or methods, or in changes to installed Plant systems, structures, or components.

3. Would operation of the facility in accordance with the proposed amendment involve a significant reduction in the margin of safety?

Operation of the facility in accordance with the proposed amendment would not involve a significant reduction in the margin of safety. These changes do not reduce the margin of safety as the existing requirements will be relocated to the ODCM and PCP and will provide for adequate control over radioactive effluent releases, solid waste management and radiological environmental monitoring activities.

The relocation of the RETS requirements from the TTS to the ODCM and the PCP is consistent with the Nuclear Regulatory Commission's Policy Statement on Technical Specification Improvement. This change will not reduce the level of control over gaseous and liquid radioactive effluents or solid waste management since programmatic control of the RETS will be maintained in the Administrative Controls section of the TTS.

In addition to relocating the RETS, this License Change Application also proposes to change the required frequency for submittal of the Radioactive Effluent Release Report from semiannually to annually. This change is consistent with an amendment to the requirements of Title 10 to the Code of Federal Regulations, Part 50.36(a) (10 CFR 50.36(a)) made in 1992 to reduce the regulatory burden on licensees (57 FR 39353, August 31, 1992).

Based on the above analysis, it is concluded that the proposed changes involve no significant hazards consideration as defined by 10 CFR 50.92.

The NRC staff has reviewed the analysis of the licensee 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: Branford Price Millar Library, Portland State University, 934 S.W. Harrison Street, P.O. Box 1151, Portland, Oregon 97207

Attorney for licensees: Leonard A. Girard, Esq., Portland General Electric Company, 121 S.W. Salmon Street, Portland, Oregon 97204

NRR Project Director: Seymour H. Weiss

Power Authority of the State of New York, Docket No. 50-333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of amendment request: May 21, 1993

Description of amendment request: The proposed changes would revise Technical Specification 4.9.C.2 and Bases Sections 4.9.B and 4.9.C, to clarify that testing of the emergency diesel generator fuel oil transfer system and the emergency diesel generator air starting compressors can be conducted either concurrently or independently of the monthly emergency diesel generator tests. The proposed changes also add the acceptance criteria for emergency diesel generator fuel quality testing to the Bases and make an editorial correction.

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 FitzPatrick plant in accordance with the proposed amendment would not involve a significant hazards consideration as defined in 10 CFR 50.92, since it would not:

1. involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes allow emergency diesel generator fuel oil transfer system testing either concurrently or independently of monthly emergency diesel generator testing, clarify the independence of emergency diesel generator and air starting compressor testing, clarify the bases for testing fuel oil and make an editorial correction. These changes involve no hardware modifications, alteration of system operations, or degradation of system performance. Except for allowing independent testing, there are no changes to the procedures used for testing. Concurrent or independent testing of the fuel oil transfer system and the air starting compressors from the emergency diesel generators provides greater flexibility in utilizing plant resources to meet surveillance requirements. Independent system testing will not alter test effectiveness in determining system reliability nor will it alter testing methodology. The changes will not alter the level of confidence in system operability or capability. The changes to the Bases Section delete acceptance criteria which are different than or repetitious of the Surveillance Requirement. There are no changes to emergency diesel generator fuel oil requirements. The changes do not alter the conclusions of existing accident analyses as documented in the FSAR [Final Safety Analysis Report] and NRC SER [Safety Evaluation Report].

2. create the possibility of a new or different kind of accident from those previously evaluated.

The proposed changes involve no hardware modifications, alteration of system operations, or degradation of system performance. The changes do not alter testing methodology or the surveillance frequency. The nature of the changes is such that no new or different kind of accident can be created.

3. involve a significant reduction in the margin of safety.

The proposed changes will have no affect on the margin of safety. Testing methodologies will not change. The extent and frequency of system testing will not change. Concurrent or independent testing will not effect the operability of either the emergency diesel generators, the fuel oil transfer system or the air starting compressors. Independent testing will not reduce the ability of the systems in fulfilling their respective functions in mitigating a design basis accident. Deletion of repetitious or inconsistent descriptions of the acceptance criteria for emergency diesel generator fuel oil has no effect on the margin of safety and clarifies the bases. This change does not reduce test acceptance criteria or affect acceptance test methodology.

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: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Attorney for licensee: Mr. Charles M. Pratt, 1633 Broadway, New York, New York 10019.

NRC Project Director: Robert A. Capra

Power Authority of the State of New York, Docket No. 50-333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of amendment request: June 16, 1993

Description of amendment request: The proposed changes would amend the Technical Specifications (TSs) to provide a one-time extension of the current intervals for certain surveillances that are required to be performed once each operating cycle. The changes would extend the current intervals for bench checking and disassembling safety/relief valves in accordance with TSs 4.6.E.1 and 4.6.E.2, and for functionally testing 10 percent of each snubber type in accordance with TS 4.6.1.3. The changes would also extend the current interval for testing excess flow check valves in accordance with TS 4.7.D.1.b. The licensee requested extensions of these surveillance intervals until the end of the next refueling outage, currently scheduled to start in January 1995. The changes were requested since the extended 14-month outage from November 1991 to January 1993 interrupted the continuity of the normal surveillance schedule.

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 FitzPatrick plant in accordance with the proposed amendment would not involve a significant hazards consideration as defined in 10 CFR 50.92, since it would not:

1. involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change revises the testing frequency of safety/relief valves for one surveillance interval. This change will not require a modification to any plant structures, systems, or components. This is a change only to the safety/relief valve testing frequency. The actual surveillance test effectiveness and operability as determined by this testing will remain the same. The potential small change in reliability will not initiate an accident and will not effect the consequences of an accident since the safety/relief valves are still available to perform their intended safety function.

The one-time surveillance interval extension to the functional testing frequency of snubbers involves no hardware changes, no changes to the operation of the snubbers nor does it change the ability of the snubbers to perform their intended functions. Increasing the snubber functional test interval produces a small increase in the probability that an inoperable snubber would not be detected. However, this small risk does not involve a significant increase in the probability of an accident previously evaluated.

The proposed one-time surveillance interval extension of instrument line excess flow check valve testing involves no hardware modifications, changes to system operating procedures or affects the ability of any system to perform its intended function. The probability of excess flow check valve leakage is not increased significantly and the ability of plant personnel and equipment to respond to an accident is not affected.

2. create the possibility of a new or different kind of accident from those previously evaluated.

The proposed change to the safety/relief valve surveillance test interval does not change design, operation or the testing process. The nature of this change precludes the possibility of a new or different kind of accident.

The proposed change to the snubber functional test interval involves no hardware changes, no changes to the operation of the snubbers nor change the ability of the snubbers to perform their intended functions. Performing the testing on an extended schedule cannot initiate any type of accident.

The proposed change to the excess flow check valve surveillance test interval does not change the design, operation, or the testing process. The change to the testing interval does not affect any condition that could result in a new or different type of accident.

3. involve a significant reduction in the margin of safety.

Safety/relief valves are required to open within 1% of the nominal setpoints as prescribed in the Technical Specifications. The purpose of bench checking all safety/relief valves is to verify these setpoints. In the past, safety/relief valve setpoint drift has caused the setpoint tolerances to be exceeded. As part of the analysis in Reference 1, [Letter from R. E. Beedle (Power Authority of the State of New York) to NRC, dated May 5, 1993, regarding updated Safety Relief Valve Performance Requirements] continuous operation of the plant would be acceptable with the safety/relief valves actuating at 1195 psig. The value of the upper limit of 1195 psig, determined from the overpressure protection analysis, satisfies all safety concerns and does not reduce the ability of the system to perform its intended safety function.

The proposed one-time change to the snubber functional test interval does not change the operation of snubbers nor change the ability of the snubbers to perform their intended function. This one-time interval extension does not change the level of confidence in snubber operability developed from visual inspections which will be performed as scheduled.

The proposed one-time extension to the excess flow check valve functional test interval does not reduce the ability of these valves to perform their intended safety function. The small amount of degradation the valves may undergo during this extension period is insignificant and will not significantly reduce the ability of the valves to close to limit leakage of reactor coolant.

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: Reference and DocumentsDepartment, Penfield Library, State University of New York, Oswego, New York 13126.

Attorney for licensee: Mr. Charles M. Pratt, 1633 Broadway, New York, New York 10019.

NRC Project Director: Robert A. Capra

Rochester Gas and Electric Corporation, Docket No. 50-244, R. E. Ginna Nuclear Power Plant, Wayne County, New York

Date of amendment request: October 25, 1991, as supplemented March 20, 1992.

Description of amendment request: The proposed amendment would revise Technical Specification 5.0 and Figure 5.1-1 to describe, rather than depict, the Ginna Nuclear Power Plant site boundary.

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:

There is no significant increase in the probability or consequences of an accident previously evaluated because the accident conditions and assumptions are not affected by the proposed Technical Specification change. The proposed change does not alter or modify the Security or Emergency plans. Changes to either the Security or Emergency plans are governed in accordance with the criteria in 10CFR50.54(p) and (g) respectively. The Radiological Effluent Technical Specifications are unchanged by the proposed Amendment and the change does not alter any assumptions previously made in evaluating the radiological consequences of an accident described in the [updated final safety analysis report] UFSAR. Therefore, the proposed Amendment does

not involve a significant increase in the probability or consequences of any accident previously evaluated.

The possibility of a new or different kind of accident from any accident previously evaluated is not created. In matters related to nuclear safety, (1) all accidents are bound by previous analyses and (2) the Security and Emergency plans are unchanged by the proposed Amendment. The proposed change does not add or modify any equipment design nor does the proposed change involve any operational changes to any plant system or Limiting Condition for Operating (LCO). The absence of a hardware change or a change in programmatic controls ensures that the accident initiators are unaffected, so no unique accident probability is created.

The proposed amendment does not involve a significant reduction in the margin of safety as defined in the basis for any Technical Specification (TS) because the results of the accident analyses which are documented in the UFSAR continue to bound operation under the proposed changes so that there is no safety margin reduction. Additionally, established activities and administrative practices will continue to be conducted in compliance with the Commission's regulations....

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Rochester Public Library, 115 South Avenue, Rochester, New York 14610

Attorney for licensee: Nicholas S. Reynolds, Winston & Strawn, 1400 L Street, NW., Washington, DC 20005

NRC Project Director: Walter R. Butler

Southern California Edison Company, et al., Docket No. 50-206, San Onofre Nuclear Generating Station, Unit No. 1, San Diego County, California

Date of amendment request: May 12, 1993

Description of amendment request: This proposed change would add a new license condition 2.C.(9) concerning the San Onofre, Unit 1, Fire Protection Program. The licensee proposed this new license condition in accordance with Generic Letters 86-10 and 88-12, and as part of a request to replace in its entirety the existing set of Technical Specifications incorporated in *Facility Operating License No.* DRP-13 as Appendix A with a set of Permanently Defueled Technical Specifications (PDTS) (58 FR 34093).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No

Only two of the accidents that are evaluated in Chapter 15 of the UFSAR remain applicable for the permanently defueled plant: (1) a loss of offsite power (LOP) and (2) a fuel handling accident. The other Chapter 15 accidents are not applicable during the defueled condition. Maintaining the permanently defueled plant in accordance with the proposed PDTS does not affect the probability of occurrence of an LOP, but the probability of a fuel handling accident will be reduced. The consequences of both accidents will be reduced during the Permanently Defueled Mode. Additionally, the ability of the fuel storage facility to withstand other applicable UFSAR events, natural phenomena, and fires is either unchanged from the existing licensing basis or is improved during the defueled condition.

2. Will operation of the facility in accordance with this proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No

Operating the permanently defueled plant in accordance with the proposed PDTS does not create the possibility of a new or different kind of accident from any previously considered. Most of the existing plant systems and functions will not be operational during the Permanently Defueled Mode since power operations are not allowed and all of the fuel at SONGS 1 is stored in the spent fuel pool. However, all systems and components that are necessary for safe fuel handling and storage activities will be maintained operable during the permanently defueled condition. The proposed PDTS provide operation and surveillance requirements and administrative controls which are sufficient to ensure that the required systems and components will be operable during the Permanently Defueled Mode.

3. Will operation of the facility in accordance with this proposed change involve a significant reduction in a margin of safety?

Response: No

The proposed PDTS are sufficient to ensure no reduction in a margin of safety, in part, because of the reduced range of design basis accidents against which the plant must be protected once the plant is permanently defueled. Only the LOP and fuel handling Chapter 15 accidents are relevant during the Permanently Defueled Mode. The margins of safety for both of these accidents will be improved by maintaining the plant in accordance with the proposed PDTS. None of the other Chapter 15 accidents are applicable since power operation will not occur during the defueled condition. Additionally, the margins of safety for other applicable UFSAR events, natural phenomena, and fires ar either improved during the Permanently Defueled Mode or remain unchanged from the plant's current licensing basis.

The NRC staff has reviewed the analysis of the licensee and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Main Library, University of California, P.O. Box 19557, Irvine, California 92713

Attorney for licensee: James A. Beoletto, Esquire, Southern California Edison Company, P.O. Box 800, Rosemead, California 91770

NRC Project Director: Seymour H. Weiss

Southern California Edison Company, et al., Docket No. 50-361, San Onofre Nuclear Generating Station, Unit No. 2, San Diego County, California

Date of amendment request: April 30, 1993

Description of amendment request: The licensee proposes to revise San Onofre Unit 2 Technical Specification (TS) 3/4.4.8.1, "Pressure-Temperature Limits," TS 3.4.8.3.1, "Overpressure Protection Systems-RCS Temperature [less than or equal to] 312°F," TS 3.4.8.3.2, "Overpressure Protection Systems-RCS Temperature >312°F," and the associated TS Bases. The proposed change (1) revises the Reactor Coolant System (RCS) Pressure-Temperature (P-T) limits and the Low Temperature Overpressure Protection (LTOP) enable temperatures to be effective until 8 Effective Full Power Years (EFPY) of operation, and (2) makes minor changes to the Unit 2 TS to be consistent with the Unit 3 TS.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

To compensate for any increase in the reactor vessel nil ductility reference temperature (RT_{NDT}) caused by neutron irradiation, limits on Pressure-Temperature (P-T) relationships are periodically changed in accordance with 10 CFR 50, Appendix G. This allows the materials for the pressure-retaining components of the reactor coolant pressure boundary to stay within their stress limits during any condition of normal operation, including anticipated operational

occurrences and system hydrostatic tests over its service lifetime.

The updates to Figures 3.4-2 and 3.4-4, and the new Figure 3.4-5 for normal operation incorporate the changes to the P-T limits calculated using conservative fluence values. The new P-T limit curves (Figures 3.4-6 and 3.4-7) for Remote Shutdown cooldown operation incorporate the Total Loop Uncertainties (TLUs) for pressure for shutdown instruments on the Remote Shutdown panel which are higher than the TLUs for pressure for the Control Room shutdown instruments. The temperature TLUs for both the Remote Shutdown instruments and the Control Room shutdown instruments are equal. These updates maintain margins of safety against nonductile failure of the reactor pressure vessel based on the test results and analysis of the Unit 3 surveillance capsule and updated material properties evaluated in response to GL 92-01, Revision 1, "Reactor Vessel Structural Integrity." Therefore, the proposed change will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The change to the Low Temperature Overpressure Protection (LTOP) enable temperatures is in accordance with NUREG-0800 Branch Technical Position RSB 5-2, Revision 1, "Overpressurization Protection of Pressurized Water Reactors While Operating at Low Temperatures." The results of the most limiting energy addition transient which is driven by the differential temperature between the Reactor Coolant System (RCS) and the steam generator are not changed by this revision to the LTOP. As such the proposed change is bounded by the original analysis. Therefore, the proposed LTOP enable temperature change will not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Will operation of the facility in accordance with this proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change incorporates the change in reactor vessel RT_{NDT} from different irradiation stages to reflect the accumulation of fast neutron exposure. Any increase in RT_{NDT} due to irradiation is compensated for by limiting pressure-temperature relationships in accordance with 10 CFR 50 Appendix G to ensure pressure-retaining components of the reactor coolant pressure boundary stay within their stress limits over their service lives. Therefore, the proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

All LTOP design basis energy addition and mass addition transients have been previously evaluated and remain bounding. The proposed changes do not result in any system configuration changes which would affect the capability of the Shutdown Cooling System (SDCS) Relief Valve to respond to design basis transients. Operation of the plant in accordance with TSs 3.4.1.3, "Hot Shutdown," and 3.4.1.4.1, "Cold Shutdown-Loops Filled," remain unchanged. Therefore, the proposed LTOP enable temperature changes will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Will operation of the facility in accordance with this proposed change involve a significant reduction in a margin of safety?

Response: No.

The purpose of the P-T limit curves is to limit thermal stresses induced by the normal load transients, reactor trips, and unit startup and shutdown operations. The proposed revision to the P-T limit curves incorporates the effects of neutron-induced embrittlement in the pressure-retaining component materials to preserve the margin of safety required by 10 CFR 50, Appendix G. Therefore, the proposed change will not involve a significant reduction in a margin of safety.

The proposed LTOP enable temperatures of 238°F for heatup, and 221°F for both normal and Remote Shutdown cooldown meet the recommendations of NUREG-0800 Branch Technical Position RSB 5-2, Revision 1. The proposed LTOP enable temperatures will assure the SDCS Relief Valve will be aligned to the RCS system to mitigate the consequences of low temperature overpressurization events. Furthermore, the maximum RCS pressure used in the analysis bounds the worst case scenario of the postulated overpressurization event. Hence, it is assured that the P-T limits will not be exceeded by overpressurization transients. Therefore, the proposed change will not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Main Library, University of California, P. O. Box 19557, Irvine, California 92713

Attorney for licensee: James A. Beoletto, Esquire, Southern California Edison Company, P. O. Box 800, Rosemead, California 91770

NRC Project Director: Theodore R. Quay

Southern California Edison Company, et al., Docket Nos. 50-361 and 50-362, San Onofre Nuclear Generating Station, Unit Nos. 2 and 3, San Diego County, California

Date of amendment requests: March 1, 1993

Description of amendment requests: The licensee proposes to revise Technical Specification (TS) 3.3.3.2, "Instrumentation Incore Detectors." The proposed TS change will redefine an operable incore detector string and include additional new requirements to ensure the incore detector system remains capable of performing its intended functions.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response:

No

This proposed change redefines an operable incore detector string so that a string is considered operable with up to two failed detectors as opposed to the existing requirement which allows only one failure. To constrain the total number of detector failures allowed, the requirement that 75% of all the detectors be operable has been added. To further ensure all parts of the core are instrumented, at least one detector is required in each quadrant at each level. In addition, the proposed specification strengthens the provision related to quadrant symmetric locations by explicitly stating at least six tilt estimates are required with at least one tilt estimate at each of three levels. These requirements meet the assumptions or are more conservative than the assumptions used in the applicable safety analyses, uncertainty analyses and design basis documentation related to Core Operating Limit Supervisory System (COLSS) and the Combustion Engineering power distribution synthesis code (called CECOR). Therefore, there is no significant increase in the probability or consequences of an accident previously evaluated.

2. Will operation of the facility in accordance with this proposed change create the possibility of a new or different type of accident from any accident previously evaluated?

Response:

No

The incore instrumentation system is used for monitoring azimuthal power tilt, radial peaking factors, local power density, and departure from nucleate boiling ratio (DNBR) margin. This proposed change allows for additional incore detector failures prior to declaring the incore instrumentation inoperable and has no effect on the signals received from the incores by COLSS and CECOR. COLSS and CECOR uncertainties are based on a random failure of 25% of individual detector locations which is consistent with the proposed change. Therefore, this change does not create the possibility of a new or different type of accident from any accident previously evaluated.

3. Will operation of the facility in accordance with this proposed change involve a significant reduction in a margin of safety?

Response:

No

This change modifies the definition of an operable incore detector location to reduce

the minimum number of operable rhodium detectors in a location from four to three. This change alone would reduce the minimum total number of detectors to 60%. However, to constrain the total number of detector failures allowed, and maintain the margin of safety required by the safety analysis, uncertainty analysis and other applicable design basis documentation, the requirement that 75% of all detectors be operable is included. To further ensure all parts of the core are instrumented, at least one detector is required in each quadrant at each level. Therefore, this change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: Main Library, University of California, P.O. Box 19557, Irvine, California 92713

Attorney for licensee: James A. Beoletto, Esquire, Southern California Edison Company, P. O. Box 800, Rosemead, California 91770

NRC Project Director: Theodore R. Quay

Southern Nuclear Operating Company, Inc., Docket Nos. 50-348 and 50-364, Joseph M. Farley Nuclear Plant, Units 1 and 2, Houston County, Alabama

Date of amendments request: May 10, 1993

Description of amendments request: The proposed changes to the Technical Specifications (TS) are to implement the new 10 CFR 50.36a reporting requirement related to the quantity of radioactive effluents released from nuclear power reactors. Currently, the TS require Farley to report the quantity of radioactive effluents on a semiannual basis. The proposed change will change the TS to allow an annual radioactive effluent release report pursuant to 10 CFR 50.36a.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed changes are administrative in nature and do not involve any changes to the configuration or method of operation of any plant equipment that is used to mitigate the consequences of an accident. Also, the proposed changes do not alter the conditions or assumptions in any of the Final Safety Analysis Report (FSAR) accident analyses. Since the FSAR accident analyses remain bounding, the radiological consequences previously evaluated are not adversely affected by the proposed changes. Therefore, it can be concluded that the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed changes are administrative in nature and do not involve any change to the configuration or method of operation of any plant equipment that is used to mitigate the consequences of an accident. Accordingly, no new failure modes have been defined for any plant system or component important to safety nor has any new limiting failure been identified as a result of the proposed changes. Also, there will be no change in the types or increase in the amount of effluents released offsite. Therefore, it can be concluded that the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluate.

3. The proposed changes do not involve a significant reduction in a margin of safety. The proposed changes are administrative in nature and do not adversely impact the plant's ability to meet applicable regulatory requirements related to liquid and gaseous effluents, and solid waste releases. The proposed changes would also eliminate an unnecessary burden of governmental regulation without reducing protection for public health and safety. Therefore, it can be concluded that the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Houston-Love Memorial Library, 212 W. Burdeshaw Street, Post Office Box 1369, Dothan, Alabama 36302

Attorney for licensee: James H. Miller, III, Esq., Balch and Bingham, Post Office Box 306, 1710 Sixth Avenue North, Birmingham, Alabama 35201

NRC Project Director: S. Singh Bajwa

Tennessee Valley Authority, Docket Nos. 50-259, 50-260 and 50-296, Browns Ferry Nuclear Plant, Units 1, 2 and 3, Limestone County, Alabama

Date of amendment request: January 29, 1993 (TS 301, Supplement 1)

Description of amendment request: The proposed supplemental amendment addresses NRC comments regarding the original amendment request dated March 25, 1992, and also incorporates changes pursuant to the revised provisions of 10 CFR 50.36a(a)(2) for extending the reporting frequency of the Radioactive Effluent Release Report from semiannual to annual. The original amendment request was submitted in accordance with the guidelines of NRC Generic Letter (GL) 89-01 and noticed in the **Federal Register** on May 27, 1992 (57 FR 22268). This supplement addresses prior NRC comments by revising several portions of the Bases and paragraph 3.2.K.1 of the Technical Specifications (TS), clarifying certain administrative requirements in Section 6 of the TS, and making a number of editorial corrections. The revised rule for 10 CFR 50.36a(a)(2) was published in the **Federal Register** on August 31, 1992 (57 FR 39353).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed supplement to BFN TS-301 revises the original submittal to incorporate NRC comments. The proposed changes do not change the intent of the original submittal. The change in reporting requirements is administrative in nature. Since this administrative change does not affect the operability of plant equipment or alter the design of the plant, the probability or consequences of any accident previously evaluated have not been increased.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any previously evaluated.

The proposed changes in this supplement do not change the intent of the original submittal. The change to reporting requirements is administrative. Therefore, there is no possibility of a new or different kind of accident being created.

3. The proposed amendment does not involve a significant reduction in the margin of safety.

The proposed changes in this supplement conform to the guidance contained in Generic Letter 89-01 and the revised rule change to 10 CFR 50.36(a)(2). The proposed changes do not change the intent of the original submittal. Therefore, the proposed changes do not reduce any margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the supplemental amendment request involves no significant hazards consideration.

Local Public Document Room location: Athens Public Library, South Street, Athens, Alabama 35611

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 11H, Knoxville, Tennessee 37902

NRC Project Director: Frederick J. Hebdon

Virginia Electric and Power Company, Docket Nos. 50-338 and 50-339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of amendment request: May 24, 1993

Description of amendment request: The proposed change would revise the North Anna Units 1 and 2 (NA-1&2) Technical Specifications (TS). Specifically, the proposed changes would increase the as-found main steam safety valves (MSSV) setpoint tolerance from 1% to 3% of nominal setpoint pressure. The MSSV provide overpressure protection for the main steam system, and are designed to limit pressure transients to less than 110% of the system design pressure. Table 3.7-2 of the NA-1&2 TS currently specifies a 1% "as-found" and 1% "as-left" tolerance on the lift setpoint pressure of the installed valves. A safety evaluation has been performed by the licensee which supports increasing the MSSV lift setpoint tolerance to 3% for the "as-found" condition. The "as-left" setpoint tolerance would remain at 1%. Because the increased MSSV lift setpoint tolerance could result in increased auxiliary feedwater (AFW) system backpressure and therefore, in a reduced AFW delivered flow rate, credit has been taken for flow margin in existing safety analyses to support a reduction of the assumed delivered AFW system flow rate from 340 gpm to 300 gpm. The basis statement for the NA-1&2 TS 3/4.7.1.2 would be modified to reflect this revised delivered flow rate, expand the discussion on pump surveillance testing, and clarify the basis statement.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

Specifically, operation of North Anna Power Station in accordance with the Technical Specification changes will not:

1. Involve a significant increase in the probability or consequence of an accident previously evaluated. Affected safety related parameters were analyzed for the proposed change. It was determined that the primary and secondary pressure safety limits would not be exceeded in the most limiting overpressure transients (Loss of Load and the Locked Rotor Events) with the main steam safety valve lift setpoint tolerances increased to 3%. Analyses of the Main Feedline Break, Loss of Normal Feedwater, and Loss of Offsite Power transients demonstrate that the revised assumed AFW system delivered flow rate with a 3% MSSV setpoint tolerance continues to ensure that analysis acceptance criteria are met. The existing overtemperature [delta]T trip setpoints continue to provide bounding core thermal limit protection. The increased setpoint tolerance will not result in an inadvertent opening of the main steam safety valves.

2. Create the possibility of a new or different kind of accident from any accident previously identified because the proposed changes to the Technical Specifications do not involve any alterations to the physical plant which would introduce any new or unique operational modes or accident precursors. Only the allowable tolerances about the existing setpoints will be changed. A reduction in the assumed AFW system delivered flow rate creates no accidents of a new or different kind.

3. Involve a significant reduction in a margin of safety. It was determined that the most limiting overpresssure transients do not result in a maximum pressure in excess of the overpressure safety limit. As well, deliverable AFW system flow rates remain in excess of those assumed in licensing basis accidents. Therefore, the margin of safety is unchanged by the proposed increase in the safety valve setpoint tolerances.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: The Alderman Library, Special Collections Department, University of Virginia, Charlottesville, Virginia 22903-2498.

Attorney for licensee: Michael W. Maupin, Esq., Hunton and Williams, Riverfront Plaza, East Tower, 951 E. Byrd Street, Richmond, Virginia 23219.

NRC Project Director: Herbert N. Berkow

Wisconsin Public Service Corporation, Docket No. 50-305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

Date of amendment request: January 20, 1993

Description of amendment request: The amendment would revise Technical Specification (TS) Table 3.5-4, Table 4.1-1, and the TS Section 3.5 basis. The proposed amendment would revise Table 3.5-4 and Table 4.1-1 to incorporate feedwater isolation specifications for the Kewaunee Nuclear Power Plant (KNPP). The basis for TS Section 3.5 will also be revised to provide background information on the Main Feedwater Isolation system. In addition, administrative changes are being proposed to convert TS Section 3.5 and its basis along with Tables TS 3.5-4 and TS 4.1-1 to the WordPerfect software. The administrative changes will also correct minor typographical errors and format inconsistences.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed amendment will not involve a significant increase in the probability or consequence of an accident previously evaluated.

The proposed changes will not affect the ability of the Main Feedwater Isolation System to perform its intended safety function, which is to provide steam generator overfill control. The intent of adding the Limiting Condition of Operation and surveillance requirement to the TSs is to ensure the reliability and availability of the steam generator overfill control system. The proposed change is an additional restriction not presently included in the TSs; therefore, it will not increase the probability or consequences of any accident previously evaluated.

2. The proposed amendment will not create the possibility of a new or different kind of accident previously analyzed.

The proposed change does not alter the plant configuration or overall plant performance; therefore, it does not create the possibility of a new or different kind of accident.

3. The proposed amendment will not involve a significant reduction in the margin of safety.

The proposed change will add an additional requirement to the TSs to ensure the availability and reliability of the steam generator overfill control system. The addition of this requirement does not adversely affect safety and therefore does not reduce the margin of safety.

The proposed administrative changes have been reviewed in accordance with the provisions of 10 CFR 50.92 to show that no significant hazards exists. The proposed change will not:

1. involve a significant increase in the probability or consequence 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 the margin of safety.

The proposed changes are administrative in nature and do not alter the intent or interpretation of the TS. Therefore, no significant hazards exist.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: University of 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 27, 1993

Description of amendment request: The request proposes to revise the heatup, cooldown, and cold overpressure mitigation system power-operated relief valve setpoint pressure/temperature limits. The limits reflect the analysis of the most recently withdrawn surveillance capsule associated with the reactor vessel radiation surveillance program (10 CFR 50, Appendix H).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Do the proposed changes involve a significant increase in the probability or consequences of an accident previously evaluated.

Incorporating the revised heatup, cooldown pressure/temperature limit curves and the COMS PORV [cold overpressure mitigation system power-operated relief valve] setpoint limit curve into Wolf Creek Generating Station (WCGS) technical specifications does not affect the probability or consequences of an accident previously evaluated.

The revised limit curves are calculated using the most limiting RT_{NDT} for the reactor vessel components and include a radiation induced shift corresponding to the end of the period for which the curves are generated. The changes do not affect the basis, initial conditions, initiating events, chronology, or availability/operability of safety related equipment required to mitigate transients and accidents analyzed for WCGS.

2. Do the proposed changes create the possibility of a new or different kind of accident from any previously evaluated.

Adopting the revised limit curves redefines the range of acceptable operation for the Reactor Coolant System. This redefinition is a result of the analysis of reactor vessel surveillance specimens removed from the reactor in a continuing surveillance program which monitors the effects of neutron irradiation on the WCGS reactor pressure vessel materials under actual operating conditions. Incorporating these revised curves does not create the possibility of an accident of a different type from any previously evaluated for WCGS.

3. Do the proposed changes involve a significant reduction in the margin of safety.

The revision of these limit curves is not a design change and continues to maintain the margin of safety required for prevention of non-ductile failure of the WCGS reactor pressure vessel during low temperature operation as required by 10 CFR 50, Appendices G and H. The revised curves primarily affect RCS operation below 350°F by limiting the available pressure/temperature window for heatup and cooldown. The revised limit curves compensate for the in-service radiation induced embrittlement of the reactor vessel and accounts for the requirement that the closure flange region temperature must exceed the nil-ductility temperature by at least 120°F when pressure exceeds 20% of the preservice hydrostatic test pressure.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room Locations: Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law Library, Topeka, Kansas 66621

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, N.W., Washington, D.C. 20037

NRC Project Director: Suzanne C. Black

Notice of Issuance of Amendments to Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the local public document rooms for the particular facilities involved.

Carolina Power & Light Company, et al., Docket No. 50-400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of application for amendment: March 4, 1993.

Brief description of amendment: Requires that the initial and requalification training for licensed personnel is through an accredited program based on the systematic approach.

Date of issuance: June 11, 1993

Effective date: June 11, 1993

Amendment No. 37

Facility Operating License No. NPF-63. Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** March 31, 1993 (58 FR 16855)

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 11, 1993.

No significant hazards consideration comments received: No

Local Public Document Room location: Cameron Village Regional Library, 1930 Clark Avenue, Raleigh, North Carolina 27605.

Connecticut Yankee Atomic Power Company, Docket No. 50-213, Haddam Neck Plant, Middlesex County, Connecticut

Date of application for amendment: March 16, 1993, as supplemented on May 28, 1993.

Brief description of amendment: The amendment deletes a reference in the Technical Specifications to ANSI N45.4

in Surveillance Requirement 4.6.1.2. It maintains the reference to 10 CFR Part 50, Appendix J, which lists acceptable methods for calculating containment integrated leakage rates.

Date of issuance: June 11, 1993
Effective date: June 11, 1993
Amendment No.: 159
Facility Operating License No. DPR-61. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 14, 1993 (58 FR 19475) The May 28, 1993 submittal provided clarifying information which did not change the initial proposed no significant hazards consideration determination. The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated June 11, 1993. No significant hazards consideration comments received: No.

Local Public Document Room location: Russell Library, 123 Broad Street, Middletown, Connecticut 06457.

Consumers Power Company, Docket No. 50-255, Palisades Plant, Van Buren County, Michigan

Date of application for amendment: January 29, 1993, as supplemented April 20, 1993.

Brief description of amendment: This amendment revises the Palisades Technical Specification (TS) Table 3.23-2, Radial Peaking Factor Limits, to add limits for those new fuel bundles to be installed during the 1993 Cycle 11 refueling outage. In addition, the bases for several Specifications (2.1, 2.3, 3.1, 3.12, and 3.23.2) have been updated to reflect the revision of analytical reports for Cycle 11.

Date of issuance: June 16, 1993
Effective date: June 16, 1993
Amendment No.: 156
Facility Operating License No. DPR-20. Amendment revised theTechnical Specifications.

Date of initial notice in **Federal Register:** April 14, 1993 (58 FR 19476). The April 20, 1993, submittal provided a correction to the original submittal and did not change the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 16, 1993. No significant hazards consideration comments received: No.

Local Public Document Room location: Van Wylen Library, Hope College, Holland, Michigan 49423.

Florida Power and Light Company, Docket No. 50-250, Turkey Point Plant Unit 3, Dade County, Florida

Date of application for amendment: April 13, 1993

Brief description of amendment: This amendment permits continued power operation with the minimum number of movable in-core detector thimbles reduced from 38 to 25 thimbles and is applicable only for the remainder of Unit 3, Cycle 13 operation.

Date of issuance: June 15, 1993
Effective date: June 15, 1993
Amendment No.: 154
Facility Operating License No. DPR-31: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 12, 1993 (58 FR 28066)

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 15, 1993. No significant hazards consideration comments received: No

Local Public Document Room location: Florida International University, University Park, Miami, Florida 33199.

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50-321 Edwin I. Hatch Nuclear Plant, Unit 1, Appling County, Georgia

Date of application for amendment: November 18, 1991

Brief description of amendment: The amendment revises the Technical Specifications to reflect the as-built plant condition and to resolve the NRC staff's concerns identified during the 1991 Electrical Distribution System Functional Inspection.

Date of issuance: June 24, 1993
Effective date: no later than 60 days from the date of issuance
Amendment No.: 186
Facility Operating License No. DPR-57: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 13, 1992 (57 FR 20511)

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 24, 1993. No significant hazards consideration comments received: No

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia 31513

GPU Nuclear Corporation, et al., Docket No. 50-289, Three Mile Island Nuclear Station, Unit 1, Dauphin County, Pennsylvania

Date of application for amendment: June 24, 1992, as supplemented on May 28, 1993

Brief description of amendment: The amendment revises the Technical Specifications to change the surveillance interval definition and testing from 18 months to 24 months.

Date of issuance: June 23, 1993
Effective date: June 23, 1993
Amendment No.: 175
Facility Operating License No. DPR-50. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 23, 1992 (57 FR 61112) The May 28, 1993, submittal provided supplemental information that did not change the initial proposed no significant hazards consideration determination. The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated June 23, 1993. No significant hazards consideration comments received: No.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Illinois Power Company and Soyland Power Cooperative, Inc., Docket No. 50-461, Clinton Power Station, Unit No. 1, DeWitt County, Illinois

Date of application for amendment: February 11, 1993

Brief description of amendment: The amendment changes Clinton Power Station Technical Specification 6.9.1.7, "Semiannual Radioactive Effluent Release Report" to comply with the amended 10 CFR 50.36a requirements which change the submittal frequency of the report from semiannually to annually. Additionally, the amendment extends the report submittal date to May 1.

Date of issuance: May 27, 1993
Effective date: May 27, 1993
Amendment No.: 76
Facility Operating License No. NPF-62. The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 31, 1993 (58 FR 16863)

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 27, 1993. No significant hazards consideration comments received: No

Local Public Document Room location: The Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727.

Illinois Power Company and Soyland Power Cooperative, Inc., Docket No. 50-461, Clinton Power Station, Unit No. 1, DeWitt County, Illinois

Date of application for amendment: October 22, 1991, as supplemented February 17, 1993.

Brief description of amendment: The amendment modifies the Clinton Power

Station Technical Specifications by: (1) revising Specification 3/4.8.3.1, "Onsite Power Distribution Systems, Distribution - Operating," to resolve inconsistencies and remove duplications with Specification 3/4.8.4.3, and (2) revising Specification 3/4.8.4.3, "Reactor Protection System Electric Power Monitoring," to implement the recommendations of NRC Generic Letter 91-09, "Modification of Surveillance Interval for the Electrical Protective Assemblies in Power Supplies for the Reactor Protection System."

Date of issuance: June 14, 1993
Effective date: June 14, 1993
Amendment No.: 77
Facility Operating License No. NPF-62. The amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** December 26, 1991 (56 FR 66922) The February 17, 1993, submittal provided additional clarifying information that did not change the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 14, 1993. No significant hazards consideration comments received: No

Local Public Document Room location: The Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727.

North Atlantic Energy Service Corporation, Docket No. 50-443, Seabrook Station, Unit No. 1, Rockingham County, New Hampshire

Date of amendment request: October 22, 1992.
Description of amendment request: The amendment modifies theacceptance value for a surveillance requirement intended to demonstrate that the emergency core cooling system is capable of delivering an adequate flow of cooling water to the core via the residual heat removal system (RHR) lines. Surveillance Requirement 4.5.2 h.3) is changed to require a total flow of at least 3869 gpm through the four RHR injection lines with one RHR pump in operation vice 2828 gpm.
Date of issuance: June 14, 1993
Effective date: June 14, 1993
Amendment No.: 21
Facility Operating License No. NPF-86. Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** December 23, 1992 (57 FR 61119).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 14, 1993. No significant hazards consideration comments received: No.

Local Public Document Room location: Exeter Public Library, 47 Front Street, Exeter, New Hampshire 03833.

Northeast Nuclear Energy Company, Docket No. 50-245, Millstone Nuclear Power Station, Unit 1, New London County, Connecticut

Date of application for amendment: March 22, 1993, as supplemented by letter dated May 28, 1993.
Brief description of amendment: The amendment revises the pressure-temperature limits for the reactor vessel. Specifically, Technical Specification Limiting Condition for Operation 3.6.B, Surveillance Requirement 4.6.B, and Figures 3.6.1, 3.6.2, and 3.6.3, along with the corresponding Bases for Section 3.6 are revised. The new pressure-temperature curves are valid to 32 EFPY.
Date of issuance: June 16, 1993
Effective date: June 16, 1993
Amendment No.: 63
Facility Operating License No. DPR-21. Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** April 14, 1993, (58 FR 19484) The May 28, 1993, letter provided clarifying information that did not charge the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 16, 1993. No significant hazards consideration comments received: No.

Local Public Document Room location: Learning Resources Center, Thames Valley State Technical College, 574 New London Turnpike, Norwich, Connecticut 06360.

Northern States Power Company, Docket Nos. 50-282 and 50-306, Prairie Island Nuclear Generating Plant, Unit Nos. 1 and 2, Goodhue County, Minnesota

Date of application for amendments: June 25, 1991
Brief description of amendments: The amendments would revise TS Section 3.1.A.2.C and Table TS 4.1-2A and the associated Bases in response to Generic Letter 90-06. Generic Letter 90-06 provided NRC staff guidance on TS changes that should be implemented to improve the reliability of the Pressurizer Power Operated Relief Valves and the availability of the low temperature overpressure protection system.
Date of issuance: June 21, 1993
Effective date: June 21, 1993
Amendment Nos.: 106 and 99
Facility Operating License Nos. DPR-42 and DPR-60. Amendments revised the Technical Specifications.
Date of initial notice in **Federal Register:** September 4, 1991 (56 FR 43811).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 21, 1993. No significant hazards consideration comments received: No.

Local Public Document Room location: Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Philadelphia Electric Company, Docket Nos. 50-352 and 50-353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania

Date of application for amendments: March 8, 1993, as supplemented by letter dated June 2, 1993
Brief description of amendments: The requested changes allow the receipt, possession, and use of the fuel assemblies and fuel channels previously irradiated in the Shoreham Nuclear Power Station. The fuel was fabricated by General Electric Company (GE) and consists of 560 GE6-(P8X8R) pressurized, C-lattice, non-barrier fuel assemblies. The 560 fuel assemblies include 340 enriched to 2.19 w/o U-235, 144 enriched to 1.76 w/o U-235, and the remaining 76 are natural uranium (i.e., 0.711 w/o U-235). These fuel assemblies are similar to those utilized in the Limerick Generating Station, Unit 1 initial core loading.
Date of issuance: June 23, 1993
Effective date: June 23, 1993
Amendment Nos. 62 and 27
Facility Operating License Nos. NPF-39 and NPF-85. The amendments revised the Licenses.
Date of initial notice in **Federal Register:** March 31, 1993 (58 FR 16867)
The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 23, 1993. No significant hazards consideration comments received: No

Local Public Document Room location: Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Philadelphia Electric Company, Public Service Electric and Gas Company Delmarva Power and Light Company, and Atlantic City Electric Company, Docket Nos. 50-277 and 50-278, Peach Bottom Atomic Power Station, Unit Nos. 2 and 3, York County, Pennsylvania

Date of application for amendments: March 5, 1993, as supplemented by letter dated May 13, 1993

Brief description of amendments: Revise Table 3.15 and the associated bases regarding seismic monitoring instrumentation.

Date of issuance: Upon installation of the new solid-state seismic instrumentation.

Effective date: June 21, 1993

Amendments Nos.: 176 and 179

Facility Operating License Nos. DPR-44 and DPR-56: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 31, 1993 (58 FR 16869)

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 21, 1993. No significant hazards consideration comments received: No

Local Public Document Room location: Government PublicationsSection, State Library of Pennsylvania, (REGIONAL DEPOSITORY) Education Building, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Power Authority of The State of New York, Docket No. 50-286, Indian Point Nuclear Generating Unit No. 3, Westchester County, New York

Date of application for amendment: April 5, 1993

Brief description of amendment: The Technical Specifications (TS) amendment revised the plant staff requirement (specified in TS Section 6.2.2.i) to remove the condition that the Operations Manager must hold a senior reactor operator (SRO) license and replace it with the requirements that the Assistant Operations Manager must hold an SRO license and that the Operations Manager must hold or have held an SRO license at the facility. The plant staff qualifications requirement (specified in TS Section 6.3.1) was also revised to reflect that the Operations Manager shall meet or exceed the qualification requirements of ANSI N18.1-1971 (Selection and Training of Nuclear Plant Personnel) except for the SRO license requirement.

Date of issuance: June 15, 1993

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment No.: 134

Facility Operating License No. DPR-64: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 28, 1993 (58 FR 25863)

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 15, 1993. No significant hazards consideration comments received: No

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

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: September 8, 1992

Brief description of amendment: The proposed change increases the minimum discharge pressure acceptance limit for the motor driven emergency feedwater (EFW) pumps from 1350 psig to 1600 psig at a minimum flow of 90 gpm.

Date of issuance: June 22, 1993

Effective date: June 22, 1993

Amendment No.: 112

Facility Operating License No. NPF-12. Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** November 25, 1992 (57 FR 55590).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 22, 1993. 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 Nos. 50-361 and 50-362, San Onofre Nuclear Generating Station, Unit Nos. 2 and 3, San Diego County, California

Date of application for amendments: April 13, 1993

Brief description of amendments: The licensee proposes to revise Technical Specification (TS) 3/4.8.1, "A. C. Sources." This proposed change will provide a one-time exception to TS 4.8.1.1.1.a to allow replacement of the 480V transformers B04X and B06X during the Units 2 and 3 Cycle 7 refueling outages.

Date of issuance: June 15, 1993

Effective date: June 15, 1993

Amendment Nos.: 107 and 96

Facility Operating License Nos. NPF-10 and NPF-15: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 28, 1993 (58 FR 25865)

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 15, 1993. No significant hazards consideration comments received: No.

Local Public Document Room location: Main Library, University of California, P. O. Box 19557, Irvine, California 92713

The Cleveland Electric Illuminating Company, Centerior Service Company, Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company, Toledo Edison Company, Docket No. 50-440, Perry Nuclear Power Plant, Unit No. 1, Lake County, Ohio

Date of application for amendment: January 19, 1993

Brief description of amendment: The amendment changes the submittal frequency (from semiannual to annual) for the formerly titled "Semiannual Radioactive Effluent Release Report." The proposed change eliminates inconsistencies between the present Perry Nuclear Power Plant Technical Specifications and the recently revised 10 CFR 50.36a.

Date of issuance: June 23, 1993

Effective date: June 23, 1993

Amendment No. 49

Facility Operating License No. NPF-58. This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 25, 1993 (58 FR 16218)

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 23, 1993. No significant hazards consideration comments received: No

Local Public Document Room location: Perry Public Library, 3753 Main Street, Perry, Ohio 44081.

Union Electric Company, Docket No. 50-483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of application for amendment: March 9, 1993

Brief description of amendment: The amendment revises the Technical Specifications by deleting surveillance requirement 4.8.1.1.2.h(2), which involves performing a pressure test of portions of the diesel fuel oil system.

Date of issuance: June 21, 1993

Effective date: June 21, 1993

Amendment No.: 80

Facility Operating License No. NPF-30. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 25, 1993 (58 FR 19490) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 21, 1993. No significant hazards consideration comments received: No.

Local Public Document Room location: Callaway County Public Library, 710 Court Street, Fulton, Missouri 65251.

Westinghouse Electric Corporation, Docket No. 50-22, Westinghouse Test Reactor, Waltz Mill, Pennsylvania

Date of application for amendment: December 8, 1992

Brief description of amendment: This amendment deletes three soil basins from License No. TR-2. The soil basins are now under License No. SNM-770, Docket No. 70-698.

Date of issuance: June 14, 1993

Effective date: June 14, 1993

Amendment No.: 6

Facility Operating License No. TR-2: This amendment revises the scope of License No. TR-2.

Date of initial notice in **Federal Register:** March 25, 1993 (58 FR 16232). The Commission has issued a Safety Evaluation for this amendment dated June 14, 1993. No significant hazards consideration comments received: No

Local Public Document Room: N/A

Wisconsin Public Service Corporation, Docket No. 50-305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

Date of application for amendment: June 28, 1991, as supplemented November 20, 1991, August 31, 1992 and May 24, 1993.

Brief description of amendment: The amendment revises Technical Specification (TS) Section 1.0 to add a definition for the term, DOSE EQUIVALENT I-131. In addition, TS 3.1.c is being expanded to incorporate limits for the radioactivity concentration of DOSE EQUIVALENT I-131 in reactor coolant. Associated with the revisions to TS 3.1.c, TS Table 4.1-2, Item 1 is being expanded to incorporate the increased surveillance requirements. Also, a change is being made to TS 3.1.a.2.B to clarify the minimum water level required for proper decay heat removal. A new TS, 6.9.a.2.D, is being added which would specify the annual reporting requirements for reactor coolant iodine spiking. Finally, administrative changes are made to correct typographical errors and format inconsistencies.

Date of issuance: June 22, 1993

Effective date: June 22. 1993

Amendment No.: 100

Facility Operating License No. DPR-43 Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** September 4, 1991 (56 FR 43818)

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 22, 1993. No significant hazards consideration comments received: No.

Local Public Document Room location: University of Wisconsin Library Learning Center, 2420 Nicolet Drive, Green Bay, Wisconsin 54301.

Wolf Creek Nuclear Operating Corporation, Docket No. 50-482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: May 14, 1991, as supplemented by letters dated October 21, 1992 and April 28, 1993

Brief description of amendment: The amendment revises Technical Specifications 3/4.4.4 related to power-operated relief valves and 3/4.9.3 related to low temperature overpressure protection. These changes were requested as part of the response to 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)."

Date of issuance: June 23, 1993

Effective date: June 23, 1993

Amendment No.: 63

Facility Operating License No. NPF-42. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 7, 1991 (56 FR 37595) The October 21, 1992, and April 28, 1993, supplemental submittals provided additional clarifying information and did not change the initial no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 23, 1993. No significant hazards consideration comments received: No.

Local Public Document Room Locations: Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law Library, Topeka, Kansas 66621

Yankee Atomic Electric Company, Docket No. 50-029, Yankee Nuclear Power Station, Franklin County, Massachusetts

Date of application for amendment: December 21, 1992

Brief description of amendment: This amendment revises the Possession Only License and the Technical Specifications to reflect the permanently shut down and defueled status of the plant.

Date of issuance: June 11, 1993

Effective date: June 11, 1993

Amendment No.: 148

Possession Only License No. DPR-3: Amendment revised the License and the Technical Specifications.

Date of initial notice in **Federal Register:** January 21, 1993, (58 FR 5436).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 11, 1993. 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 Amendments to Facility Operating Licenses and Final Determination of No Significant Hazards Consideration and Opportunity for a Hearing (Exigent, Public Announcement or Emergency Circumstances)

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing.

For exigent circumstances, the Commission has either issued a **Federal Register** notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of

increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its no significant hazards consideration determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazardsconsideration. 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.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendment. By August 6, 1993, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above. Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses. Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, 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 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 248-5100 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to **(Project Director)**: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory

Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

Arizona Public Service Company, et al., Docket Nos. STN 50-528, STN 50-529, and STN 50-530, Palo Verde Nuclear Generating Station, Units 1, 2, and 3, Maricopa County, Arizona

Date of application for amendment: May 20, 1993

Brief description of amendment: The amendment adds a footnote to Technical Specification Surveillance Requirement 4.7.9 for each of the 3 units. The footnote explains the methodology used for selecting the test sample for snubber functional testing during the current outage for Unit 2 and the third outage for both Units 1 and 3 which was not in accordance with the requirements of Surveillance Requirement 4.7.9 but adequately demonstrated the operability of the snubber population. The change was requested on an emergency basis when you determined the APS interpretation and implementation of TS 4.7.9 did not meet the surveillance requirement.

Date of issuance: June 21, 1993

Effective date: June 21, 1993

Amendment No.: 71, 57, and 44

Facility Operating License Nos. NPF-41, NPF-51, and NPF-74: 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 June 21, 1993.

Local Public Document Room location: Phoenix Public Library, 12 East McDowell Road, Phoenix, Arizona 85004

Attorney for licensee: Arthur C. Gehr, Esq. Snell and Wilmer, 3100 Valley Center, Phoenix Arizona 85023

NRC Project Director: Theodore R. Quay

Dated at Rockville, Maryland, this 29th day of June 1993.

For the Nuclear Regulatory Commission.

Jack W. Roe,

Director, Division of Reactor Projects - III/IV/V, Office of Nuclear Reactor Regulation.

[Doc. 93-15879 Filed 7-6-93; 8:45 am]

BILLING CODE 7590-01-F

Privacy Act of 1974; Republication of Systems of Records Notices

AGENCY: Nuclear Regulatory Commission.

ACTION: Republication of systems of records notices.

SUMMARY: The Nuclear Regulatory Commission (NRC) has conducted a comprehensive review of all Privacy Act Systems of Records. The NRC is revising and republishing all its Systems of Records notices as a result of this review. None of these revisions requires an advance period for public comment. These revisions are minor corrective and administrative changes that do not meet the threshold criteria established by the Office of Management and Budget (OMB) for either a new or altered system of records. These changes are in compliance with OMB Circular No. A-130, appendix I. The notices republished below are complete and accurate as of December 31, 1992.

FOR FURTHER INFORMATION CONTACT: Jona L. Souder, Freedom of Information/Local Public Document Room Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone 301-492-4344.

SUPPLEMENTARY INFORMATION: The following is a republication of the NRC's revised Systems of Records notices. With four exceptions, these notices were last published in the **Federal Register** on August 20, 1990 at 55 FR 37970-37992. The new systems of records are as follows: NRC-3, Enforcement Actions Against Individuals, was published in the **Federal Register** on August 15, 1991 (56 FR 40694), and became effective on October 15, 1991; NRC-6, Discrimination Cases, was published in the **Federal Register** on October 30, 1990 (55 FR 45698), and became effective on December 31, 1990; NRC-26, Administrative Services Files, was published in the **Federal Register** on October 8, 1991 (56 FR 50735), and became effective on November 7, 1991; and, NRC-32, Licensee and Applicant Taxpayer Identification Number Records, was published in the **Federal Register** on September 3, 1991 (56 FR 43624), and became effective on October 3, 1991. In addition, System of Records NRC-18, Investigative Offices Index, Files, and Associated Records, was divided into two separate systems of records (NRC-18, Office of the Inspector General Index File and Associated Records—NRC, and NRC-23, Office of Investigations Indices, Files and Associated Records—NRC). The action was taken to distinguish the functions of each office and the types of records found in each system of records, and to adopt the National Archives and Records Administration (NARA) requirements for the retention and disposal of each office's records. The revised systems of records notices were published in the **Federal Register** on August 6, 1992 (57 FR 34790), and became effective on September 8, 1992.

Privacy Act Systems Nuclear Regulatory Commission

NRC Systems of Records

1. Shared Information Network (SINET)—NRC.
2. Biographical Information Records—NRC.
3. Enforcement Actions Against Individuals—NRC.
4. Conflict of Interest Files—NRC.
5. Contracts Records Files—NRC.
6. Discrimination Cases—NRC.
7. Telephone Call Detail Records—NRC.
8. Employee Appeals, Grievances, and Complaints Records—NRC.
9. Equal Employment Opportunity Discrimination Complaint Files—NRC.
10. Freedom of Information Act (FOIA) and Privacy Act (PA) Requests Records—NRC.
11. General Personnel Records (Official Personnel Folder and Related Records)—NRC.
12. Government Motor Vehicle Operators License Files—NRC.
13. Incentive Awards Files—NRC.
14. Employee Assistance Program Files—NRC.
15. National Standards Committee Membership Files—NRC.
16. Facility Operator Licensees Record Files (10 CFR Part 55)—NRC.
17. Occupational Injuries and Illness Records—NRC.
18. Office of the Inspector General Index File and Associated Records—NRC.
19. Official Personnel Training Records Files—NRC.
20. Official Travel Records—NRC.
21. Payroll Accounting Records—NRC.
22. Personnel Performance Appraisals—NRC.
23. Office of Investigations Indices, Files, and Associated Records—NRC.
24. Government Property Accountability System—NRC.

25. Oral History Program—NRC.
26. Administrative Services Files—NRC.
27. Radiation Exposure Information and Reports System (REIRS) Files—NRC.
28. Recruiting, Examining, and Placement Records—NRC.
29. Nuclear Documents System (NUDOCS)—NRC.
30. Manpower Resource Tracking System Records—NRC.
31. Correspondence and Records, Office of the Secretary—NRC.
32. Licensee and Applicant Taxpayer Identification Number Records—NRC.
33. Special Inquiry File—NRC.
34. Advisory Committee on Reactor Safeguards (ACRS) and Advisory Committee on Nuclear Waste (ACNW) Correspondence Index and Associated Records—NRC.
35. Drug Testing Program Records—NRC.
36. Employee Locator Records Files—NRC.
37. Information Security Files and Associated Records—NRC.
38. Mailing Lists—NRC.
39. Personnel Security Files and Associated Records—NRC.
40. Facility Security Access Control Records—NRC.

These systems of records are those systems maintained by the Nuclear Regulatory Commission (NRC) that contain personal information about individuals, and from which personal information can be retrieved by reference to an individual identifier.

The notice for each system of records states the name and location of the record system, the authority for and manner of its operation, the categories of individuals that it covers, the types of records that it contains, the sources of information in those records, and the proposed "routine uses" of each system of records. Each notice also includes the business address of the NRC official who will inform interested persons of the procedures whereby they may gain access to and correct records pertaining to themselves.

One of the purposes of the Privacy Act, as stated in section 2(b)(4), is to provide certain safeguards for an individual against an invasion of personal privacy by requiring Federal agencies to "* * * disseminate any record of identifiable personal information in a manner that assures that such action is for a necessary and lawful purpose, that information is current and accurate for its intended use, and that adequate safeguards are provided to prevent misuse of such information." The NRC intends to follow these principles in transferring information to another agency or individual as a "routine use," including assurance that the information is relevant for the purposes for which it is transferred.

Prefatory Statement of General Routine Uses

The following routine uses apply to each system of records notice set forth below which specifically references this Prefatory Statement.

1. In the event that a system of records maintained by the NRC to carry out its functions indicates a violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rules, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

2. A record from this system of records may be disclosed, as a routine use, to a Federal, State, local, or foreign agency, if necessary, to obtain information relevant to an NRC decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

3. A record from this system of records may be disclosed, as a routine use, to a Federal, State, local, or foreign agency in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

4. A record from this system of records may be disclosed, as a routine use, in the course of discovery and in presenting evidence to a court, magistrate, administrative tribunal, or grand jury, including disclosures to opposing counsel in the course of settlement negotiations.

5. Disclosure may be made, as a routine use, to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual.

6. A record from this system of records may be disclosed, as a routine use, to NRC-paid experts, consultants, and others under contract with the NRC, on a "need-to-know" basis for a purpose within the scope of the pertinent NRC contract. Such access will be granted to an NRC contractor by a system manager only after satisfactory justification has been provided to the system manager.

NRC–1

SYSTEM NAME:

Shared Information Network (SINET)—NRC.

SYSTEM LOCATION:

Office of Information Resources Management, NRC, 7920 Norfolk Avenue, Bethesda, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former NRC employees; NRC contractors; vendors; Federal, State and local Government emergency points of contact; and NRC licensees.

CATEGORIES OF RECORDS IN THE SYSTEM:

For NRC personnel, records will contain name, grade, title, office, and room. For NRC contractors, records will contain name, company address, and identification number. For others, records contain information such as name, phone number, address, and responsibilities.

AUTHORITY OF MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2201 (1988).

ROUTINE USES OF RECORDS IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To identify personnel cognizant of or responsible for activities at nuclear power plants.

b. To identify personnel associated with specific NRC functions.

c. For the routine uses specified in paragraphs 1, 5, and 6 of the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in paper files and computer media.

RETRIEVABILITY:

Accessed by individual, licensee, facility, or plant name; SINET security capability; or system or project.

SAFEGUARDS:

Computer files are password protected. Computer data is protected down to the field value level. Access to and use of these records are limited to

those persons whose official duties require such access.

RETENTION AND DISPOSAL:

SINET records are currently unscheduled and must be retained until a records disposition schedule for this material is approved by the National Archives and Records Administration (NARA).

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Systems Development Branch, Office of Information Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORDS SOURCE CATEGORIES:

Information is obtained from individuals, supervisors, licensees, contractors, vendors and Federal, State, or local Governments.

NRC–2

SYSTEM NAME:

Biographical Information Records—NRC.

SYSTEM LOCATION:

Office of Public Affairs, NRC, 11555 Rockville Pike, Rockville, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Commissioners, members of the Atomic Safety and Licensing Board Panel, Office of Commission Appellate Adjudication panel members, and senior NRC staff members.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information relating to education and training, employment history, and other general biographical data relating to the Commissioners, members of the Atomic Safety and Licensing Board Panel, Office of Commission Appellate Adjudication panel members, and senior NRC staff members. Photographs of Commissioners are also contained in this system.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2241, 5841, 5843(a), 5844(a), 5845(a), and 5849 (1988).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To provide information to the press;

b. To provide information to other persons and agencies requesting this information; and

c. For the routine uses specified in paragraph numbers 5 and 6 of the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records are maintained in file folders.

RETRIEVABILITY:

Records are accessed by name.

SAFEGUARDS:

Maintained in unlocked file cabinets. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Retained until updated or association with NRC is discontinued, then destroyed through regular trash disposal system.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Public Affairs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information in this system of records is provided by each individual and approved for use by the individual involved.

NRC–3

SYSTEM NAME:

Enforcement Actions Against Individuals—NRC.

SYSTEM LOCATION:

Primary system—Office of Enforcement, NRC, 11555 Rockville Pike, Rockville, Maryland.

Duplicate systems—Duplicate systems may exist, in whole or in part, at the NRC Regional Offices at the locations listed in Addendum I, Part 2, and in the Office of the General Counsel, NRC, 11555 Rockville Pike, Rockville, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals involved in NRC-licensed activities who have been subject to NRC Enforcement Actions.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system consists of individual enforcement actions, including Orders, Notices of Violations with and without Civil Penalties, Orders Imposing Civil Penalties, Letters of Reprimand, and Demands for Information. Also included are responses to these actions. In addition, the files may contain other relevant documents directly related to those actions that have been issued. Files will be arranged numerically by Individual Action (IA) number, assigned as individual enforcement actions are issued. The system will include a computerized database with alphabetical and numerical indices, by names of the individuals subject to the action and IA numbers, respectively.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2114, 2167, 2201(c), and 2282 (1988).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To respond to general information requests from the Congress;

b. To deter future violations, information in this system of records may be routinely disseminated to the public by (1) publication in the **Federal Register** of each enforcement action issued to an individual; and (2) a listing of all individuals currently subject to an order that affects their participation in licensed activities and a copy of that order will be sent to all power reactor licensees twice a year and will be made available to other licensees and the general public on request;

c. When considered appropriate for disciplinary purposes, to disclose information, such as a copy of an enforcement action and any hearing proceedings, to a bar association, or other professional organization performing similar functions, including certification of individuals licensed by NRC or Agreement States to perform specified licensing activity;

d. To disclose information, such as a copy of an enforcement action and any hearing proceedings, concerning an individual to a Federal or State

Government agency with licensing jurisdiction, where appropriate, to ensure the public health and safety; and

e. For the routine uses specified in paragraph numbers 1, 2, 3, and 4 of the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on paper in file folders, on computer printouts, and on computer disks.

RETRIEVABILITY:

Records are accessed by individual action file number or by the name of the individual.

SAFEGUARDS:

Records are maintained in file cabinets or a computer database. Access to and use of these records is limited to those NRC employees whose official duties require that access. These files are under visual control during duty hours.

RETENTION AND DISPOSAL:

Enforcement Action Case Files and related indexes are currently unscheduled and must be retained until a records disposition schedule for this material is approved by the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

RECORD ACCESS PROCEDURES:

Same as "Notification Procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification Procedure."

RECORD SOURCE CATEGORIES:

Information in the records is primarily obtained from NRC inspectors and investigators and other NRC employees, including individuals to whom a record pertains, authorized representatives for these individuals, and NRC licensees, vendors, other individuals regulated by the NRC, and persons making allegations to the agency.

NRC–4

SYSTEM NAME:

Conflict of Interest Files—NRC.

SYSTEM LOCATION:

Primary system—Office of the General Counsel, NRC, 11555 Rockville Pike, Rockville, Maryland.

Duplicate systems—Duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who are employees, special Government employees, former employees, advisory committee members, and consultants of NRC.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information relating to:

a. General biographical data (i.e., name, birth date, home address, position title, home and business telephone numbers, citizenship, educational history, employment history, professional society memberships, honors, fellowships received, publications, licenses, and special qualifications);

b. Financial status (i.e., nature of financial interests and in whose name held, creditors, character of indebtedness, interest in real property, monthly U.S. Civil Service Annuity, and status as Uniformed Services Retired Officer);

c. Certifications by employees that they and members of their families are in compliance with the Commission's stock ownership regulations;

d. Requests for approval of outside employment by NRC employees and NRC responses thereto;

e. Advice and determinations (i.e., no conflict or apparent conflict of interest, questions requiring resolution, steps taken toward resolution); and

f. Information pertaining to appointment (i.e., proposed period of NRC service, estimated number of days of NRC employment during period of service, proposed pay, clearance status, description of services to be performed and explanation of need for the services, justification for proposed pay, description of expenses to be reimbursed and dollar limitation, and description of Government-owned property to be in possession of appointee).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 CFR 734–735 (1992); 18 U.S.C. 201–209 (1988); Executive Order 12731, October 17, 1990; Ethics and Government Act, as amended; 10 CFR Part O (1992).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To provide the Department of Justice, Office of Personnel Management, Office of Government Ethics, Office of Special Counsel, and/or Merit Systems Protection Board with information concerning an employee in instances where this office has reason to believe a Federal law may have been violated or where this office desires the advice of the Department, Office, or Board concerning potential violations of Federal law; and

b. For any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records are maintained in file folders. Records are also maintained on computer media.

RETRIEVABILITY:

Records are accessed by name.

SAFEGUARDS:

Records are maintained in locked file cabinets and in computer files that can only be accessed by the appropriate personnel.

RETENTION AND DISPOSAL:

Records are destroyed when 6 years old; except that documents needed in an ongoing investigation will be retained until no longer needed in the investigation. Computer files are deleted after the expiration of the retention period authorized for the disposable hard copy file or when no longer needed, whichever is later.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Assistant General Counsel for Legal Counsel, Legislation, and Special Projects, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information in this system of records either comes from the individual to

whom it applies, or is derived from information he or she supplied, or comes from the office to which the individual is to be assigned, other NRC offices, or other persons such as attorneys.

NRC–5

SYSTEM NAME:

Contracts Records Files—NRC.

SYSTEM LOCATION:

Primary system—Division of Contracts and Property Management, NRC, 7920 Norfolk Avenue, Bethesda, Maryland.

Duplicate systems—Duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees substantially involved with contracting, such as Project Officers and Procurement Officials. Persons who are employed as NRC contractors.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain personal information (such as technical qualifications, education, rates of pay, employment history) of contractors and their employees, and other contracting records. They also contain evaluations, recommendations, and reports of NRC procurement officials, assessment of contractor performance, Invoice Tracking Systems, and related information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2051, 2201, and 5845 (1988).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To provide information to the Federal Procurement Data Center, Department of Health and Human Services, Defense Contract Audit Agency, General Accounting Office, and other Federal agencies for audits and reviews; and

b. For any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders and computer media.

RETRIEVABILITY:

Paper records are accessed by contract number, taxpayer identification number (TIN) and purchase order number; and are cross-referenced to the automated system that contains the name of the contractor, vendor, project officer, procurement official, or contract manager.

SAFEGUARDS:

Maintained in unlocked conserver files. Access to and use of these records are limited to those persons whose official duties require such access. Computer files are password protected.

RETENTION AND DISPOSAL:

Records for transactions of more than $25,000 are destroyed 6 years and 3 months after final payment. Transactions of $25,000 or less are destroyed 3 years after final payment. Records are destroyed through regular trash disposal system, except for confidential business (proprietary) information which is destroyed by shredding. Electronic records in the Contracts System are retained until no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Contracts and Property Management, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure." Some information was received in confidence and will not be disclosed to the extent that disclosure would reveal confidential business (proprietary) information.

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information in this system of records comes from the contractor or potential contractor or NRC employee.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(1) and (5), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f). The exemption rule is contained in 10 CFR 9.95 of the NRC regulations.

NRC–6

SYSTEM NAME:

Discrimination Cases—NRC.

SYSTEM LOCATION:

Primary system—Office of Enforcement, NRC, 11555 Rockville Pike, Rockville, Maryland.

Duplicate system—Duplicate systems may exist, in whole or in part, in the Office of the General Counsel, NRC, 11555 Rockville Pike, Rockville, Maryland, and in enforcement coordinators' offices at NRC Regional Offices at the addresses listed on Addendum I, Part 2. The duplicate systems in the Regional Offices would ordinarily be limited to the cases filed in each Region.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have filed complaints with the Department of Labor (DOL) concerning alleged acts of discrimination in violation of section 210(a) of the Energy Reorganization Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system consists of files arranged numerically in accordance with a system established by the DOL ("ERA" numbers) to track complaints filed by individuals pursuant to section 210 of the Energy Reorganization Act. These files include documents related to, and provided by, the DOL including copies of complaints, correspondence between the parties, and decisions by DOL Area Directors, Administrative Law Judges, and the Secretary of Labor. The system includes a computerized database with alphabetical and numerical indices, by complainants' names and ERA numbers, respectively.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2201, 2282; 42 U.S.C. 5851 (1988); 10 CFR 30.7, 40.7, 50.7, 60.9, 61.9, 70.7, and 72.10 (1992).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used for any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information contained in this system is stored in hard copy and on computer media.

RETRIEVABILITY:

Information is retrieved by the name or ERA number of the individual or his/her case.

SAFEGUARDS:

The files are maintained in an area for which access is controlled by keycard

and limited to those with a need for access to the work area, and in a building to which access is controlled by a security guard force. These files are under visual control during duty hours. After duty hours, access to the building is controlled by a security guard force and access to each floor is controlled by keycard.

RETENTION AND DISPOSAL:

Discrimination Case Files and related indexes are currently unscheduled and must be retained until a records disposition schedule for this material is approved by the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

RECORD ACCESS PROCEDURES:

Same as "Notification Procedure." Information received from the Department of Labor is treated by DOL as public information and subject to disclosure in accordance with applicable laws.

CONTESTING RECORD PROCEDURES:

Same as "Notification Procedure."

RECORD SOURCE CATEGORIES:

Individuals to whom the record pertains, attorneys for these individuals, union representatives serving as advisors to these individuals, NRC licensees, NRC, and DOL.

NRC–7

SYSTEM NAME:

Telephone Call Detail Records—NRC.

SYSTEM LOCATION:

Office of Information Resources Management, NRC, 7920 Norfolk Avenue, Bethesda, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals utilizing NRC telephones, including current and former NRC employees and contractors who make local or long-distance telephone calls and individuals who received telephone calls placed from NRC telephones.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records relating to use of the agency telephones to place local or long-distance calls, records indicating assignment of telephone numbers to employees, and records relating to the location of telephones.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2201 (1988).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. By individual employees of the agency to determine their individual responsibility for telephone calls; and

b. For the routine uses specified in paragraphs 1, 3, 5, and 6 of the Prefatory Statement.

DISCLOSURES TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12) may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in paper files, on computer tapes or disks.

RETRIEVABILITY:

Accessed by name, office, or telephone number.

SAFEGUARDS:

Maintained in locking file cabinets or locked rooms. Computer files are password protected. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Records pertaining to employee phone use must be retained until scheduled under General Records Schedule 12–4, "Telephone Use Records." Records pertaining to the location of telephone equipment, equipment requests, and phone service are destroyed when 3 years old. Records contained in the Telephone Directory System (TEL) are destroyed when no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Telecommunications Branch, Office of Information Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Telephone assignment calls, call detail listings, NRC Form 15 "Employee Locator Form," results of administrative inquiries relating to assignment of responsibility for placement of specific telephone calls, and certification of telephone bills.

NRC–8

SYSTEM NAME:

Employee Appeals, Grievances, and Complaints Records—NRC.

SYSTEM LOCATION:

Primary system—Office of Personnel, NRC, 8120 Woodmont Avenue, Bethesda, Maryland.

Duplicate systems—Duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for NRC employment, current and former NRC employees, and annuitants who have filed written complaints brought to the Office of Personnel's attention or initiated grievances or appeal proceedings as a result of a determination made by the NRC, Office of Personnel Management, and/or Merit Systems Protection Board, or a Board or other entity established to adjudicate such grievances and appeals.

CATEGORIES OF RECORDS IN THE SYSTEM:

Includes all documents related to disciplinary actions, adverse actions, appeals, complaints, grievances, arbitrations, and negative determinations regarding within-grade salary increases. It contains information relating to determinations affecting individuals made by the NRC, Office of Personnel Management, Merit Systems Protection Board, arbitrators or courts of law. The records consist of the initial appeal or complaint, letters or notices to the individual, records of hearings when conducted, materials placed into the record to support the decision or determination, affidavits or statements, testimony of witnesses, investigative reports, instructions to an NRC office or division concerning action to be taken to comply with decisions, and related correspondence, opinions, and recommendations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 3591 *et seq.*, 4101 *et seq.*, 4303 *et seq.*, 7501 *et seq.* (1988); 42 U.S.C. 2201(d) (1988).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To furnish information to the Office of Personnel Management and/or Merit Systems Protection Board pursuant to applicable requirements related to grievances and appeals;

b. To provide appropriate data to union representatives and third parties (that may include the Federal Services Impasses Panel and Federal Labor Relations Authority) in connection with grievances, arbitration actions, and appeals; and

c. For any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in file folders, binders, index cards, floppy disks, and a password-protected automated system.

RETRIEVABILITY:

These records are indexed annually by the names of the individuals on whom they are maintained.

SAFEGUARDS:

Maintained in locked file cabinets and in a password-protected automated system available only to Labor Relations personnel. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Records related to grievances, appeals, and adverse actions are destroyed seven years after the cases are closed, index cards are destroyed or deleted with the related records or sooner, if no longer needed, and computer files are destroyed after the period authorized for the related hard copy files or when no longer needed, whichever is later.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Policy and Labor Relations, Office of Personnel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure." Some information was received in confidence and will not be disclosed to the extent that disclosure would reveal a confidential source.

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Individuals to whom the record pertains, NRC, Office of Personnel Management and/or Merit Systems Protection Board officials; affidavits or statements from employees, union representatives, or other persons; testimony of witnesses; official documents relating to the appeal, grievance, or complaint; Official Personnel Folder; and other Federal agencies.

NRC–9

SYSTEM NAME:

Equal Employment Opportunity Discrimination Complaint Files—NRC.

SYSTEM LOCATION:

Primary system—Office of Small and Disadvantaged Business Utilization and Civil Rights, NRC, 7735 Old Georgetown Road, Bethesda, Maryland.

Duplicate system—Office of the General Counsel, NRC, 11555 Rockville Pike, Rockville, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for NRC employment and current and former NRC employees who have filed a complaint of discrimination with the Office of Small and Disadvantaged Business Utilization and Civil Rights.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains copies of written reports by counselors; the investigative file; documentation of withdrawn, canceled, rejected, and/or adjusted discrimination complaints; complainant's name, title, and grade; kind of discrimination alleged; description of action, decision, or condition giving rise to the complaint; description of remedial action; description of disciplinary action, if any; copy of the letter of proposed disposition of the complaint and right to a hearing; record of hearing examiner's findings, analysis, and recommended decision; record of appeals examiner's finding, analysis, and recommended decision; and notice of intent to file in Federal District Court, if any.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

29 U.S.C. 20 *et seq.*, 633a(b), 794a(a)(1) (1988); 42 U.S.C. 2000e and 5891 (1988); Executive Orders 11246, September 24, 1965; 11375, August 8, 1969 and 12086, October 5, 1978.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To furnish information related to discrimination complaints to the Equal Employment Opportunity Commission and the Office of Personnel Management and/or Merit Systems Protection Board in accordance with applicable requirements; and

b. For any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, binders, and on computer media.

RETRIEVABILITY:

Accessed by name.

SAFEGUARDS:

Paper records are maintained in locked file cabinets. Computer records are protected by a physical key lock. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Official Discrimination Complaint Case Files are destroyed four years after the resolution of the case. Computer files are destroyed after the period authorized for the related hard copy files or when no longer needed, whichever is later.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Small and Disadvantaged Business Utilization and Civil Rights, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure." Some information was received in confidence and will not be disclosed to the extent that disclosure would reveal a confidential source.

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Individual to whom the record pertains, counselors, NRC, the Office of Equal Employment Opportunity Commission, the Office of Personnel Management and/or Merit Systems Protection Board officials, affidavits or statements from employees, testimony of witnesses, and official documents relating to the complaints.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(5), the Commission has exempted portions of this system of records from 5 U.S.C. 552(c)(3), (d), (e)(4)(G), (H), and (I), and (f). The exemption rule is contained in 10 CFR 9.95 of the NRC regulations.

NRC–10

SYSTEM NAME:

Freedom of Information Act (FOIA) and Privacy Act (PA) Requests Records—NRC.

SYSTEM LOCATION:

Primary system—Division of Freedom of Information and Publications Services, Office of Administration, NRC, 7920 Norfolk Avenue, Bethesda, Maryland.

Duplicate systems—Duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2; at the NUDOCS Contractor Site, 7101 Wisconsin Avenue, Suite 1400, Bethesda, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who have made FOIA or PA requests for NRC records.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains copies of the letters from requesters, the NRC response letters, and related documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 552 and 552a (1988); 42 U.S.C. 2201 (1988).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. If an appeal or court suit is filed with respect to any records denied;

b. For preparation of reports required by 5 U.S.C. 552 and 5 U.S.C. 552a; and

c. For any of the routine uses specified in the Prefatory Statement. Most of the FOIA records are placed in the NRC Public Document Room and made available to the public.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders, on microfiche, and on computer media.

RETRIEVABILITY:

Accessed by chronologically assigned number and individual's name.

SAFEGUARDS:

Privacy Act records are maintained in locked file cabinets. FOIA records are maintained in locked rooms. Access to and use of these records are limited to those persons whose official duties require such access. Copies of most of the FOIA records are publicly available in the NRC Public Document Room.

RETENTION AND DISPOSAL:

PA records are retained in hard copy for 2 years from date of reply if request is granted, 6 years if denied, and 6 years from date of appeal, if appealed. The FOIA official files are retained on microfiche and may be destroyed after 6 years. Except for classified, proprietary, and other sensitive information which is destroyed by shredding, records are disposed of through regular trash disposal system.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Requests are made by individuals or other requesters. The response to the request is based upon information contained in NRC records.

NRC–11

SYSTEM NAME:

General Personnel Records (Official Personnel Folder and Related Records)—NRC.

SYSTEM LOCATION:

Primary system—For Headquarters and all Senior Executive Service (SES) personnel, Office of Personnel, NRC, 8120 Woodmont Avenue, Bethesda, Maryland. For Regional personnel, at Regional Offices I–V listed in Addendum I, Part 2.

Duplicate systems—Duplicate systems exist, in whole or in part at the locations listed in Addendum I, Parts 1 and 2, and at the National Institutes of Health Computer Facility, Bethesda, Maryland. The duplicate systems maintained in a particular office, division, or branch may contain information of specific applicability to employees in that organization in addition to that information contained in the primary system.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current NRC employees and those formerly employed by the NRC (and terminated through death, resignation, retirement, or separation).

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain Personal Qualifications Statement (SF–171) and related documents such as information about an individual's birth date, social security number, veteran preference status, tenure, physical handicaps, past and present salaries, grades, position titles, training, test performances, minority group designator, life insurance, health benefits, beneficiaries, academic letters of recommendation, probationary period appraisals, and awards. This system also contains notification of personnel action (SF–50) and documents supporting the action taken, letters of commendation and reprimand, employee suggestion and evaluation of suggestion forms, documentation of charges and decisions on charges, medical records related to initial appointment, notices of reductions-in-force, and locator files. Some duplicate records may contain office-specific applications, personnel qualification statements (SF–171), resumes, conflict of interest correspondence, and other related personnel records in addition to those contained in the primary system.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7901; 42 U.S.C. 290dd-2; 42 U.S.C. 290ee-1 (1988); 42 U.S.C. 2201(d) (1988); 10 CFR Part 0 (1992); Executive Order 9397, November 22, 1943.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. By the Office of Personnel Management and/or Merit Systems Protection Board for making a decision when an NRC employee or former NRC

employee questions the validity of a specific document in an individual's record;

b. To provide information to a prospective employer of a Government employee. Upon transfer of the employee to another Federal agency, the information is transferred to such agency;

c. To update monthly the Office of Personnel Management systems concerning the Central Personnel Data File (CPDF), the Executive Inventory File, and security investigations index hires, and to update adverse actions and terminations records of the Merit Systems Protection Board;

d. To provide statistical reports to Congress, agencies, and the public on characteristics of the Federal work force;

e. To provide information to the Office of Personnel Management and/or Merit Systems Protection Board for review and audit purposes;

f. To provide members of the public with the names, position titles, grades, salaries, appointments (temporary or permanent), and duty stations of employees;

g. For medical records, to provide information to the Public Health Service in connection with Health Maintenance Examinations and to other Federal agencies responsible for Federal benefit programs administered by the Department of Labor (Office of Workmen's Compensation Programs) and the Office of Personnel Management; and

h. For any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders, magnetic tape, and computer media.

RETRIEVABILITY:

Records are indexed by any combination of name, birth date, social security number, or identification number.

SAFEGUARDS:

Official Personnel Folders are maintained in locking cabinets and related documents may be in unlocked file cabinets or an electromechanical file organizer. Access to and use of these records are limited to those persons whose official duties require such access. Computer files are password protected.

RETENTION AND DISPOSAL:

The Official Personnel Folder is sent to the next Federal employing office if the employee transfers, or to the National Personnel Records Center within 30 days of the date of the employee's separation from the Federal service. Correspondence and forms maintained on the left side of the Official Personnel Folder, such as letters of reprimand, indebtedness, and vouchers, are temporary records and are maintained for the periods of time specified in Federal Personnel Manual (FPM) Chapter 293 and the FPM Supplement 293–31. Computer records are retained until no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

For Headquarters and all NRC SES employees—Chief, Executive and Operational Support Programs, Office of Personnel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For Region I–V non-SES employees—The appropriate Regional Personnel Officer at the locations listed in Addendum I, Part 2.

NOTIFICATION PROCEDURE:

Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information in this system of records comes from the individual to whom it applies; is derived from information supplied by that individual; or is provided by agency officials, other Federal agencies, universities, other academic institutions, or persons, including references, private and Federal physicians, and medical institutions.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k) (5) and (6), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4) (G), (H), and (1), and (f). The exemption rule is contained in 10 CFR 9.95 of the NRC regulations.

NRC–12

SYSTEM NAME:

Government Motor Vehicle Operators License Files—NRC.

SYSTEM LOCATION:

Primary system—Administrative Service Center, Facility Management Branch, Division of Contracts and Property Management, Office of Administration, NRC, 11555 Rockville Pike, Rockville, Maryland.

Duplicate systems—Duplicate systems exist, in whole, or in part, at the locations listed in Addendum I, Part 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former NRC employees and contractor personnel licensed to drive Government vehicles.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain identifying data on individuals including, but not limited to, name, social security number, hair and eye color, sex, and date of birth as well as data on driving experience, traffic violations, accidents, and medical history and conditions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

40 U.S.C. 491 (1988); Executive Order 9397, November 22, 1943; Executive Order 10579, December 1, 1954.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used for any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in logs and on paper in file folders.

RETRIEVABILITY:

Indexed alphabetically by license holder's name.

SAFEGUARDS:

Maintained in locked file cabinets under control of supervisors. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Records are destroyed 3 years after separation of employees or contractor personnel or 3 years after recision of authorization to operate Government-owned vehicle, whichever is sooner.

SYSTEM MANAGER(S) AND ADDRESS:

Coordinator, Administrative Service Center, Facility Management Branch, Division of Contracts and Property Management, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Director, Division of Freedom of Information and Publications Services,

Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Applications for Motor Vehicle Operator's Identification cards, individuals on whom the record is maintained, supervisors and personnel representatives, and medical examiners.

NRC–13

SYSTEM NAME:

Incentive Awards Files—NRC.

SYSTEM LOCATION:

Primary system—Office of Personnel, NRC, 8120 Woodmont Avenue, Bethesda, Maryland.

Duplicate systems—Duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former NRC employees who merit special recognition for achievements either within or outside the employee's job responsibilities and for length of service to the Government. Awards include both NRC awards and awards of other agencies and organizations for which NRC employees are eligible.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains employee's name, title, office, grade, and salary; justification to support recommendation and authorization for cash award; monetary amount of cash award; actions by approving officials; record of individuals receiving awards; suggestions and evaluations of suggestions; citation to be used; and related documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 4501–4506, 5336 (1988).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. By the Office of Personnel Management to process and approve nominations or awards;

b. By the Office of the Attorney General and the President of the United States in reviewing recommended awards;

c. To make reports to the Office of Personnel Management and/or Merit Systems Protection Board;

d. By other Government agencies to recommend whether suggestions should be adopted in instances where the suggestion made by an NRC employee affects the functions or responsibilities of the agencies; and

e. For any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on paper in file folders and computer disk.

RETRIEVABILITY:

Information is accessed by name, type of award, office, and year of award.

SAFEGUARDS:

Maintained in locking file cabinets and in a password-protected computer system. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

a. Records relating to meritorious and distinguished service awards made at the Commission level, excluding those in the Official Personnel Folder, are permanent;

b. Case files pertaining to NRC-sponsored awards, excluding those for departmental-level awards, are destroyed 2 years after approval or disapproval;

c. Correspondence pertaining to awards from other Federal agencies or non-Federal organizations are destroyed when 2 years old;

d. Length of service files are destroyed when 1 year old;

e. Letters of commendation and appreciation, excluding copies filed in the Official Personnel Folder, are destroyed when 2 years old;

f. Lists and indexes to agency award nominations are destroyed when superseded or obsolete; and

g. Computer files are continually updated and information deleted when no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Recruitment, Incentive and Benefits Programs, Office of Personnel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. For awards limited to SES employees, Chief, Executive and Operational Support Programs, Office of Personnel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

NRC employees, other agencies and organizations, and Official Personnel Folders.

NRC–14

SYSTEM NAME:

Employee Assistance Program Files—NRC.

SYSTEM LOCATION:

Office of Personnel, NRC, 8120 Woodmont Avenue, Bethesda, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees or family members who have been counseled by or referred to the Employee Assistance Program (EAP) for problems relating to alcoholism, drug abuse, job stress, chronic illness, family or relationship concerns, and emotional and other similar issues.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains records of NRC employees or their families who have participated in the Employee Assistance Program and the results of any counseling or referrals which may have taken place. The records contain information as to the nature of each individual's problem, subsequent treatment, and progress.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 290dd–1 and 290ee (1988).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. For statistical reporting purposes; and

b. Any disclosure of information pertaining to an individual will be made in compliance with the Confidentiality of Alcohol and Drug Abuse Patient Records regulation, 42 CFR Part 2, as authorized by 21 U.S.C. 1175 and 42 U.S.C. 4582, as amended.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on paper in file folders and on computer media.

RETRIEVABILITY:

Information accessed by the EAP identification number and name of the individual.

SAFEGUARDS:

Files are maintained in a safe under the immediate control of the Employee Assistance Program Manager.

RETENTION AND DISPOSAL:

Employee counseling files are destroyed 3 years after termination of counseling. Information contained in the related statistical database is destroyed when no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Manager, Employee Assistance Program, Office of Personnel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information compiled by the Manager, Employee Assistance Program, during the course of counseling with an NRC employee or members of the employee's family.

NRC–15

SYSTEM NAME:

National Standards Committee Membership Files—NRC.

SYSTEM LOCATION:

Primary system—Office of Nuclear Regulatory Research, NRC, 5650 Nicholson Lane, Rockville, Maryland.

Duplicate systems—Duplicate systems exist, in whole or in part, at the National Institutes of Health Computer Facility, Bethesda, Maryland and at locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees who are serving on committees, subcommittees, working groups, etc., that are developing nuclear standards.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system is a comprehensive record of NRC personnel on the national standards committees and contains members' names, the names of the committees to which they belong, and the names of the NRC offices in which the members work.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2201(b) (1988).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To provide information to persons or agencies requesting this information including, but not limited to, persons using the NRC Public Document Room and/or Technical Library; and

b. For the routine use specified in paragraph number 5 of the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on lists and computer media.

RETRIEVABILITY:

Records are indexed by the individual's name, by individual's office or region, and by the committee title.

SAFEGUARDS:

Maintained in an unlocked file cabinet, a loose-leaf notebook, and on computer printouts.

RETENTION AND DISPOSAL:

Updated when information is out-of-date. The information is retained until the person is no longer a member of the committee or no longer an NRC employee, whichever occurs first. Computer tape and disk are destroyed by computer deletion, and lists are destroyed through regular trash disposal system.

SYSTEM MANAGER(S) AND ADDRESS:

Research Program Coordination Assistant, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information in this system of records comes from the Director, Office of Research (RES), the individual to whom it applies, or from his or her supervisor.

NRC–16

SYSTEM NAME:

Facility Operator Licensees Record Files (10 CFR Part 55)—NRC.

SYSTEM LOCATION:

Primary system—For power reactors, at the appropriate Regional Office at the address listed in Addendum I, Part 2; for nonpower reactor facilities at the Operator Licensing Branch, Division of Licensee Performance and Quality Evaluation, Office of Nuclear Reactor Regulation, NRC, 11555 Rockville Pike, Rockville, Maryland.

Duplicate systems—Duplicate systems exist, in whole or in part, in the Operator Licensing Branch, Division of Licensee Performance and Quality Evaluation, Office of Nuclear Reactor Regulation, NRC, 11555 Rockville Pike, Rockville, Maryland; Systems Development Branch, Division of Computer and Telecommunications Services, Office of Information Resources Management, 7920 Norfolk Avenue, Bethesda, Maryland; and at the National Institutes of Health Computer Facility in Bethesda, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals licensed pursuant to 10 CFR Part 55, new applicants whose applications are being processed, and individuals whose licenses have expired.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information pertaining to 10 CFR Part 55 applicants for a license, licensed operators, and individuals who previously held licenses. This includes applications for a license, license and denial letters, and related correspondence; correspondence relating to actions taken against a licensee; 10 CFR Part 50.74 notifications; certification of medical examination and related medical information; fitness for duty information; examination results and other docket information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2137 and 2201(i) (1988).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To determine if the individual meets the requirements of 10 CFR Part 55 to take an examination or to be issued an operator's license;

b. To provide researchers with information for reports and statistical evaluations related to selection, training, and examination of facility operators;

c. To provide for examination and testing material and obtain results from contractors;

d. To provide facility management with sufficient information to enroll the individuals in the licensed operator requalification program; and

e. For any of the routine uses specified in paragraph numbers 1, 2, 4, 5, and 6 of the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on paper logs, paper in file folders, and computer media.

RETRIEVABILITY:

Records are accessed by name and docket number.

SAFEGUARDS:

Maintained in locked file cabinets or an area that is locked. Computer access requires password. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

a. Reactor Operator Licensees Records: When case files have been inactive (i.e., after latest license expiration/termination/ revocation, application denial or withdrawal, or issuance of denial letter), retired after 3 years to the Federal Records Center; and destroyed after 10 years.

b. Operator Licensing Tracking System: Retained as long as system is operational. Destroyed 2 years after system terminates.

SYSTEM MANAGER(S) AND ADDRESSES:

Chief, Operator Licensing Branch, Division of Licensee Performance and Quality Evaluation, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information in this system comes from the individual applying for a license, the Part 50 licensee, a licensed physician, members of the Operator Licensing Branch or Regional Operator licensing sections, and other NRC and contractor personnel.

NRC–17

SYSTEM NAME:

Occupational Injuries and Illness Records—NRC.

SYSTEM LOCATION:

Primary system—For Headquarters personnel, Office of Personnel, NRC, 8120 Woodmont Avenue, Bethesda, Maryland.

For Regional personnel, at each of the Regional Offices listed in Addendum I, Part 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees who report an occupational injury or illness.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information regarding the location and descriptions of the injury or illness, treatment, and disposition as well as copies of Workman's Compensation claim forms.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7902; 29 U.S.C. 657(c) (1988); Executive Orders 12196, February 26, 1980; 12223, June 30, 1980; 12608, September 9, 1987.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. By the Agency Safety and Health Officer and/or the Chief, Benefits and Operations Support, Office of Personnel, to prepare periodic statistical reports on employees' health and injury status for transmission to and review by the Department of Labor;

b. For transmittal to the Secretary of Labor or an authorized representative in accordance with duly promulgated regulations;

c. For transmittal to the Office of Personnel Management and/or Merit Systems Protection Board as required to support individual claims; and

d. For any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on paper in file folders and on computer disk.

RETRIEVABILITY:

Indexed by assigned employee case number or name under report category.

SAFEGUARDS:

Maintained in locked file cabinet under visual control of section employees. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Employee case files are destroyed when 5 years old. Computer files are deleted after the expiration of the retention period authorized for the disposable hard copy file or when no longer needed, whichever is later.

SYSTEM MANAGER(S) AND ADDRESSES:

Director, Office of Personnel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

NRC Public Health Unit; NRC Headquarters and Regional Office feeder reports; and forms with original information largely supplied by employees concerned, supervisors, witnesses, medical personnel, etc.

NRC–18

SYSTEM NAME:

Office of the Inspector General Index File and Associated Records—NRC.

SYSTEM LOCATION:

Office of the Inspector General, NRC, 4350 East West Highway, Bethesda, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals and entities referred to in potential or actual cases and matters of

concern to the Office of the Inspector General and correspondents on subjects directed or referred to the Office of the Inspector General.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system consists of an alphabetical index file bearing individual names. The index provides access to associated records that are arranged by subject matter, title, or identifying number(s) and/or letter(s). The system incorporates the records of all Office of the Inspector General correspondence, cases, matters, memoranda, and materials, including, but not limited to, audit reports, investigative reports, inspection reports, correspondence to and from the Office of the Inspector General, memoranda, legal papers, evidence, exhibits, audit data, investigative data and work papers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Inspector General Act of 1978, as amended, Pub. L. 100–504 (1988); 42 U.S.C. 2035(c), 2201(c), and 5841(f) (1988).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

a. A record in the system of records may be disclosed as a routine use to a Federal, State, local, or foreign agency or to an individual or organization if the disclosure is reasonably necessary to elicit information or to obtain the cooperation of a witness or an informant.

b. A record in the system of records relating to a case or matter falling within the purview of the Office of the Inspector General that has been referred for audit, inspection, or investigation may be disclosed as a routine use to the referring agency, group, organization, or individual of the status of the case or matter or of any decisions or determinations that have been made.

c. A record in the system of records relating to an individual held in custody pending arraignment, trial, or sentence, or after conviction, may be disclosed as a routine use to a Federal, State, local, or foreign prison, probation, parole, or pardon authority, to any agency or individual concerned with the maintenance, transportation, or release of such an individual.

d. A record in the system of records relating to a case or matter may be disclosed as a routine use to a foreign country pursuant to an international treaty or convention entered into and ratified by the United States.

e. A record in the system of records may be disclosed as a routine use to a Federal, State, local, or foreign law enforcement agency to assist in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to such agency.

f. A record in the system of records in the nature of an audit, inspection, or investigation report relating to the integrity and efficiency of the Commission's operation and management may be disseminated outside the Commission as part of the Commission's responsibility to inform the Congress and the public about Commission operations.

g. A record in the system of records may be disclosed for any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information contained in this system is stored manually on index cards, in files, and in various ADP storage media.

RETRIEVABILITY:

Information is retrieved from index cards or indices by the name or identifier of the individual or entity and from the jackets or files by number(s) and/or letter(s) assigned and appearing on the index cards or indices.

SAFEGUARDS:

The index is maintained in approved security containers and locking filing cabinets; and the indices, associated records, disks, tapes, etc., are located in locking metal filing cabinets, safes, storage rooms, or similar secure facilities. All records are under visual control during duty hours and available only to authorized personnel who have a need to know and whose duties require access to the information.

RETENTION AND DISPOSAL:

a. Investigative Case Files:

1. Files containing information or allegations that are of an investigative nature but do not relate to a specific investigation—Destroy when 5 years old.

2. All other investigative files, except those that are unusually significant—Place in inactive file when case is closed. Cut off inactive file at end of fiscal year. Destroy 10 years after cutoff.

3. Significant cases (those that result in national media attention, congressional investigation, or substantive changes in agency policy or procedures)—To be determined by the National Archives and Records Administration on a case-by-case basis.

b. Audit and Related Case Files: Cut off at end of fiscal year in which case is closed. Destroy 8 years after cutoff.

c. Index/Indices: Destroy or delete with the related records or sooner if no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Inspector General, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure." Information classified pursuant to Executive Order 12356 will not be disclosed. Information received in confidence will be maintained pursuant to the Commission's Policy Statement on Confidentiality, Management Directive 8.8, "Management of Allegations" (formerly NRC Manual Chapter 0517), and other procedures concerning confidentiality as determined by the Inspector General and will not be disclosed to the extent that disclosure would reveal a confidential source.

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

The information in this system of records is obtained from sources including, but not limited to, NRC officials and employees; employees of Federal, State, local, and foreign agencies; and other persons.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a (k)(1), (k)(2), and (k)(6), the Commission has exempted portions of this system of records from 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4) (G), (H), and (I), and (f).

NRC–19

SYSTEM NAME:

Official Personnel Training Records Files—NRC.

SYSTEM LOCATION:

Primary system—Office of Personnel, NRC, 8120 Woodmont Avenue, Bethesda, Maryland.

Duplicate systems—Duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have applied for or were selected for either NRC or other Government/non-Government training courses or programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information relating to the individual's educational background and training courses, including applications for training, training requests, authorizations for training, evaluations, and other related personnel information (including, but not limited to, name, address, telephone number (home and office), social security number, position title, and grade) and correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 3396; 5 U.S.C. 4103 (1988); Executive Order 9397, November 22, 1943; Executive Order 11348, April 20, 1967, as amended by Executive Order 12107, December 28, 1978.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be:

a. Extracted from the records and made available to the Office of Personnel Management; other Federal, State, and local Government agencies; and educational institutions for use in training programs related to NRC employees; and

b. Disclosed for the routine uses specified in paragraph numbers 5 and 6 of the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Official forms are maintained on paper in file folders; computerized training data is maintained in the Automated Training System. The original training request and completion certifications are filed in the Official Personnel Folder (NRC–11).

RETRIEVABILITY:

Information is accessed by name, or social security number, or course number.

SAFEGUARDS:

Paper is maintained in locked file cabinets. Access to and use of these records is limited to those persons whose official duties require such access. Records are also maintained in a password-protected computer system.

RETENTION AND DISPOSAL:

Paper forms are retained for 5 years, then destroyed by shredding.

Information in the ADP training file is maintained until no longer needed for statistical and historical reference.

SYSTEM MANAGER(S) AND ADDRESSES:

Chief, Organizational Development and Training, Office of Personnel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information is provided by the individual to whom it applies, the employee's supervisor, and training groups, agencies, or educational institutions and learning activities.

NRC–20

SYSTEM NAME:

Official Travel Records—NRC.

SYSTEM LOCATION:

Primary system—Division of Accounting and Finance, Office of the Controller, NRC, 7735 Old Georgetown Road, Bethesda, Maryland.

Duplicate systems—Duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former NRC employees, prospective NRC employees, consultants, and invitational travelers for NRC programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain Request and Authorization for Official Travel forms and Travel Vouchers which include individual's name and social security number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 5701; 31 U.S.C. 1104, 1108, 3511, 716, 3512, 3701, 3711, 3717, 3718 (1988); Federal Travel Regulations, 41 CFR Parts 301–304; Federal Property Management Regulations, 41 CFR Part 101–71; Executive Order 9397, November 22, 1943.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. For transmittal to the U.S. Treasury for payment;

b. For transmittal to the Department of State or an embassy for passports or visas; and

c. For any of the routine uses specified in the Prefatory Statement.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

DISCLOSURE PURSUANT TO 5 U.S.C. 552A(B)(12):

Disclosures of information to a consumer reporting agency are not considered a routine use of records. Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966, as amended (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on paper in file folders, on computer media, and on magnetic tape.

RETRIEVABILITY:

Records are accessed by name, social security number, authorization number, and voucher payment schedule number.

SAFEGUARDS:

Maintained in locked file cabinets in same room as users. For ADP records, an identification number, a password, and assigned access to specific programs are required in order to retrieve information.

RETENTION AND DISPOSAL:

Paper records are retained for 6 years and 3 months after period covered by account, then destroyed through regular trash disposal system. Electronic records are deleted after the expiration of the retention period authorized for the disposable hard copy file or when no longer needed, whichever is later.

SYSTEM MANAGER(S) AND ADDRESSES:

Chief, Travel Management Branch, Division of Accounting and Finance, Office of the Controller, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information is provided by the individual, the organizational component approving the travel, outside transportation agents, and rate books for cost information.

NRC–21

SYSTEM NAME:

Payroll Accounting Records—NRC.

SYSTEM LOCATION:

Primary system—Division of Accounting and Finance, Office of the Controller, NRC, 7735 Old Georgetown Road, Bethesda, Maryland.

Duplicate systems—Duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former NRC employees, special Government employees, and consultants.

CATEGORIES OF RECORDS IN THE SYSTEM:

Pay, leave, and allowance histories, which includes, but not limited to, individual's name and social security number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 6334 (1988); 31 U.S.C. 716, 1104, 1108, 1114, 3325, 3511, 3512, 3701, 3711, 3717, 3718 (1988); Executive Order 9397, November 22, 1943.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. For transmittal of data to U.S. Treasury to effect issuance of paychecks to employees and consultants and distribution of pay according to employee directions for savings bonds, allotments, financial institutions, and other authorized purposes including the withholding and reporting of Thrift Savings Plan deductions to the Department of Agriculture's National Finance Center;

b. For reporting tax withholding to Internal Revenue Service and appropriate State and local taxing authorities;

c. For FICA deductions to the Social Security Administration;

d. For dues deductions to labor unions;

e. For withholding for health insurance to the insurance carriers and the Office of Personnel Management;

f. For charity contribution deductions to agents of charitable institutions;

g. For annual W–2 statements to taxing authorities and the individual;

h. For transmittal to the Office of Management and Budget for review of budget requests;

i. For withholding and reporting of retirement, reemployed annuitants, and life insurance information to the Office of Personnel Management;

j. For transmittal of information to State agencies for unemployment purposes; and

k. For any of the routine uses specified in the Prefatory Statement.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

DISCLOSURE PURSUANT TO 5 U.S.C. 552A(B)(12):

Disclosures of information to a consumer reporting agency are not considered a routine use of records. Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966, as amended (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders, microfiche, magnetic tape, and computer media.

RETRIEVABILITY:

Accessed by name and social security number.

SAFEGUARDS:

File folders, microfiche, tape, and disks, including backup data, are maintained in secured locked rooms after working hours. Computer records are password protected. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

a. Individual Account Files consisting of individual service cards or equivalent which comprise the Annual and Quarterly Employee History Records on microfiche are destroyed 56 years after the date of the last entry on the card.

b. Employee and Consultant Payroll Records:

1. Individual Authorized Allotment Files consisting of documents that pertain to savings bonds and CFC are destroyed when superseded or after separation of employee.

2. Individual Authorized Allotment Files consisting of documents that pertain to union dues and savings are destroyed when superseded or after transfer or separation of employee.

3. Notification of Personnel Action Files consisting of the Payroll copies of SF 50s are destroyed when related pay records are audited by GAO or when 3 years old, whichever is sooner.

4. Payroll Change Files consisting of payroll change slips are destroyed when related pay records are audited by GAO or when 3 years old, whichever is sooner.

5. Tax Files consisting of State and Federal withholding tax exemption certificates, such as IRS Form W–4 and the equivalent state form, are destroyed 4 years after form is superseded or obsolete.

c. Time and Attendance Reports Files consisting of NRC Form 704 are destroyed after GAO audit or when 6 years old, whichever is sooner.

d. Administrative Payroll Reports consisting of microfiche reports that are generated by the Payroll System are destroyed when 3 years old, excluding the long-term Employee History Reports.

e. Electronic records contained in the Payroll System (PAY) are destroyed when no longer needed (NRCS 2–10.5). Currently, the electronic records are retained on disk for 1 year, then transferred to and retained on magnetic tapes for 3 years.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Payroll Branch, Division of Accounting and Finance, Office of the Controller, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information is provided by the individual and the Office of Personnel.

NRC–22

SYSTEM NAME:

Personnel Performance Appraisals—NRC.

Part A: Senior Level System employees, GG–1 through 15 employees, hourly wage employees, scientific and technical schedule employees, and administratively determined rate employees.

Part B: Senior Executive Service and equivalent employees.

SYSTEM LOCATION:

Primary system—Part A: For Headquarters personnel, Office of Personnel, NRC, 8120 Woodmont Avenue, Bethesda, Maryland. For Regional personnel, at the Regional Offices I–V listed in Addendum I, Part 2.

Part B: Office of Personnel, NRC, 8120 Woodmont Avenue, Bethesda, Maryland.

Duplicate systems—Duplicate systems exist in whole or in part, at the locations listed in Addendum I, Parts 1 and 2, except for Part B, which is stored only at Headquarters.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees other than contractor employees, Commissioners, or temporary personnel employed for less than 1 year.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains performance appraisals, including current elements and standards, and other related records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C 4301, *et seq.*; 5 U.S.C 4311 *et seq.* (1988); and 42 U.S.C. 2201(d), 5841 (1988).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. By agency management and the Office of Personnel for personnel functions; and

b. For any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on paper in folders in locking file cabinets. Summary ratings are stored in a password-protected computer system.

RETRIEVABILITY:

Paper records are accessed by name. Computer records are accessed by name and social security number.

SAFEGUARDS:

Paper records are maintained in locking file cabinets; computer records are password protected. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Part A: Records are normally retained for 3 years, then destroyed by incineration. If an employee separates, the records are forwarded to the next Government Agency employer or to the National Personnel Records Center.

Part B: Retained for 5 years, or until the fifth annual appraisal is completed, whichever is later, then destroyed by incineration. If the employee separates, the records are forwarded to the next Government Agency employer or to the National Personnel Records Center.

Electronic records: Deleted after the expiration of the retention period authorized for the disposable hard copy file or when no longer needed, whichever is later.

SYSTEM MANAGER(S) AND ADDRESS:

Part A: Chief, Policy and Labor Relations, Office of Personnel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. For Regional personnel, at Regional Offices I–V listed in Addendum I, Part 2.

Part B: Chief, Executive and Operational Support Programs, Office of Personnel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Part A: Individual to whom record pertains and employee's supervisors.

Part B: Individual to whom record pertains and employee's supervisors; any documents and sources used to develop critical elements and performance standards for that Senior Executive Service position.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k) (1) and (5), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f). The exemption rule is contained in 10 CFR 9.95 of the NRC regulations.

NRC–23

SYSTEM NAME:

Office of Investigations Indices, Files, and Associated Records—NRC.

SYSTEM LOCATION:

Primary system—Office of Investigations, NRC, 11555 Rockville Pike, Rockville, Maryland.

Duplicate system—Duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals and entities referred to in potential or actual cases and matters of concern to the Office of Investigations and correspondents on subjects directed or referred to the Office of Investigations.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system consists of alphabetical and numerical index files bearing individual names and identifiers, and a numerical index of case numbers. These indices provide access to associated records that are arranged by subject matter, title, or identifying number(s) or letter(s). The system incorporates the records of all Office of Investigations correspondence, cases, memoranda, materials including, but not limited to, investigative reports, confidential source information, correspondence to and from the Office of Investigations, memoranda, fiscal data, legal papers, evidence, exhibits, technical data, investigative data, work papers, and management information data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2035(c), 2201(c), and 5841(f) (1988).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

a. A record in the system of records may be disclosed as a routine use to a Federal, State, local, or foreign agency or to an individual or organization if the disclosure is reasonably necessary to elicit information or to obtain the cooperation of a witness or an informant.

b. A record in the system of records relating to a case or matter falling within the purview of the Office of Investigations may be disclosed as routine use to the referring agency, group, organization, or individual of the status of the case or matter or of any decisions or determinations that have been made.

c. A record in the system of records relating to an individual held in custody pending arraignment, trial, or sentence, or after conviction, may be disclosed as a routine use to a Federal, State, local, or foreign prison, probation, parole, or pardon authority, to any agency or individual concerned with the

maintenance, transportation, or release of such an individual.

d. A record in the system of records relating to a case or matter may be disclosed as a routine use to a foreign country pursuant to an international treaty or convention entered into and ratified by the United States.

e. A record in the system of records may be disclosed as a routine use to a Federal, State, local, or foreign law enforcement agency to assist in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to such agency.

f. A record in the system of records may be disclosed for any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information contained in this system is manually stored on index cards, in files, and in various ADP storage media.

RETRIEVABILITY:

Information is retrieved from indices by the name or identifier of the individual or entity, and from the files by number(s) and/or letter(s) assigned and appearing in the indices.

SAFEGUARDS:

The index is maintained in approved security containers and locking filing cabinets; and the indices, associated records, disks, tapes, etc., are located in locking metal filing cabinets, safes, storage rooms, or similar secure facilities. All records are under visual control during duty hours and are available only to authorized personnel who have a need to know and whose duties require access to the information.

RETENTION AND DISPOSAL:

a. Inquiry case files—Retain closed inquiry case files in office for 2 years, then retire to the Office of Information Resources Management. Destroy 10 years after cases are closed.

b. Investigation Case Files:

1. Significant headquarters official case files (received media attention, were of significant interest to Congress, involved extensive litigation, etc.) are retained by the government permanently. Hold in office for 2 years after closing, then retire to the Office of Information Resources Management. Transfer closed case files in 10-year blocks to the National Archives.

2. Other headquarters official case files—Hold in office 2 years after closing, then retire to the Office of Information Resources Management. Destroy 10 years after cases are closed.

3. Regional office or investigator working files—Retained in regional files for 6 months. At the end of 6 months, they are forwarded to headquarters and combined with the headquarters files.

c. Index/Indices—Destroy or delete with related records or sooner if no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Investigations, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

RECORDS ACCESS PROCEDURES:

Same as "Notification procedure." Information classified pursuant to Executive Order 12356 will not be disclosed. Information received in confidence will be maintained pursuant to the Commission's Policy Statement on Confidentiality, Management Directive 8.8, "Management of Allegations" (formerly NRC Manual Chapter 0517), and the procedures covering confidentiality in Chapter 7 of the Office of Investigations Procedures Manual and will not be disclosed to the extent that disclosure would reveal a confidential source.

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

The information in this system of records is obtained from sources including, but not limited to, NRC officials and employees; Federal, State, local, and foreign agencies; and other persons.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(1), (k)(2), and (k)(6), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4) (G), (H), and (I), and (f). The exemption rule is contained in 10 CFR 9.95 of the NRC regulations.

NRC–24

SYSTEM NAME:

Government Property Accountability System—NRC.

SYSTEM LOCATION:

Primary System—

a. Property, Procurement and Grants Branch, Division of Contracts and Property Management, Office of Administration, NRC, 7920 Norfolk Avenue, Bethesda, Maryland;

b. Law Library, Program Support Branch, Office of the General Counsel, NRC, 11555 Rockville Pike, Rockville, Maryland;

c. Telecommunications Branch, Division of Computer and Telecommunications Services, Office of Information Resources Management, NRC, 7920 Norfolk Avenue, Bethesda, Maryland;

d. Library Services Section, Information and Records Management Branch, Division of Information Support Services, Office of Information Resources Management, NRC, 7920 Norfolk Avenue, Bethesda, Maryland;

e. Information and Records Management Branch, Division of Information Support Services, Office of Information Resources Management, NRC, 7735 Old Georgetown Road, Bethesda, Maryland;

f. Office Automation and Network Development Branch, Division of Computer and Telecommunications Services, Office of Information Resources Management, NRC, 7920 Norfolk Avenue, Bethesda, Maryland; and

g. Administrative Service Center, Facility Management Branch, Division of Contracts and Property Management, Office of Administration, NRC, 11555 Rockville Pike, Rockville, Maryland.

Duplicate Systems—Duplicate systems exist, in whole or in part, at locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees and contractors who have custody of Government property.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information about the property and library materials (such as type, make, model, serial number, NRC tag numbers, location, title, etc.), and information about the custodians of the property and library materials (such as name, social security number, office, and office location).

a. Property, Procurement and Grants Branch—Major items of equipment (e.g., office furnishings, automobiles, etc.) and items of sensitive property (e.g., cameras and cassette recorders);

b. Law Library—Library materials including books, microforms, periodicals, and legislative materials.

c. Telecommunications Branch—Telecommunications property (e.g., pagers, modems, credit cards);

d. Library Services Section—Books and library materials;

e. Information and Records Management Branch—Record/nonrecord holdings;

f. Office Automation and Network Development Branch—ADP equipment and microcomputer software; and

g. Administrative Service Center—Parking permits for NRC-controlled parking spaces.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 3511; 40 U.S.C. 483 (b), (c) and 487(a) (1988); Executive Order 9397, November 22, 1943.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To maintain an inventory and accountability of Government property;

b. To provide information for clearances of employees who separate from the NRC; and

c. For any of the routine uses specified in paragraph numbers 1, 3, 5, and 6 of the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on paper records, NRC forms, magnetic tape, automated systems, and in locked file cabinets, with history and audit files.

RETRIEVABILITY:

Accessed by name, social security number, NRC tag number, office, and office location.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Computer records are password protected.

RETENTION AND DISPOSAL:

The hardcopy records are retained for up to 3 years after an individual's responsibility for the assigned equipment terminates; then they are destroyed by shredding or in the regular trash disposal system. The major automated records are destroyed when no longer needed, or at the same time as the hardcopy records, whichever is later. Minor automated tracking systems are destroyed when no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

a. Chief, Property, Procurement and Grants Branch, Division of Contracts and Property Management, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001;

b. Chief, Program Support Branch, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001;

c. Chief, Telecommunications Branch, Division of Computer and Telecommunications Services, Office of Information Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001;

d. Chief, Library Services Section, Information and Records Management Branch, Division of Information Support Services, Office of Information Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001;

e. Chief, Information and Records Management Branch, Division of Information Support Services, Office of Information Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001;

f. Chief, Office Automation and Network Development Branch, Division of Computer and Telecommunications Services, Office of Information and Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; and

g. Coordinator, Administrative Service Center, Facility Management Branch, Division of Contracts and Property Management, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information in this system of records comes from NRC forms signed by the individuals having custody of the items, or from reports and memoranda received by the Systems Managers.

NRC–25

SYSTEM NAME:

Oral History Program—NRC.

SYSTEM LOCATION:

Office of the Secretary of the Commission, NRC, 11555 Rockville Pike, Rockville, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees, former employees, and other individuals who volunteer to be interviewed for the purpose of providing information for a history of the nuclear regulatory program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records consist of interviews on magnetic tape and transcribed scripts of the interviews.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2161b (1988).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. For incorporation in publications on the history of the nuclear regulatory program; and

b. To provide information to historians and other researchers.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on magnetic tape and transcripts.

RETRIEVABILITY:

Information is accessed by the name of the interviewee.

SAFEGUARDS:

Maintained in locked file room. Access to and use of these records are limited to those authorized by the Historian or a designee.

RETENTION AND DISPOSAL:

Transcripts are retained permanently. Tapes are retained until no longer needed then erased and reused.

SYSTEM MANAGER(S) AND ADDRESS:

NRC Historian, Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information in this system of records is obtained from interviews granted on a voluntary basis to the Historian and his or her staff.

NRC–26

SYSTEM NAME:

Administrative Services Files—NRC.

SYSTEM LOCATION:

Primary system—Office of Administration, Administrative Service Center, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

Duplicate system—A duplicate system exists, in whole or in part, at the Energy Federal Credit Union, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC Federal Government employees who apply for subsidized mass transit costs.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records consist of employee applications to participate in the NRC FULL SHARE program. This application includes the employee applicant's name, home address, duty station, duty telephone number, badge number, and information regarding employee's commuting schedule and mass transit system(s) used. Other records in the system include reports from the Energy Federal Credit Union on employee purchases of subsidized mass transit tickets, reports from the NRC's Division of Accounting and Finance on the use of subsidized funds for the NRC FULL SHARE program, and reports from Administrative Service Center when employee has exceeded the allowable de minimis fare subsidy amount.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7901 note prec. (Supp. II 1990); 42 U.S.C. 161 (1988); 41 CFR 101–20.104–3(a) (1992).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To report to the Internal Revenue Service the amount of Government funds used by a Government employee when the employee exceeds the allowable de minimis fare subsidy amount;

b. To provide an electronic authorization to the Energy Federal Credit Union the sell Federal subsidized mass transit tickets to employees;

c. To provide statistical reports to the city, county, State, and Federal Government agencies;

d. For the routine uses specified in paragraph numbers 1, 4, 5, and 6 in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on paper in file folders and on computer disk.

RETRIEVABILITY:

Indexed by name of employee and NRC badge number.

SAFEGUARDS:

Paper records and backup floppy disks are maintained in locked file cabinets under visual control and employees of the Administrative Services Center. Computer files are maintained on a hard drive, access to which is password protected. Access to and use of these records are limited to those persons whose official duties require access and Energy Federal Credit Union employees who need authorization to sell federally-subsidized mass transit tickets.

RETENTION AND DISPOSAL:

Records are retained for 1 year following the last month of an employee's participation in the subsidized mass transit fare program. Paper copies are destroyed by shredding. Computer files are destroyed by deleting the record from the file.

SYSTEM MANAGER(S) AND ADDRESS:

Coordinator, Administrative Service Center, Division of Contracts and Property Management, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Applications submitted by NRC employees and reports from the Energy Federal Credit Union, the NRC Division of Accounting and Finance, and the Administrative Service Center.

NRC–27

SYSTEM NAME:

Radiation Exposure Information and Reports System (REIRS) Files—NRC.

SYSTEM LOCATION:

Primary system—Science Applications International Corporation (SAIC), 165 Mitchell Road, Oak Ridge, Tennessee 37830.

Duplicate systems—Duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals monitored for radiation exposure while employed by or visiting or temporarily assigned to certain NRC-licensed facilities; individuals who are exposed to radiation or radioactive materials in incidents required to be reported pursuant to 10 CFR 20.403 and 20.405 by all NRC licensees; individuals who may have been exposed to radiation or radioactive materials offsite from a facility, plant installation, or other place of use of licensed materials, or in unrestricted areas, as a result of an incident involving byproduct, source, or special nuclear material.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information relating to an individual's name, sex, social security number, birth date, period of employment, place and period date of exposure; name and license number of individual's employer; name and number of licensee reporting the information; radiation doses or estimates of exposure received during this period, type of radiation, part(s) or organ(s) exposed, and nuclide(s) involved.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2073, 2093, 2095, 2111, 2133, 2134, and 2201(o) (1988); 10 CFR 20.401, 20.408–20.409 (1992); Executive Order 9397, November 22, 1943.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To provide data to other Federal and State agencies involved in monitoring and/or evaluating radiation exposure received by individuals as enumerated in the paragraph "Categories of individuals covered by the system"; and

b. For any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are computerized and maintained on magnetic tape, maintained in log books, and filed as either a computer printout or original paper document.

RETRIEVABILITY:

Records are accessed by individual name, social security number, and by licensee name or number.

SAFEGUARDS:

Information maintained at SAIC is accessible only to the Office of Nuclear

Regulatory Research. Reports kept by the Office of Nuclear Regulatory Research are in file cabinets and bookcases in a secured building. A log is maintained of both telephone and written requests for information.

RETENTION AND DISPOSAL:

REIRS (NRC–27) Retention and Disposal

a. Original paper documents from which all data are entered into REIRS are destroyed 2 years after input into REIRS;

b. Original paper documents from which only selected data are entered into REIRS are retained permanently;

c. Log books are retained permanently;

d. Computer printouts are destroyed when superseded or obsolete; and

e. Magnetic tapes are retained permanently.

SYSTEM MANAGER(S) AND ADDRESS:

REIRS Project Manager, Radiation Protection & Health Effects Branch, Division of Regulatory Applications, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information in this system of records either comes from licensees required to report radiation exposure information; the subject individual; the individual's employer; the person in charge of the facility where the individual has been assigned; or NRC Form 5, Occupational Exposure Record for a Monitoring Period.

NRC–28

SYSTEM NAME:

Recruiting, Examining, and Placement Records—NRC.

SYSTEM LOCATION:

Primary system—For Headquarters personnel, Office of Personnel, NRC, 8120 Woodmont Avenue, Bethesda, Maryland. For Regional personnel, at each of the Regional Offices listed in Addendum I, Part 2. For applicants to the Honor Law Graduate Program, Office of the General Counsel, NRC, 11555 Rockville Pike, Rockville, Maryland.

Duplicate systems—Duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who have applied for Federal employment with the NRC. NRC employees in the upward mobility and COOP program.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain general application information relating to the education, training, employment history, earnings, past performance, criminal convictions, if any, honors, awards or fellowships, military service, veteran preference status, birth date, social security number, home address and telephone numbers of persons who have applied for Federal employment with the NRC (SF–171, resumes, and similar documents). The records also contain personnel qualification statements, job descriptions, self-evaluation forms, examination results, supervisory evaluation forms, performance appraisals, upward mobility counselor's reports, training guides, course plans, interviewer evaluation forms, and related correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 3301, 5101, 7201 (1988); 42 U.S.C. 2000e; 42 U.S.C. 2201(d) (1988); Executive Order 9397, November 22, 1943; Executive Order 11478, August 8, 1969 as amended by Executive Order 11590, April 23, 1971; Executive Order 12106, December 28, 1978.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To furnish information to agencies related to transfer or consideration of employment;

b. To prepare reports for transmittal to the Office of Personnel Management and/or Merit Systems Protection Board; and

c. For any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained primarily on paper, forms, and lists in file folders. Also, certain data is maintained on computer media.

RETRIEVABILITY:

Records are indexed by name and an identification number assigned to each individual.

SAFEGUARDS:

Maintained in unlocked file cabinets and in a password-protected automated system. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

a. Applications and related correspondence are destroyed when 2 years old;

b. Registers of eligibles are destroyed 5 years after an individual's eligibility terminates;

c. Cancelled and ineligible applications are returned to the applicant or are destroyed 90 days after date of action;

d. Eligible applications are destroyed upon termination of the register unless brought forward to new register or placed on inactive register;

e. Electronic records contained in the Applicant Review System are destroyed when 2 years old or when no longer needed, whichever is later; and

f. General correspondence records are destroyed when 3 years old.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Recruitment, Incentive and Benefits Programs; Chief, Employment Staffing Programs; Chief, Executive and Operational Support, Office of Personnel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. For applicants to the Honor Law Graduate Program—Chief, Program Support Branch, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure." Some information was received in confidence and will not be disclosed to the extent that disclosure would reveal a confidential source.

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information in this system of records either comes from the individual to whom it applies or is derived from

information supplied by that individual, individual's current and previous supervisor within and outside NRC, upward mobility and COOP counselors and program coordinator, with the exception of reports from medical personnel on physical qualifications, results of examinations, preemployment evaluation data furnished by references and educational institutions whose names were supplied by applicant, and information from other Federal agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(5), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4) (G), (H), and (I), and (f). The exemption rule is contained in 10 CFR 9.95 of the NRC regulations.

NRC–29

SYSTEM NAME:

Nuclear Documents System (NUDOCS)—NRC.

SYSTEM LOCATION:

Primary system—Office of Information Resources Management, NRC, 7920 Norfolk Avenue, Bethesda, Maryland.

Duplicate systems—Duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2; NUDOCS Contractor Site, 7101 Wisconsin Avenue, Suite 1400, Bethesda, Maryland; and the NRC Local Public Document Rooms (LPDRs) at the addresses indicated in NUREG/BR–0088; licensee locations, National Laboratories, and other locations utilizing NRC documents.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC staff, contractors, subcontractors, licensees, Congressional offices, and other correspondents with the NRC.

CATEGORIES OF RECORDS IN THE SYSTEM:

Documents both received by and originated by the NRC. No classified information is maintained in the system.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 3101 (1988).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

Information in these records may be used:

a. To refer, where appropriate, inquiries to other Federal agencies or persons for their reply or action;

b. To provide information to persons or agencies requesting this information, including provision of daily accession lists in the NRC PDR and weekly and annual accession lists in the LPDRs;

c. To prepare a monthly "Title List of Documents Made Publicly Available (NUREG–0540)";

d. To serve as the NRC's official record for documents placed in the system; and

e. For any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on microfiche, disks, and tapes.

RETRIEVABILITY:

Accessed by name (author, recipient, word, or phrase), corporate source, title of document, subject matter, word or phrase, or other identifying document or control number.

SAFEGUARDS:

Access to and use of NRC internal records are limited to NRC personnel. Information not exempt from disclosure under the Freedom of Information Act (FOIA), 10 CFR Part 9, and 10 CFR 2.790 is publicly available in the NRC PDR and LPDRs. Automated records are password protected.

RETENTION AND DISPOSAL:

NUDOCS records are currently unscheduled and must be retained until a records disposition schedule for this material is approved by the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Document Management Branch, Office of Information Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information in this system of records comes from the correspondence originated by and received by NRC, and NRC employees.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(1), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H) and (I), and (f). This exemption rule is contained in 10 CFR 9.95 of the NRC regulations.

NRC–30

SYSTEM NAME:

Manpower Resource Tracking System Records—NRC.

SYSTEM LOCATION:

Primary system—Division of Computer and Telecommunications Services, Office of Information Resources Management, NRC, 7920 Norfolk Avenue, Bethesda, Maryland.

Duplicate systems—Duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2, and at the National Institutes of Health Computer Facility, Bethesda, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information relating to the number of regular and nonregular hours worked, the nature of the work, and work load projections, scheduling and project assignments.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2201(d), 2201(p) (1988).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. As a project management tool in various management records throughout the NRC; and

b. For the routine uses specified in paragraph numbers 5 and 6 of the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on paper and in computer files, computer records, on tapes, and disks.

RETRIEVABILITY:

Accessed by name, project, program, or activity numbers; docket number; Technical Assignment Control System (TACS); or planned accomplishment numbers.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Automated system records are password protected.

RETENTION AND DISPOSAL:

Retained until no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Computer and Telecommunications Services, Office of Information Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information in this system of records comes from the individual to whom it pertains, individual's supervisors, and NRC management.

NRC–31

SYSTEM NAME:

Correspondence and Records, Office of the Secretary—NRC.

SYSTEM LOCATION:

Primary system—Office of the Secretary, Correspondence and Records Branch, NRC, 11555 Rockville Pike, Rockville, Maryland.

Duplicate systems—Duplicate systems exist, in whole or in part, at the Contractor Site, 7101 Wisconsin Avenue, Suite 1400, Bethesda, Maryland; and at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The majority of records in this system consist of internal NRC memoranda between NRC employees and the Chairman, a Commissioner, or the Secretary in the ordinary course of carrying out the official business of the NRC. Records also include correspondence from Members of Congress and their staffs including constituent referrals and White House correspondence referred to the NRC for response as well as correspondence from representatives of industries and other groups affected by NRC regulations, and the general public. Correspondence may identify an individual's social security number, birth date, address, and employment.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information concerning all subjects which directly or indirectly relate to the fulfillment of NRC's statutory mandate. Records include information dealing with the policy, legal, administrative, and adjudicatory functions of the NRC.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 3101 (1988).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

Information in these records may be used for any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are maintained in file folders, on computer media, and on microfiche.

RETRIEVABILITY:

Records may be accessed by subject matter headings, author's last name, addressee's last name, activity number, date of document, and date of receipt of document or file location.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Classified materials are maintained in approved safes, and unclassified records are maintained in file cabinets and rolling file equipment. Computer files are password protected.

RETENTION AND DISPOSAL:

Paper records and the related computer indexes are retained permanently.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Correspondence and Records Branch, Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure." Some information is classified pursuant to Executive Order 12356 and will not be disclosed.

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information in this system of records comes from communications to the Commission and responses thereto.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(1), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4) (G), (H), and (I), and (f). The exemption rule is contained in 10 CFR 9.95 of the NRC regulations.

NRC–32

SYSTEM NAME:

License and Applicant Taxpayer Identification Number Records—NRC.

SYSTEM LOCATION:

License Fee and Debt Collection Branch, Office of the Controller, NRC, Maryland National Bank Building, 7735 Old Georgetown Road, Bethesda, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC licensees and individuals or companies who have filed applications for an NRC license.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system consists of License Fee and Debt Collection Branch computer systems maintaining a taxpayer ID number and application or license number. These systems include billing information related to a particular license or application. These systems are computerized data bases with licensee or applicant name, billing address, license or application number, fee categories, regional affiliation, and billing history.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 3701(a)(3) (1988); 42 U.S.C. 2201 (1988); 42 U.S.C. 5841 (1988); 10 CFR Parts 15, 170, 171 (1992).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used to refer delinquent debts to debt collection agencies and for any of the routine uses specified in the Prefatory Statement.

DISCLOSURES TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit

Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information contained in this system is stored on hard copy and on computer media.

RETRIEVABILITY:

Information is retrieved by license number, application number, licensee or applicant name, invoice number, or taxpayer identification number.

SAFEGUARDS:

The data bases are maintained in an area where access is controlled by keycard and limited to those with a need for access to the work area, and in a building where access is controlled by a security guard force. These data bases are under visual control during duty hours. After duty hours, access to the building is controlled by a security guard force and access to each floor is controlled by key card. Computer records are password protected.

RETENTION AND DISPOSAL:

These records are destroyed in accordance with the retention periods provided for in General Records Schedule (GRS) 6–10.b or when no longer needed, whichever is later. Computer files are deleted after the expiration of the retention period authorized for the disposable hard copy file or when no longer needed, whichever is later.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, License Fee and Debt Collection Branch, Division of Accounting and Finance, Office of the Controller, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

NRC licensees and applicants for NRC licenses.

NRC–33

SYSTEM NAME:

Special Inquiry File—NRC.

SYSTEM LOCATION:

Primary system—Special Inquiry Group, NRC, 11555 Rockville Pike, Rockville, Maryland.

Duplicate systems—Duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals possessing information regarding or having knowledge of matters of potential or actual concern to the Commission in connection with the investigation of an accident or incident at a nuclear power plant or other nuclear facility, or an incident involving nuclear materials or an allegation regarding the public health and safety related to the NRC's mission responsibilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system consists of an alphabetical index file bearing individual names. The index provides access to associated records which are arranged by subject matter, title, or identifying number(s) and/or letter(s). The system incorporates the records of all Commission correspondence, memoranda, audit reports and data, interviews, questionnaires, legal papers, exhibits, investigative reports and data, and other material relating to or developed as a result of the inquiry, study, or investigation of an accident or incident.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2201 (c), (i) and (o) (1988).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To provide information relating to an item which has been referred to the Commission or Special Inquiry Group for investigation by an agency, group, organization, or individual and may be disclosed as a routine use to notify the referring agency, group, organization, or individual of the status of the matter or of any decision or determination that has been made;

b. To disclose a record as a routine use to a foreign country pursuant to an international treaty or convention entered into and ratified by the United States;

c. To provide records relating to the integrity and efficiency of the Commission's operations and management and may be disseminated outside the Commission as part of the Commission's responsibility to inform the Congress and the public about Commission operations; and

d. For any of the routine uses specified in paragraph numbers 1, 2, 4, 5, and 6 of the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on microfiche, disks, tapes, and paper in file folders. Documents are maintained in secured vault facilities.

RETRIEVABILITY:

Accessed by name (author or recipient), corporate source, title of document, subject matter, or other identifying document or control number.

SAFEGUARDS:

These records are located in locking metal filing cabinets or safes in a secured facility and are available only to authorized personnel whose duties require access.

RETENTION AND DISPOSAL:

Paper and microfiche records and related alphabetical indexes are retained permanently. Electronic records are also retained permanently.

SYSTEM MANAGER(S) AND ADDRESS:

Records Manager, Special Inquiry Group, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure." Information classified pursuant to Executive Order 12356 will not be disclosed. Information received in confidence will not be disclosed to the extent that disclosure would reveal a confidential source.

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

The information in this system of records is obtained from sources including, but not limited to, NRC officials and employees; Federal, State, local, and foreign agencies; NRC licensees; nuclear reactor vendors and

architectural engineering firms; other organizations or persons knowledgeable about the incident or activity under investigation; and relevant NRC records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(1), (k)(2), and (k)(5), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4) (G), (H), and (I), and (f). The exemption rule is contained in 10 CFR 9.95 of the NRC regulations.

NRC–34

SYSTEM NAME:

Advisory Committee on Reactor Safeguards (ACRS) and Advisory Committee on Nuclear Waste (ACNW) Correspondence Index and Associated Records—NRC.

SYSTEM LOCATION:

Primary system—Advisory Committee on Reactor Safeguards and Advisory Committee on Nuclear Waste, NRC, 7920 Norfolk Avenue, Bethesda, Maryland.

Duplicate systems—Duplicate systems exist, in whole or in part, at the National Institutes of Health Computer Facility, Bethesda, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons providing information to or requesting information from the ACRS or ACNW, individuals who correspond with the ACRS and ACNW, and individuals who provide technical information to ACRS and ACNW.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information relating to incoming requests and correspondence from individuals and replies thereto and a listing of technical information by authors' names.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 3101 (1988).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used for any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Indexing is maintained on computer media and individual materials are located in ACRS and ACNW files in file folders and on microfilm.

RETRIEVABILITY:

Indexed by one or more of the following categories: author and addressee's name, subject title using the Key Word Out of Context (KWOC) index, and issuing organization or agency.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Automated records are password protected.

RETENTION AND DISPOSAL:

ACRS and ACNW program correspondence and project files are retained permanently. Computer indexes and related microfilm are retained until no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Technical Information Branch, Advisory Committee on Reactor Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Records contain information prepared by private individuals or organizations, Government agencies and their contractors, companies, and other groups such as the American National Standards Institute (ANSI).

NRC–35

SYSTEM NAME:

Drug Testing Program Records—NRC.

SYSTEM LOCATION:

Primary system—Division of Security, Office of Administration, 7735 Old Georgetown Road, Bethesda, Maryland.

Duplicate systems—Duplicate systems may exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2; and at contractor testing laboratories at collection/evaluation facilities, and at the National Institutes of Health (NIH), Bethesda, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons including NRC employees, applicants, consultants, licensees, and contractors.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information regarding the drug testing program; requests for and results of initial, confirmatory and followup testing, if appropriate; additional information supplied by NRC employees, employment applicants, consultants, licensees, or contractors in challenge to positive test results; and written statements or medical evaluations of attending physicians and/or information regarding prescription or nonprescription drugs.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C 7301 (note); 42 U.S.C. 290ee-3 (1988); Executive Order 12564, September 15, 1986; Pub.L. 100–71, "Supplemental Appropriations Act of 1987," Amendment No. 416, July 11, 1987; Pub.L. 100–440, Section 628, September 22, 1988; Federal Personnel Manual Letter 792–19, "Establishing a Drug-Free Federal Workplace," December 13, 1989.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used by the Division of Security and NRC management:

a. To identify substance abusers within the agency;

b. To initiate counseling and/or rehabilitation programs;

c. To take personnel actions;

d. To take personnel security actions; and

e. For statistical purposes.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders, on index cards, and on computer media. Specimens are maintained in appropriate environments.

RETRIEVABILITY:

Records are indexed and accessed by name, social security number, testing position number, specimen number, drug testing laboratory accession number, or a combination thereof.

SAFEGUARDS:

Access to and use of these records is limited to those persons whose official duties require such access, with records maintained and used with the highest regard for personal privacy. Records in the Division of Security are stored in an approved security container under the immediate control of the Director, Division of Security, or designee. Records at other NRC locations and in laboratory/collection/evaluation

facilities will be stored under appropriate security measures so that access is limited and controlled.

RETENTION AND DISPOSAL:

Employee acknowledgement of notice forms are destroyed when employee separates from testing designated position. Selection and scheduling records, chain of custody records, and test results are destroyed when three years old, except for records used in disciplinary actions which are destroyed four years after the case is closed. Collection and handling record books are destroyed three years after date of last entry. Electronic records of the Employee Drug Testing System are deleted after the expiration of the retention period authorized for the disposable hard copy file or when no longer needed, whichever is later. Index cards are destroyed with related records or sooner if no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Security, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

NRC employees, employment applicants, consultants, and contractors who have been identified for drug testing who have been tested; physicians making statements regarding medical evaluations and/or authorized prescriptions for drugs; NRC contractors for processing including, but not limited to, specimen collection, laboratories for analysis, and medical evaluations; and NRC staff administering the drug testing program to ensure the achievement of a drug-free workplace.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(5), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f). The exemption rule is contained in 10 CFR 9.95 of the NRC regulations.

NRC–36

SYSTEM NAME:

Employee Locator Records Files—NRC.

SYSTEM LOCATION:

Primary system—Part A: Telecommunications Branch, Division of Computer and Telecommunications Services, Office of Information Resources Management, 7920 Norfolk Avenue, Bethesda, Maryland.

Part B: Director, Office of Personnel, 8120 Woodmont Avenue, Bethesda, Maryland.

Duplicate systems—Duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees, contractors, and consultants.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information relating to name, address (home and business), telephone numbers (home, business, and pager), social security number, organization, persons to be notified in case of emergency, and other related records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 3101 (1988); Executive Order 9397, November 22, 1943.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used for:

a. Notification of employee in case of an emergency;

b. Notification of employee regarding matters of official business;

c. Verification of accuracy of and update of Automated Payroll System file on employee home addresses and zip codes;

d. Conducting statistical studies, and

e. The routine use specified in paragraph number 6 of the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained within computerized telephone directory systems and on hardcopy listings.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Part A: System is password protected and is maintained in a controlled access room under 24-hour visual control of NRC operators.

Part B: System is maintained in a locked room. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Retained until 3 months after association with NRC is discontinued, then destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Part A: Chief, Telecommunications Systems Support Section #1, Telecommunications Branch, Division of Computer and Telecommunications Services, Office of Information Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Part B: Director, Office of Personnel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained, general personnel records, and other related records.

NRC–37

SYSTEM NAME:

Information Security Files and Associated Records—NRC.

SYSTEM LOCATION:

Primary system—Division of Security, Office of Administration, NRC, 11555 Rockville Pike, Rockville, Maryland.

Duplicate systems—Duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons including present or former NRC employees, contractors, consultants and licensees; other Government agency personnel; and other cleared persons.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records include information regarding:

a. Personnel who are authorized access to specified levels, categories and

types of information, the approving authority, and related documents; and

b. Names of individuals who classify documents (e.g., for the protection of information relating to the U.S. national defense and foreign relations) as well as information identifying the document.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C 2165 and 2201(i) (1988); Executive Order 12356, April 2, 1982.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in this system may be used for any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained primarily in file folders, on index cards, and on computer media.

RETRIEVABILITY:

Indexed and accessed by name and/or assigned number.

SAFEGUARDS:

Maintained in locked buildings, containers, or security areas under guard and/or alarm protection, as appropriate. Records are processed only on systems approved for processing classified information. These systems are stand alone systems with removable hard drives that are either stored in locked security containers or in alarmed vaults cleared for open storage of TOP SECRET information.

RETENTION AND DISPOSAL:

a. Classified documents, administrative correspondence, document receipts, destruction certificates, classified document inventories, and related records—retained 2 years, then destroyed by shredding;

b. Top Secret Accounting and Control files: Registers—retained 5 years after documents shown on form are downgraded, transferred, or destroyed by shredding; Accompanying forms—retained until related document is downgraded, transferred, or destroyed by shredding.

c. Automated records are updated monthly and quarterly, and are maintained until no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Security, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure." Some information is classified pursuant to Executive Order 12356 and will not be disclosed. Other information has been received in confidence and will not be disclosed to the extent that disclosure would reveal a confidential source.

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Persons, including NRC employees, contractors, consultants, and licensees, as well as information furnished by other Government agencies or their contractors.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(1) and (5), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f). The exemption rule is contained in 10 CFR 9.95 of NRC regulations.

NRC–38

SYSTEM NAME:

Mailing Lists—NRC.

SYSTEM LOCATION:

Primary System—U.S. Government Printing Office, Superintendent of Documents, 941 North Capitol Street, NW., Union Center Plaza, 4th Floor, Washington, DC 20402.

Duplicate systems—Duplicate systems exist in whole or in part, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals with an interest in receiving information from the NRC.

CATEGORIES OF RECORDS IN THE SYSTEM:

Mailing lists include primarily the individual's name and address. Some lists also include title, occupation, and institutional affiliation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 3101 (1988).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. For distribution of documents to persons and organizations listed on the mailing list; and

b. For the routine use specified in paragraph number 6 of the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on magnetic tape, paper, and microfiche.

RETRIEVABILITY:

Records are accessed by company name, individual name, and file code identification number.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Automated records are password protected.

RETENTION AND DISPOSAL:

Documents requesting changes are destroyed through the regular trash disposal system after appropriate revision of the mailing list or after 3 months, whichever is sooner; lists are retained until cancelled or revised, then destroyed through the regular trash disposal system. Computer files are deleted after cancelled or revised or when no longer needed, whichever is later.

SYSTEM MANAGER(S) AND ADDRESSES:

Chief, Printing and Mail Services Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

NRC staff, NRC licensees, and individuals expressing an interest in NRC activities and publications.

NRC–39

SYSTEM NAME:

Personnel Security Files and Associated Records—NRC.

SYSTEM LOCATION:

Primary system—Division of Security, Office of Administration, NRC, 7735 Old Georgetown Road, Bethesda, Maryland.

Duplicate systems—Duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2; and the Department of Energy, Headquarters Building, Germantown, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons including NRC employees, employment applicants, consultants, contractors, and licensees; other Government agency personnel (e.g., General Services Administration personnel), other persons who have been considered for a personnel clearance, special nuclear material access authorization, unescorted access to NRC buildings or nuclear power plants, NRC building access, access to Federal automated information systems or data, or participants in the criminal history program; aliens who visit NRC's facilities; and actual or suspected violators of laws administered by NRC.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information relating to personnel, including name, address, date and place of birth, social security number, citizenship, residence history, employment history, foreign travel, foreign contacts, education, personal references, organizational membership, and security clearance history. These records also contain copies of personnel security investigative reports from other agencies (primarily from the Office of Personnel Management or the Federal Bureau of Investigation), summaries of investigative reports, results of Federal agency indices checks, records necessary for participation in the criminal history program, reports of personnel security interviews, clearance actions information (e.g., grants and terminations), access approval/disapproval actions related to NRC building access or unescorted access to nuclear plants, or access to Federal automated information systems or data, violations of laws, reports of security infraction, "Request for Visit or Access Approval" (Form NRC–277), and other related personnel security processing documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

40 U.S.C. 318 (1988); 42 U.S.C 2165 and 2201(i) (1988); Executive Order 9397, November 22, 1943; Executive Order 12356, April 2, 1982; Executive Order 10865, February 20, 1960; 10 CFR Part 11 (1992); Pub. L. 99–399, "Omnibus Diplomatic Security and Antiterrorism Act of 1986"; OMB Circular No. A–130, December 12, 1985; Federal Personnel Manual Chapter 732 and authorities cited therein; and Pub. L. 99–500, October 18, 1986 (Continuing Appropriations).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used by the Division of Security and on a need-to-know basis by appropriate NRC officials, Hearing Examiners, Personnel Security Review Examiners, Office of Personnel Management, Federal Bureau of Investigation, and other Federal agencies:

a. To determine clearance or access authorization eligibility;

b. To determine eligibility for access to NRC buildings or access to Federal automated information systems or data;

c. To certify clearance or access authorization;

d. To maintain the NRC personnel security program;

e. To provide licensees criminal history information needed for their unescorted access or access to safeguard information determinations; and

f. For any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained primarily in file folders, on tape, computer media, and microfiche.

RETRIEVABILITY:

Indexed and accessed by name, social security number, docket number, or case file number or a combination thereof.

SAFEGUARDS:

File folders and computer printouts are maintained in security or controlled areas under guard and/or alarm protection, as appropriate. Automated records are password protected.

RETENTION AND DISPOSAL:

a. Personnel security clearance/access authorization files—destroy case files upon notification of death or 5 years from date of termination of access authorization or final administrative action;

b. Request for Visit or Access Approval—maximum security areas retained 5 years after final entry or after date of document, as appropriate; Other areas: Retained 2 years after final entry or after date of document, then destroyed by approved method of destruction; and

c. Other security clearance/access authorization administration files—retained 2 years after final entry or after date of document, then destroyed by approved method of destruction; and

d. Criminal history record computer files are deleted after the expiration of the retention period authorized for the disposable hard copy file or when no longer needed, whichever is later.

SYSTEM MANAGER(S) AND ADDRESSES:

Director, Division of Security, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure." Some information is classified pursuant to Executive Order 12356 and will not be disclosed. Other information has been received in confidence and will not be disclosed to the extent the disclosure would reveal a confidential source.

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Persons including NRC applicants, employees, contractors, consultants, licensees, visitors and others, as well as information furnished by other Government agencies or their contractors.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(1), (k)(2), and (5), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f). The exemption rule is contained in 10 CFR 9.95 of the NRC regulations.

NRC–40

SYSTEM NAME:

Facility Security Access Control Records—NRC.

SYSTEM LOCATION:

Primary system—Division of Security, Office of Administration, NRC, 7735 Old Georgetown Road, Bethesda Maryland; 7920 Norfolk Avenue, Bethesda, Maryland; and 11555 Rockville Pike, Rockville, Maryland.

Duplicate systems—Duplicate systems exist, in whole or in part, at the Technical Training Center. NRC,

Osborne Office Center, 5700 Brainerd Road, Chattanooga, Tennessee; and the locations listed in Addendum I, Part 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons including present or former NRC employees, consultants, contractors, and other Government agency personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records include information regarding NRC personal identification badges and access to NRC-controlled space, which includes, but not limited to, individual's name, social security number, citizenship, and date of birth.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2165 and 2201 (i), (k) and (p) (1988); Executive Order 9397, November 22, 1943; Executive Order 12356, April 2, 1982.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To control access to NRC classified information and to NRC spaces by human or electronic means; and

b. For any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on paper forms in logs and files, and on computer media.

RETRIEVABILITY:

Indexed and accessed by individual name and/or numbers contained on the identification badge.

SAFEGUARDS:

Maintained in NRC-controlled space that is secured after normal duty hours or in security areas under guard presence.

RETENTION AND DISPOSAL:

a. Records and forms related to NRC identification badges are retained in files and destroyed when superseded or obsolete.

b. Visitor logs are retained in cabinets and destroyed 2 years after date of entry.

c. The automated access control system reflects access to controlled areas and employee/contractor identification information. These records are disposed of after the retention period for those records identified in a. and b., or when no longer needed, whichever is later.

SYSTEM MANAGER(S) AND ADDRESSES:

Director, Division of Security, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Persons including NRC employees, contractors, and other employees of Government agencies.

Addendum I—List of U.S. Nuclear Regulatory Commission Locations Part 1—NRC Headquarters Offices

a. Capitol Place, 80 F Street NW., Washington, DC 20001.

b. East-West/West Towers Building, 4350 East West Highway, Bethesda, Maryland 20814.

c. Gelman Building, 2120 L Street, NW., Washington, DC 20037.

d. Maryland National Bank Building, 7735 Old Georgetown Road, Bethesda, Maryland 20814.

e. Nicholson Lane/North Building, 5640 Nicholson Lane, Rockville, Maryland 20852–2738.

f. Nicholson Lane/South Building, 5650 Nicholson Lane, Rockville, Maryland 20852.

g. One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

h. Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland 20814.

i. Woodmont Building, 8120 Woodmont Avenue, Bethesda, Maryland 20814.

j. NRC Technical Training Center, Osborne Office Center, 5700 Brainerd Road, Suite 200, Chattanooga, Tennessee 37411–4017.

Part 2—NRC Regional Offices

a. NRC Region I, 475 Allendale Road, King of Prussia, Pennsylvania 19406–1415.

b. NRC Region II, 101 Marietta Street, NW., Suite 2900, Atlanta, Georgia 30323.

c. NRC Region III, 799 Roosevelt Road, Glen Ellyn, Illinois 60137.

d. NRC Region IV, 611 Ryan Plaza Drive, Suite 400, Arlington, Texas 76011–8064.

e. NRC Region IV Uranium Recovery Field Office, 730 Simms Street, Suite 100, Golden, Colorado 80401.

f. NRC Region V, 1450 Maria Lane, Walnut Creek, California 94596–5368.

g. High-Level Waste Management Office, 301 East Stewart Avenue, #203, Las Vegas, Nevada 89101.

Dated at Rockville, Maryland, this 28th day of June, 1993.

For the Nuclear Regulatory Commission.

James M. Taylor,

Executive Director for Operations.

[FR Doc. 93–15878 Filed 7–6–93; 8:45 am]

BILLING CODE 7590–01–P

[Docket No. 50–483]

Union Electric Co., Callaway Plant, Unit 1; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–30, issued to the Union Electric Company (the licensee), for the Callaway Plant, Unit 1, located in Callaway County, Missouri.

Environmental Assessment

Identification of Proposed Action

The proposed amendment would allow the licensee to store spent fuel with a maximum initial enrichment of 4.45 w/o U–235 for fuel storage in Region 2 of the spent fuel pool.

The proposed action is in accordance with the licensee's application for amendment dated June 12, 1992, as clarified by letter dated August 31, 1992.

The Need for the Proposed Action

The licensee intends to store irradiated fuel with a maximum initial enrichment of 4.40 w/o U–235 during the next refueling outage, refuel 6. Spent fuel will be stored in Region 2 of the Callaway spent fuel pool. At present, fuel with a maximum enrichment up to 4.25 w/o can be stored in the Region 2 area of the spent fuel pool.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed revision to the TSs. The proposed amendment would allow storage of enriched fuel 4.45 w/o U–235 in the Region 2 area of the Callaway spent fuel pool. The present maximum enrichment of 4.25 w/o U–235 is allowed for Region 2 storage. The use of fuel with a maximum enrichment of 4.45 w/o U–235 would not significantly increase the probability or consequences of any accident previously analyzed. No significant changes in the types or

amounts of radiological effluents during normal operation or postulated accidents that may be released offsite are incurred by the increased w/o fuel enrichment. As a result, no significant increase in the individual or cumulative occupational radiation exposure is noted.

Therefore, since the proposed changes do not increase the probability or consequences of accidents, no changes are being made in the types or amounts of any radiological affluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure, the Commission concludes that this proposed action would result in no significant radiological environmental impact.

With regard to potential nonradiological impacts, the proposed change to the TS involves systems located within the restricted area as defined by 10 CFR part 20. The proposed change will not result in a measurable change to the nonradiological plant effluents and therefore will not have any environmental impact. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed amendment.

The Notice of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action was published in the **Federal Register** on September 22, 1992 (57 FR 43756). No request for hearing or petition for leave to intervene was filed following this notice.

Alternative to the Proposed Action

Since the Commission concluded that there are no significant environmental effects that would result from the proposed action, any alternatives with equal or greater environmental impacts need not be evaluated. The principal alternative would be to deny the requested amendment. This would not reduce the environmental impacts of plant operation and would result in reduced operational flexibility.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the Callaway Plant, Unit 1, dated January 1982.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed license amendment.

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the application for amendment dated June 12, 1992, as supplemented on August 31, 1992, which is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC and at the Callaway County Public Library, 710 Court Street, Fulton, Missouri 65251.

Dated at Rockville, Maryland, this 29th day of June 1993.

For the Nuclear Regulatory Commission.

Robert M. Pulsifer,

Acting Director, Project Directorate III–3, Division of Reactor Projects III/IV/V, Office of Nuclear Reactor Regulation.

[FR Doc. 93–15955 Filed 7–6–93; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards Subcommittee on Auxiliary and Secondary Systems; Meeting

The ACRS Subcommittee on Auxiliary and Secondary Systems will hold a meeting on July 27 and 28, 1993, room P–110, 7920 Norfolk Avenue, Bethesda, MD.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Tuesday, July 27, 1993 8:30 a.m. until the conclusion of business.

The Subcommittee will review the LaSalle Fire PRA.

Wednesday, July 28, 1993—8:30 a.m. until the conclusion of business.

The Subcommittee will review the proposed resolution of Generic Issue-57, "Effects of Fire Protection System Actuation on Safety-Related Equipment." The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefore can be obtained by a prepaid telephone call to the cognizant ACRS staff engineer, Mr. Herman Alderman, (telephone 301/492–7750) between 7:30 a.m. and 4:15 p.m. (EDT). Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., that may have occurred.

Dated: June 29, 1993.

Sam Duraiswamy,

Chief, Nuclear Reactors Branch.

[FR Doc. 93–15950 Filed 7–6–93; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards Subcommittee on Thermal Hydraulic Phenomena; Meeting

The ACRS Subcommittee on Thermal Hydraulic Phenomena will hold a meeting on July 22 and 23, 1993, in room P–422, 7920 Norfolk Avenue, Bethesda, MD.

The entire meeting will be open to public attendance, with the exception of a portion that may be closed to discuss information deemed proprietary to the Westinghouse Electric Corporation pursuant to 5 U.S.C. 552b(c)(4).

The agenda for the subject meeting shall be as follows:

Thursday, July 22, 1993—8:30 a.m. until the conclusion of business.

Friday, July 23, 1993—8:30 a.m. until the conclusion of business.

the Subcommittee will begin its review of both the Westinghouse analytical and separate effects programs being conducted in support of the

AP600 design certification effort. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff, its contractors, and other interested persons regarding this review.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff engineer, Mr. Paul Boehnert (telephone 301/492–8558) between 7:30 a.m. and 4:15 p.m. (EDT). Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., that may have occurred.

Dated: June 29, 1993.

Sam Duraiswamy,

Chief, Nuclear Reactors Branch.

[FR Doc. 93–15951 Filed 7–6–93; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards Subcommittee on Computers in Nuclear Power Plant Operations; Meeting

The ACRS Subcommittee on Computers in Nuclear Power Plant Operations will hold a meeting on July 21, 1993, room P–422, 7920 Norfolk Avenue, Bethesda, MD.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows: Wednesday, July 21, 1993–8:30 a.m. until the conclusion of business.

The Subcommittee will review the progress in developing 10 CFR 50.59 review guidelines for digital instrumentation and control system upgrades. In addition, the Subcommittee will discuss the status of the NRC sponsored environmental qualification research on digital instrumentation and control systems. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will hear presentations by and hold discussions with the NRC staff, its consultants, industry representatives, and other interested persons regarding this review.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefore can be obtained by a prepaid telephone call to the cognizant ACRS staff engineer, Mr. Douglas Coe (telephone 301/492–8972) between 7:30 a.m. and 4:15 p.m. (EDT). Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., that may have occurred.

Dated: June 29, 1993.

Sam Duraiswamy,

Chief, Nuclear Reactors Branch.

[FR Doc. 93–15952 Filed 7–6–93; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–312]

Rancho Seco Nuclear Generating Station; Relocation of Local Public Document Room

Notice is hereby given that the Nuclear Regulatory Commission's (NRC) local public document room (LPDR) for Sacramento Municipal Utility District's Rancho Seco Nuclear Generating Station (Rancho Seco) has been relocated from the Martin Luther King Regional Library to the Central Library, Sacramento, California.

The LPDR was temporarily relocated to the Martin Luther King Regional Library while extensive renovations were made to the Central Library. The renovations have been completed and the collection has been returned to the Central Library. Members of the public may now inspect and copy documents and correspondence relating to the licensing, operation and decommissioning of the Rancho Seco Generating Station at the Central Library, Government Documents Department, 828 I Street, Sacramento, California 95882. The Library is open on the following schedule: Tuesday through Saturday 11 a.m. to 6 p.m.; closed on Sunday and Monday.

For further information: Interested parties in the Sacramento area may contact the LPDR directly through Ms. Hanne Robinson, telephone number (916) 552–8718. Parties outside the service area of the LPDR may address their requests for records to the NRC's Public Document Room, 2120 L Street, NW., Washington, DC 20555, telephone number (202) 634–3273.

Questions concerning the NRC's local public document room program or the availability of documents should be addressed to Ms. Jona L. Souder, LPDR Program Manager, Freedom of Information/Local Public Document Room Branch, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone number (301) 492–4344, or toll-free 1–800–638–8081.

Dated at Bethesda, Maryland, this 30th day of June, 1993.

For the Nuclear Regulatory Commission.

Carol A. Harris,

Acting Director, Division of Freedom of Information and Publications Services, Office of Administration.

[FR Doc. 93–15954 Filed 7–6–93; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–373 and 50–374]

Commonwealth Edison Co., LaSalle County Station, Units 1 and 2; Withdrawal of Application for Amendments to Facility Operating Licenses

The United States Nuclear Regulatory Commission (the Commission) has received a request for Commonwealth Edison Company (CECo, the licensee) to withdraw CECo's application for proposed amendments to Facility Operating License Nos. NPF–11 and NPF–18, issued to the licensee for operation of the LaSalle County Station, Units 1 and 2, located in LaSalle County, Illinois. Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing was published in the Federal Register on January 22, 1993 (58 FR 2589).

The proposed amendments would have revised Technical Specification surveillance requirement 4.6.1.2 to reflect potential future exemptions from 10 CFR part 50, Appendix J, primary containment integrity testing.

By letter dated March 18, 1993, the licensee withdrew the application for the proposed amendments. The Commission has considered the licensee's request of October 11, 1991, as supplemented July 31, 1992, and has determined that permission to withdraw the application for amendments should be granted.

For further details with respect to this action, see (1) the application for amendments dated October 11, 1991, as supplemented July 31, 1992, and (2) the staff's letter dated June 29, 1993.

These documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and at the local public document room located at the Public Library of Illinois Valley Community College, Rural Route No. 1, Oglesby, Illinois 61348.

Dated at Rockville, Maryland, this 29th day of June 1993.

For the Nuclear Regulatory Commission.

Janet L. Kennedy,

Project Manager, Project Directorate III–2, Division of Reactor Projects—III/IV/V, Office of Nuclear Reactor Regulation.

[FR Doc. 93–15953 Filed 7–6–93; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

Forms Under Review by Office of Management and Budget

Agency Clearance Officer—John J. Lane (202) 272–5407.

Upon written request copy available from: Securities and Exchange Commission Office of Filings, Information, and Consumer Services, Washington, DC 20549.

Extension: Rule 17f-4; File No. 270–232.

Deletion: Rule 19b-1; File No. 270–312.

New Collection: Rule 15g-2; File No. 270–381.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted: (a) Rule 17f-4 under the Investment Company Act of 1940 (the "Act") (15 U.S.C. 80a-1 *et seq.*) for extension of OMB approval; (b) Rule 19b-1 under the Act for withdrawal of the Commission's previous request for OMB approval; and (c) Rule 15g-2 (17 CFR 240.15g-2) under the Securities Exchange Act of 1934 (15 U.S.C. 78 *et seq.*) for OMB approval.

Rule 17f-4 regulates the process by which investment companies or their custodians deposit portfolio securities with securities depositories for central handling. The rule imposes a total annual reporting burden of 25,256 hours on 256 respondents.

Rule 19b-1 restricts the ability of registered investment companies to distribute long-term capital gains more than once with respect to a taxable year. The rule imposes no paperwork requirement that is not already imposed by statute.

Rule 15g-2 requires broker-dealers to provide their customers with a risk disclosure document, as set forth in Schedule 15G, prior to their first non-exempt transaction in a "penny stock." The rule requires broker-dealers to obtain written acknowledgment from the customer that he or she has received the required risk disclosure document. The rule also requires broker-dealers to maintain a copy of the customer's written acknowledgment for at least three years following the date on which the risk disclosure document was provided to the customer, the first two years in an accessible place. The rule would impose a total annual reporting burden of 27,000 hours on 270 respondents.

The estimates of average burden hours are made solely for purposes of the Paperwork Reduction Act, and are not derived from a comprehensive or even representative survey or study of the costs of Commission rules and forms.

Direct general comments Gary Waxman at the address below. Direct any comments concerning the accuracy of the estimated average burden hours for compliance with SEC rules and forms to John J. Lane, Associate Executive Director, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, and Gary Waxman, Clearance Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: June 22, 1993.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–15922 Filed 7–6–93; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–32544; File No. SR–AMEX–93–12]

Self-Regulatory Organizations; Filing and Order Granting Accelerated Approval to Amendment and Order Approving Proposed Rule Change by the American Stock Exchange, Inc., Relating to the Expansion of the Post Execution Reporting System

June 29, 1993.

On March 23, 1993, the American Stock Exchange, Inc. ("Amex" or "Exchange") submitted to the Securities and Exchange Commission ("Commission" or "SEC"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposal to expand the Amex's Post Execution Reporting ("PER") system to permit the entry of up to 25,000 shares for eligible market and limit orders for designated Unit Investment Trust ("UIT") securities.[3]

Notice of the proposed rule change appeared in the Federal Register on

[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b–4 (1992).

[3] The Amex amended its proposal to provide that the Exchange will apply the following criteria to determine which UIT's qualify for the expansion: (1) The UIT must be based upon an underlying index portfolio; (2) the UIT must have an average daily trading volume of 25,000 shares over the prior three-month period; and (3) the UIT specialist must offer "block size" execution of at least 10,000 shares at the quoted price. The Amex's senior management will determine which UITs among those which meet the objective criteria will be entitled to the PER expansion. *See* Letter from Ellen T. Kander, Special Counsel, Derivative Securities, Amex, to Richard Zack, Branch Chief, Options Regulation, Division of Market Regulation ("Division"), Commission, dated May 25, 1993 ("Amendment No. 1").

April 9, 1993.[4] No comments were received on the proposal.

The Amex's PER system is an electronic order entry and routing system for equities which directs certain orders directly to the specialist on the Amex floor for execution. Orders placed through the PER system are either executed immediately by the specialist (market and marketable limit orders) or placed upon the specialist's book (limit orders). Initially, PER accepted only 100-share market orders and odd lots. The most recent increase in the size eligibility of PER market orders permitted an expansion of PER eligible orders to 5,000 shares.[5] The Amex now proposes to increase to 25,000 shares the PER size eligibility for market and limit orders for certain UIT securities which satisfy the following criteria: (1) The UIT is based upon an underlying index portfolio; (2) the UIT has an average daily trading volume of 25,000 shares over the prior three-month period; and (3) the UIT specialist offers "block size" execution of at least 10,000 shares at the quoted price. The Amex's senior management will determine which UITs among those meeting the objective criteria will be entitled to the increased PER size eligibility.[6]

The Amex explains that recent experience in the listing and trading of UIT securities has shown that specialists are able to continuously offer substantial "size" markets at very tight quote intervals. For example, in the case of Standard & Poor's Depositary Receipts ("SPDRs"), the Exchange's most recent listing of a UIT security,[7] the specialist has publicly guaranteed 50,000-up markets during normal markets at the tightest (narrowest) possible quote interval, a 1/32nd spread. Further, the Amex notes that, as a practical matter, size quotations in SPDRs are often at substantially higher levels, up to one million shares.

To accommodate the ease of order entry and execution on behalf of member firms, particularly those with institutional customers, the Amex believes that an increase in PER eligibility to a 25,000-share level is appropriate given the demonstrated interest in such products and the specialist's ability to maintain such size markets.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6(b)(5), because it will facilitate transactions in securities. The proposal will also result in more efficient and effective market operations, consistent with Section 11A(a)(1)(B) and will further the maintenance of fair and orderly markets and the efficient execution of securities transactions consistent with Section 11A(a)(1)(C) of the Act.[8]

Specifically, the Commission believes that the increase in the size eligibility of PER orders for certain UIT securities should benefit investors by facilitating the routing and subsequent execution of UIT orders. Based upon the Amex's representations that UIT specialists are able to continuously offer substantial "size" markets at tight quote intervals, and that certain UIT securities are quoted at levels of up to one million shares, the Commission believes that the PER size eligibility expansion should help the Exchange to accommodate the needs of market participants transacting sizable blocks of UIT securities. In addition, by helping to ensure the efficient and effective routing of UIT orders, the proposal should help the Amex maintain fair and orderly markets, in addition to facilitating the execution of such orders.

Finally, based upon representations from the Amex, the Commission is satisfied that the Exchange's PER system will have adequate computer processing capacity to accommodate the increased order size eligibility for certain UIT securities.[9]

The Commission finds good cause for approving Amendment No. 1 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. Amendment No. 1 sets forth the criteria which UIT securities must meet in order to be eligible for the proposed PER expansion. The Commission believes that Amendment No. 1 clarifies and strengthens the Amex's proposal and does not raise new regulatory issues. Therefore, the Commission believes it is consistent with sections 6(b)(5) and 19(b)(2) of the Act to approve Amendment No. 1 to the proposal on an accelerated basis.

Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 1. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by July 28, 1993.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[10] that the proposed rule change (File No. SR–Amex–93–12), is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–15917 Filed 7–6–93; 8:45 am]

BILLING CODE 8010–01–M

[4] See Securities Exchange Act Release No. 32103 (April 5, 1993), 58 FR 18432.

[5] See Securities Exchange Act Release No. 28891 (February 15, 1991), 56 FR 7438 (order approving File No. SR–Amex–90–37).

[6] See Amendment No. 1, *supra* note 3.

[7] See Securities Exchange Act Release No. 31591 (December 11, 1992), 57 FR 60253 (order approving File No. SR–Amex–92–18).

[8] 15 U.S. 78f(b)(5) and 78k–1 (1988).

[9] See Letter from Edward Cook, Jr., Director, Information Technology, Amex, to Richard Zack, Branch Chief, Options Regulation, Division of Market Regulation, Commission, dated April 5, 1993. The Amex states that the Exchange's order processing systems have the capacity to process 60 million shares per day, and that the Exchange's average daily volume is approximately 14 million shares. The daily average for SPDRs during March 1993 was 131,000 shares/40 trades. The Amex states that even if all SPDR trades were eligible for delivery to the floor via the Exchange's order processing systems, there would be no measurable effect on capacity.

[10] 15 U.S.C. 78s(b)(2) (1988).

[11] 17 CFR 200.30–3(a)(12) (1992).

[Release No. 34-32556; File No. SR-CBOE-93-13]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change and Amendment No. 1 Relating to the Extension of the Pilot Program Involving Debit Put Spreads in Broad-Based Indexes With European-Style Exercise

June 30, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), and Rule 19b-4 thereunder,[1] notice is hereby given that on February 23, 1993, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange.[2] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to amend Exchange Rule 24.11A, "Debit Put Spread Cash Account Transactions," to extend through December 31, 1993, a pilot program allowing approved public customers with qualified portfolios ("spread exemption customer") to effect and maintain in cash accounts debit put spread transactions in broad-based index options with European-style exercise.[3]

The text of the proposed rule change is available at the Office of the Secretary, CBOE, and at the Commission.

[1] 17 CFR 240.19b-4 (1992).

[2] On April 15, 1993, the CBOE amended its filing to extend the pilot program through December 31, 1993. See Letter from Michael L. Meyer, Schiff, Hardin & Waite, to Yvonne Fraticelli, Staff Attorney, Options Branch, Division of Market Regulation ("Division") Commission, dated April 14, 1993 ("Amendment No. 1").

[3] The Commission approved the pilot program on a one-year basis through November 25, 1992. *See* Securities Exchange Act Release No. 29992 (November 26, 1991), 56 FR 63526 (order approving File Nos. SR-Amex-91-14 and SR-CBOE-91-17) ("Debit Put Spread Approval Order"). Subsequently, both the CBOE and the American Stock Exchange, Inc. ("Amex") amended the definition of "debit put spread" to provide that the strike price of the long leg of the spread must exceed, not equal, the strike price of the short leg. See Securities Exchange Act Release Nos. 30267 (January 21, 1992), 57 FR 2334 (order approving File No. SR-CBOE-91-50) and 30419 (February 26, 1992), 57 FR 7825 (order approving File No. SR-Amex-92-07).

II. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Currently, section 220.8 of Regulation T under the Act precludes customers from effecting spread transactions in cash accounts. Specifically, Section 220.8(a)(3)(ii) of Regulation T includes in permissible cash account transactions a creditor's issue, endorsement or guarantee of a put option for a customer if the creditor obtains cash in an amount equal to the exercise price of the option or holds in the account any of the following instruments with a current market value at least equal to the exercise price of the option and with one year or less to maturity: U.S. government securities, negotiable bank certificates of deposit, or bankers acceptances issued by a U.S. bank and payable in the United States. Because offsetting options positions fail to satisfy these criteria, spreads are not included in permissible cash account transactions and therefore must be effected in margin accounts.

On November 26, 1991, the Commission approved proposals submitted by the CBOE and the Amex which established one year pilot programs allowing approved public customers[4] with qualified portfolios of stock to effect and maintain in cash accounts debit put spread transactions in broad-based index options with European-style exercise.[5] The CBOE now proposes to extent its debit put spread pilot program through December 31, 1993.

The pilot program defines a "debit put spread" as "a long put position coupled with a short put position overlying the same broad-based index and having an equivalent underlying aggregate index value, where the short put(s) expires with the long put(s), and the strike price of the long put(s) exceeds the strike price of the short put(s)." Under the terms of the pilot, only public customers approved by the CBOE are permitted to participate in the pilot program. To obtain the CBOE's approval, customers are required, among other things, to hold a qualified stock portfolio or its equivalent that is composed of net long positions in common stocks in at least four industry groups and that contains at least twenty stocks, none of which accounts for more than fifteen percent of the value of the portfolio. A portfolio must meet these standards at all times, regardless of trading activity in the stocks. In addition, the debit put spread positions must be carried in an account with an Exchange member organization and the qualified portfolio must be maintained with either an Exchange member organization, another broker-dealer, a bank, or a securities depository.

In conjunction with the creation of the pilot programs, the Commission staff also issued no-action letters to the Amex and the CBOE stating that the staff would not recommend enforcement action against the Amex and the CBOE due to the operation of the pilot programs, namely the maintenance of spread positions in a cash account.[6] The staff of the Board of Governors of the Federal Reserve System ("Board") also informed the Commission staff that Board staff would not object to the Commission staff's issuance of these no-action positions in connection with the pilot programs.[7]

As required by the Debit Put Spread Approval Order, the CBOE has submitted a report assessing the effectiveness of the pilot program ("Pilot Report").[8] The CBOE believes that the pilot program has been an efficient means for investors that are limited to cash account transactions to effectively hedge their portfolios against declines in the market. The CBOE represents that

[4] For purposes of its pilot program, a public customer is a customer whose orders are eligible to be placed on a CBOE limit order book under Exchange Rule 7.4(a).

[5] See Debit Put Spread Approval Order, *supra* note. 3.

[6] See Letter from Howard L. Kramer, Assistant Director, Division, Commission, to Mary L. Bender, First Vice President, Division of Regulatory Services, CBOE, dated November 25, 1991, and Letter from Howard L. Kramer, Assistant Director, Division, Commission, to James M. McNeil, Assistant Vice President, Chief Examiner, Amex, dated November 25, 1991.

[7] See Letter from Laura Homer, Securities Credit Officer, Board, to Howard L. Kramer, Assistant Director, Division, Commission, dated July 12, 1991.

[8] See Letter from Mary L. Bender, First Vice President, Division of Regulatory Services, CBOE, to Sharon Lawson, Assistant Director, Division, Commission, dated October 1, 1992 ("Pilot Report").

it has neither experienced nor detected any problems related to the pilot. Moreover, the Exchange states that no activity of any pilot participant appeared violative of the program's requirements or other Exchange rules, nor have Exchange studies found evidence of market manipulation or other negative impact on market operations.

Accordingly, in order to allow the pilot to continue, the CBOE requests an extension of the pilot program through December 31, 1993. The CBOE proposes no substantive changes to the program. Prior to the end of the proposed extension of the pilot program, the CBOE will provide the Commission with a report similar to the Pilot Report. In addition, the CBOE will notify the Commission promptly of any problems arising in connection with the pilot program.[9]

The CBOE believes that the proposed rule change is consistent with section 6(b) of the Act, in general, and furthers the objectives of section 6(b)(5), in particular, in that it is designed to facilitate transactions in securities and to protect investors and the public interest by allowing investors to hedge qualified portfolios against market declines by purchasing and maintaining debit put spread transactions in cash accounts.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The CBOE does not believe that the proposed rule change will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The CBOE has requested that the proposed rule change be given accelerated effectiveness pursuant to section 19(b)(2) of the Act.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6.[10] Specifically, the Commission believes, as it has previously concluded,[11] that the pilot program is designed to benefit qualified public customers who are prohibited or restricted in their use of margin accounts by facilitating their purchase of index option debit put spreads. Specifically, because the purchaser of a debit put spread uses the call premium to reduce the cost of purchasing the put, index option put spreads provide investors with an affordable means to hedge their portfolios against adverse market moves. In addition, to the extent that the pilot program has increased index options transactions, the program has benefited all options investors by contributing to the depth and liquidity of the CBOE's options markets.

The Commission continues to believe that the economic characteristics of index option debit put spreads permit an exception to the application of Regulation T. In a debit put spread, the long put entitles the spread exemption customer to receive payment when the index reaches the put option's strike price; because the strike price of the long put must exceed the strike price of the short put, the spread exemption customer's right to receive payment under the long put will offset any obligations he incurs from the sale of the short put. Because the short position must expire with the long position, the offset provided by the long put will last for the duration of the spread exemption customer's obligation as a short put writer. In addition, there is no risk that the short put will be exercised prior to the long put because the exemption applies solely to European-style options, which may be exercised only during a specified period prior to expiration.

In its Pilot Report, which covers the operation of the pilot program from January 1992 through June 1992, the CBOE states that no participant has operated in violation of the pilot since its inception, nor have the CBOE's surveillance procedures revealed evidence of manipulation or abuse of knowledge of impending expiration-related program trades for each expiration Friday during the review period. The Pilot Report indicates that the pilot program's 51 participants included corporations, pension/retirement plans, non-profit organizations, mutual funds, and individual or family trusts, the majority of the which were prohibited by contractual agreements from using margin accounts. The debit put spreads of all of the participants were comprised of Standard & Poor's ("S&P") 500 Index ("SPX") options with one to five months remaining until expiration. During the review period, individual pilot participants carried between 5 and 2,599 debit put spreads, and the total number of spreads effected under the pilot program each month ranged from 2,922 to 8,620.

On the basis of the Pilot Report, the Commission believes that the debit put spread pilot program has facilitated the needs of qualified public customers who are limited to cash account transactions by providing them with an effective means to hedge their portfolios against adverse market moves. At the same time, the Pilot Report indicates that no pilot participant has violated the pilot's parameters, nor has the Exchange discovered any market manipulation or abuse in connection with the pilot program. For these reasons, the Commission believes that the debit put spread pilot program has provided qualified public customers with additional means to implement their hedging strategies and, by facilitating index options transactions, has benefitted all options investors by contributing to the depth and liquidity of the CBOE's options markets.

The Commission requests that the CBOE submit a report on the continued operation of the pilot by September 30, 1993. The report should contain information comparable to that provided in the most recent Pilot Report. In addition, the CBOE should submit a request for an extension of the pilot or its permanent approval by the same date. The Commission also notes that the CBOE has agreed to notify the Commission promptly of any problems arising in connection with the pilot program.[12]

The Commission finds good cause for approving the CBOE's proposal prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register** in order to allow the pilot program to continue. In addition, because the Commission has received no comments regarding the operation of the pilot program since its implementation, and because the pilot program has been utilized by a number of qualified public customers, the Commission believes that granting accelerated approval of the CBOE's proposal is appropriate and consistent with Sections 19(b)(2) and 6(b)(5) of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing.

[9] See Amendment No. 1, *supra* Note 2.

[10] 15 U.S.C. § 78f(b)(5) (1988).

[11] *See* Debit Put Spread Approval Order, *supra* note 3.

[12] See Amendment No. 1, *supra* note 2.

Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submissions all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of the filings will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by July 28, 1993.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[13] that the proposed rule change (SR–CBOE–93–13), relating to an extension of the CBOE's debit put spread pilot program until December 31, 1993, is approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–15918 Filed 7–6–93; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–32553; File No. SR–NASD–93–20]

Self-Regulatory Organizations; National Association of Securities Dealers; Order Approving Proposed Rule Change Relating to the Use of a Special Indicator for Average-priced Trade Reports

June 29, 1993.

I. Introduction

The National Association of Securities Dealers ("NASD") submitted to the Securities and Exchange Commission ("Commission" or "SEC") a proposed rule change [1] on March 30, 1993, pursuant to section 19(b)(1) [2] of the Securities Exchange Act of 1934 ("Act") and Rule 19b–4 thereunder. The proposed rule change would amend Parts XII and XIII of Schedule D to the NASD By-Laws to require use of a special indicator for average-price weighted trades.

Notice of the filing of this proposal appeared in the **Federal Register** on April 26, 1993.[3] No comment letters were received. For the reasons discussed below, the Commission has determined to approve the proposal.

II. Background and Description

Confusion has arisen recently regarding a limited number of trades that have been reported at a price based on an average-weighting or other formula rather than a current negotiated price.[4] Certain institutions find such trades attractive because they ensure that the institution will not purchase at the high for the day or sell at the low. Trade reports such as these, although timely made, may not relate to the last sale price on Nasdaq and carry no identifier describing their specialized nature. While there are various specialized sale condition indicators employed in the reporting of Nasdaq transaction data to vendors (*e.g.*, ".SLD" for late trade reports and ".T" for trades executed outside of the normal market hours of 9:30 a.m. to 4 p.m. Eastern Time), none accurately describes averaged-price weighted trades. These amendments to the transaction reporting plan for Nasdaq National Market System securities and the rules governing trade reporting for Nasdaq SmallCap securities in Schedule D will require members to mark all such trades with a special identifier, ".W" to denote their specialized sale condition.

III. Discussion

The Commission has determined that the NASD's proposal is consistent with sections 15A(b)(6) and 11A(a)(1)(C)(iii) of the Act. Section 15A(b)(6) requires that the rules of a national securities association be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, and processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and in general to protect investors and the public interest. In addition the proposed rule change furthers the objectives set forth in section 11A(a)(1)(C)(iii) of ensuring the availability to brokers, dealers and investors of information with respect to quotations for and transactions in securities. Reporting transactions in Nasdaq securities that are marked with a special indicator to identify their unique pricing formulas is appropriate for regulatory purposes and obviates investor confusion with regard to those transactions.

The NASD has already adopted amendments to Schedule G to the By-Laws with similar trade reporting requirements for members using average-price weighting formulas for exchange-listed securities. The special indicator has been approved and implemented in the consolidated data stream operated by the Consolidated Tape Association.[5]

IV. Conclusion

In view of the above, the Commission has concluded that the proposed rule change is consistent with sections 15A(b)(6) and 11A(a)(1)(C)(iii) of the Act, and that it is appropriate to approve the use of a special indicator for averaged-price and other special weighting formula trades.

It is Therefore Ordered, Pursuant to section 19(b)(2) of the Act, that the proposed rule change be, and is hereby approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–15921 Filed 7–6–93; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–32550; File No. SR–PSE–91–15]

Self-Regulatory Organizations; Pacific Stock Exchange, Inc.; Order Approving Proposed Rule Change and Notice of Filing

June 29, 1993.

I. Introduction

In the Matter of: Order Granting Accelerated Approval to Amendments No. 1, No. 2, No. 3, No. 4 and No. 5 to Proposed Rule Change Relating to the Administration of its Floor Member Qualification Examinations.

On May 31, 1991, the Pacific Stock Exchange, Inc. ("PSE" or "Exchange")

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[13] 15 U.S.C. 78s(b)(2) (1982).

[14] 17 CFR 200.30–3(a)(12) (1992).

[1] File No. SR–NASD–93–20.

[2] 15 U.S.C. 78s(b)(1).

[3] See Securities Exchange Act Release No. 32166 (April 19, 1993), 58 FR 22009.

[4] An example of such a transaction would be a trade negotiated as an agency cross during the trading day to be executed after 4 p.m. at a price equal to the average of weighted prices of transactions taking place during the trading day.

[5] See Securities Exchange Act Release Nos. 30437 (March 3, 1992), 57 FR 8370, and 30955 (July 23, 1992), 57 FR 33536.

[6] 17 CFR 200.30–3(a)(12).

submitted to the Securities and Exchange Commission ("Commission" or "SEC"), pursuant to section 19(b) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change consisting of examinations it seeks to administer to prospective equity and options floor members. On April 10, 1992, the PSE submitted to the Commission Amendment No. 1 to the proposed rule change in order to make certain corrections and changes to the examinations.[3] On June 23, 1992, August 19, 1992, October 23, 1992 and February 22, 1993, the PSE submitted Amendments No. 2,[4] No. 3,[5] No. 4[6] and No. 5,[7] respectively, to the proposed rule change in order to make further clarifying and technical corrections to the examinations.

The proposed rule change was noticed in Securities Exchange Act Release No. 29366 (June 24, 1991), 56 FR 30612 (July 3, 1991). No comments were received on the proposal.

II. Description of the Proposal

The PSE has devised its own proficiency examinations to be administered to prospective equity and options floor members. Prior to being able to operate in the capacity of an equities or options floor broker or specialist,[8] a prospective member must successfully complete the proposed examination which corresponds to the individual's role as a floor member.[9]

The examinations are designed to accurately test the applicant's knowledge of specific trading and regulatory responsibilities which are implicated when trading on the PSE Floor. Essentially, the examinations cover general terms and rules of trading, as well as items specifically related to trading of equities or options on the PSE.

III. Commission Findings

After careful consideration, the Commission has determined that the PSE's proposed rule change to administer its own proficiency examinations for prospective floor members is consistent with section 6 of the Act.[10] In particular, the Commission believes that the proposal is consistent with the section 6(b)(5) requirement that the rules of an exchange be designed to promote just and equitable principles of trade and to protect investors and the public interest. The examination requirement will help to ensure that only those candidates with a comprehensive knowledge of the specific rules of the Exchange, as well as an understanding of the relevant provisions of the Act, will be eligible for PSE floor membership. By ensuring this requisite degree of proficiency, the Exchange can remain confident that its floor members have demonstrated an acceptable level of securities knowledge.

The Commission also believes that the proposal is consistent with sections 6(c)(3) (A) and (B) of the Act, which state that a national securities exchange may deny membership to, or condition the membership of, a registered broker or dealer or a natural person associated with such broker or dealer, if the broker, dealer or natural person does not meet such standards of training, experience and competence as prescribed by exchange rules. Under these sections, an exchange may establish procedures to examine and verify the qualifications of an applicant. The PSE has tailored the exams toward evaluating the applicant's knowledge of specific Exchange rules and policies, in addition to the requirements of the Act. The Commission believes that the exam appropriately grants Exchange floor membership only to those applicants who have, through passage of the exam, demonstrated the requisite knowledge, training, experience and competence to satisfactorily discharge their individual duties on the PSE floor.

Finally, the Commission believes that the proposed rule change is consistent with section 15(b)(7)[11] which stipulates that prior to effecting any transaction in, or inducing the purchase or sale of, any security, a registered broker or dealer must meet certain standards of operational capability, and that such broker or dealer (and all natural persons associated with such broker or dealer) must meet certain standards of training, experience, competence and such other qualifications as the Commission finds necessary or appropriate in the public interest or for the protection of investors. In this regard, the Commission has carefully reviewed the format of the examinations and the substantive areas tested. In conducting this review, the Commission focused on the level of difficulty and comprehensiveness of the specific examination questions. Based on the depth of knowledge required to pass the examinations, the Commission concludes that the examinations sufficiently reflect the requisite minimum knowledge an applicant must possess to comply with PSE rules and the pertinent rules and regulations of the Act.

The Commission finds good cause for approving Amendments No. 1, No. 2, No. 3, No. 4 and No. 5 prior to the thirtieth day after the date of publication of notice of filing thereof. These amendments would refine certain details of the PSE's floor member examinations in a manner which is both thorough and fair. In general, the amendments would correct errors in or clarify the language of specific questions. The overall structure of the examinations would, in essence, go unchanged. Finally, the original proposal was published for the full statutory period and no comments were received on any aspect of the proposal.

Interested persons are invited to submit written data, views and arguments concerning Amendments No. 1, No. 2, No. 3, No. 4 and No. 5 to the proposed rule change. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to Amendments No. 1, No. 2 No. 3, No. 4 and No. 5 between the Commission and any persons, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available at the principal office of the PSE. All submissions should refer to

[1] 15 U.S.C. 78s(b)(1) (1989).

[2] 17 CFR 240.19b–4 (1991).

[3] See letter from Kenneth Marcus, Attorney, PSE, to Mary Revell, Branch Chief, SEC, dated April 10, 1992 ("Amendment No. 1").

[4] See letter from Kenneth Marcus, Attorney, PSE, to Mary Revell, Branch Chief, SEC, dated June 23, 1992 ("Amendment No. 2").

[5] See letter from Kenneth Marcus, Attorney, PSE, to Mary Revell, Branch Chief, SEC, dated August 19, 1992 ("Amendment No. 3").

[6] See letter from Kenneth Marcus, Attorney, PSE, to Beth Stekler, Staff Attorney, SEC, dated October 23, 1992 ("Amendment No. 4").

[7] See letter from Kenneth Marcus, Attorney, PSE, to Beth Stekler, Staff Attorney, SEC, dated February 5, 1993 ("Amendment No. 5").

[8] For the most part, these examinations only test the skills of, and thus qualify the applicant to serve as, a registered equity or options floor member. Certain questions, however, are directed exclusively at a prospective equity specialist or options market maker. To act in that capacity, the applicant must successfully complete both the general and more specialized sections of the examination. See PSE Rules 5.27(c)(ii) and 6.33.

[9] The PSE Rules give the Equity or Options Floor Trading Committee discretion to consider, in addition to the applicant's performance on the examination, such other factors as it deems appropriate. See PSE Rules 1.1(c) and 6.44.

[10] 15 U.S.C. 78f (1989).

[11] 15 U.S.C. 78o(b)(7) (1989).

File No. SR–PSE–91–15 and should be submitted by July 28, 1993.

IV. Conclusion

For the reasons set forth above, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[12] In particular, the Commission believes that the proposal is consistent with sections 6(b)(5), 6(c)(3) and 15(b)(7) of the Act.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act[13] that the proposed rule change (SR–PSE–91–15) is hereby approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–15920 Filed 7–6–93; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–32547; File Nos. SR–NSCC–93–04, SR–MCC–93–02, and SR–SCCP–93–02]

Self-Regulatory Organizations; National Securities Clearing Corp., Midwest Clearing Corp., and Stock Clearing Corp. of Philadelphia; Filing and Order Granting Temporary Approval on an Accelerated Basis of Proposed Rule Changes Relating to the Guarantee of Trades in Continuous Net Settlement Systems

June 29, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that National Securities Clearing Corporation ("NSCC"), Midwest Clearing Corporation ("MCC"), and Stock Clearing Corporation of Philadelphia ("SCCP") (collectively referred to as "Clearing Corporations") filed with the Securities and Exchange Commission ("Commission") on May 28, 1993, June 2, 1993, and June 3, 1993, respectively, the proposed rule changes as described in Items I and II below. The Commission is publishing this notice and order to solicit comments from interested persons and to grant accelerated approval of the proposed rule changes through June 30, 1994.

[12] 15 U.S.C. 78 (1989).

[13] 15 U.S.C. 78s(b)(2) (1989).

[14] 17 CFR 200.30–3(a)(12) (1991).

[1] 15 U.S.C. 78s(b)(1) (1988).

I. Self-Regulatory Organizations' Statement of the Terms of Substance of the Proposed Rule Changes

The proposals seek an extension of the Commission's order that authorizes the Clearing Corporations: (1) To guarantee at an earlier time the settlement of participant trades in their Continuous Net Settlement ("CNS") systems and (2) to use revised clearing fund calculations to protect against any increased risk caused by such earlier guarantees.[2]

II. Self-Regulatory Organizations' Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

In their filings with the Commission, the Clearing Corporations included statements concerning the purpose of and basis for the proposed rule changes and discussed any comments they received on the proposed rule changes. The text of these statements may be examined at the places specified in Item IV below. The Clearing Corporations have prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organizations' Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

The purpose of the proposed rule changes is to extend the Commission's approval of NSCC's, MCC's, and SCCP's, procedures whereby the settlement of all pending CNS trades are guaranteed as of midnight on the day after the trade date for locked-in or automatically compared trades and as of midnight on the day trades are reported to members as compared for all other trades. The proposed rule changes also seek extension of the Commission's approval of the Clearing Corporations' revisions to the CNS portions of their clearing fund formulas. These revisions are designed to protect against increased risk associated with earlier guarantees.[3]

[2] The Commission has approved these proposals on a temporary basis for four previous occasions. Securities Exchange Act Release Nos. 27192 (August 29, 1989), 54 FR 37010 (approving File Nos. SR–NSCC–87–04, SR–MCC–87–03, and SR–SCCP–87–03 until December 31, 1990); 28728 (December 31, 1990), 56 FR 717 (approving File Nos. SR–NSCC–90–25, SR–MCC–90–06, and SR–SCCP–90–03 until June 30, 1991); 29388 (June 28, 1992), 56 FR 30951 (approving File Nos. SR–NSCC–91–06, SR–MCC–91–03, and SR–SCCP–91–03 through June 30, 1992); and 30879 (July 1, 1992), 57 FR 30279 (approving File Nos. SR–NSCC–92–04, SR–MCC–92–07, and SR–SCCP–92–02 through June 30, 1993).

[3] For a more detailed discussion of the proposals, refer to Securities Exchange Act Release Nos. 30379, 29388, 27828, and 27192 and the accompanying rule filings, *supra* note 2.

The Clearing Corporations represent that the proposed rule changes are consistent with the Act and particularly section 17A of the Act because it will help the Clearing Corporations to assure the safeguarding of securities and funds which are in their custody or control or for which they are responsible.[4]

B. Self-Regulatory Organizations' Statement on Burden on Competition

The Clearing Corporations believe that the proposed rule changes will impose no burden on competition.

C. Self-Regulatory Organizations' Statement on Comments on the Proposed Rule Changes Received From Members, Participants or Others

The Clearing Corporations have neither solicited nor received any comments.

III. Date of Effectiveness of the Proposed Rule Changes and Timing for Commission Action

The Commission believes the Clearing Corporations' proposals to continue providing earlier guarantees for CNS trades along with revised formulas for calculating clearing fund contributions are consistent with the Act and particularly with section 17A of the Act.[5] Section 17A(b)(3)(F) of the Act[6] requires that the rules of clearing agencies be designed to assure the safeguarding of securities and funds that are in the custody or control of the clearing agencies or for which the clearing agencies are responsible and be designed to remove impediments to and perfect the national system for the clearance and settlement of securities transactions.

The Commission believes that these proposals promote the perfection of the national system by providing increased certainty as to settlement of securities transactions by reducing the time that clearing members are exposed to the risk of counterparty default. The Commission further believes that these proposals achieve that goal without compromising the safeguarding of securities and funds in the Clearing Corporations' custody or control or for which they are responsible.

The Clearing Corporations have requested that the Commission find good cause for approving the proposed rule changes prior to the thirtieth day after the date of publication of notice of the filings in the **Federal Register**. Accelerated approval will permit NSCC, MCC, and SCCP to continue to provide

[4] 15 U.S.C. 78q–1 (1988).

[5] 15 U.S.C. 78q–1 (1988).

[6] 15 U.S.C. 78q–1(b)(3)(F) (1988).

their participants with earlier trade guarantees and to continue to base clearing fund assessments on the revised formulas without any needless disruptions to the program. During the proposals' temporary approval periods, the Commission and the Clearing Corporations have continued to examine the Clearing Corporations' procedures and safeguards applicable to earlier guarantees of CNS trades and the revised formulas for calculating CNS clearing fund contributions. To date, the earlier guarantee procedures and revising clearing fund formulas have functioned adequately. Therefore, the Commission believes there is good cause for approving the proposed rule changes prior to the thirtieth day after the date of publication of notice of the filing.

The Commission will continue to monitor the adequacy of NSCC's, MCC's, and SCCP's procedures and safeguards applicable to earlier guarantees of CNS trades and the revised clearing fund formulas. The Clearing Corporations remain under a continuing obligation to provide data to the Commission pertaining to earlier trade guarantees and the ability of the revised CNS clearing formulas to guard against any increased risks posed by earlier guarantees.[7]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the principal office of the SROs. All submissions should refer to File Nos. SR–NSCC–93–04, SR–MCC–93–02, and SR–SCCP–93–02 and should be submitted by July 28, 1993.

[7] The Commission reserves the right to amend the data request during the ensuing temporary approval for any of the Clearing Corporations in order to obtain the most useful and accurate information available.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act[8] that the above-mentioned proposed rule changes (File Nos. SR–NSCC–93–04, SR–MCC–93–02, and SR–SCCP–93–02) be, and hereby are, approved through June 30, 1994.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–15970 Filed 7–6–93; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–32554; File No. SR–PSE–92–45]

Self-Regulatory Organizations; Pacific Stock Exchange, Inc.; Order Approving Proposed Rule Change Relating to an Increase in Position and Exercise Limits for Options on the Wilshire Small Cap Index

June 29, 1993.

I. Introduction

On December 8, 1992, the Pacific Stock Exchange, Inc. ("PSE" or "Exchange"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] filed with the Securities and Exchange Commission ("SEC" or "Commission") a proposal to increase the position and exercise limits for European-style[3] options on the Wilshire Small Cap Index ("Wilshire Index" or "Index").

The proposed rule change, amended as of January 26, 1993, was noticed for comment in Securities Exchange Act Release No. 31793 (January 29, 1993), 58 FR 7283. No comments were received on the proposed rule change. This order approves the PSE's proposal.

II. Description of the Proposal

On November 3, 1992, the Commission approved an Exchange proposal to list and trade options on the Wilshire Index.[4] Under the Commission's approval order, the position limits[5] and exercise limits[6] for options on the Index are currently set at 25,000 contracts on the same side of the market, with no more than 15,000 of such contracts in the series with the nearest expiration date.[7]

The proposal would increase the position and exercise limits available on the Index to 37,500 contracts on the same side of the market, with no more than 22,500 of such contracts in the series with the nearest expiration date.[8] These proposed position limits are similar in terms of aggregate dollar value with those that the Commission recently approved for options on the Russell 2000 Index on the CBOE.[9]

The Exchange believes that the characteristics of the Index and the Russell 2000 are sufficiently similar to justify comparable position and exercise limits for both indexes. The Exchange notes that both indexes are capitalization weighted, have an exceptionally high correlation rate of 99.05% (taken on a quarterly basis), and are primarily comprised of domestic securities from the small capitalization market.

III. Discussion

As discussed below, the Commission believes that the PSE proposal is consistent with section 6 of the Act, in general, and section 6(b)(5) in particular, in that it should help remove impediments to and perfect the mechanism of a free and open market, promote just and equitable principles of trade and protect investors and the public interest. Specifically, the Commission notes that the Index is a broad-based index consisting of 250 domestic stocks from nine economic sectors. The Exchange's stringent listing requirements insure that the Index will not contain a large number of thinly

[8] 15 U.S.C. 78s(b) (1988).

[9] 17 CFR 200.30–3(a)(12) (1991).

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1989).

[3] A European-style option is one that can be exercised only on the expiration date.

[4] Securities Exchange Act Release No. 31397 (November 3, 1992), 57 FR 53368 ("Exchange Act Release No. 31397").

[5] Position limits impose a ceiling on the number of options contracts relating to an underlying instrument which an investor, or group of investors acting in concert, may own or control.

[6] Exercise limits prohibit the exercise by an investor or group of investors acting in concert of more than a specified number of option contracts on a particular underlying security within five consecutive business days.

[7] See also PSE Rule 7.6(d)(1).

[8] Originally, the PSE proposed to increase the position and exercise limits for the Wilshire Index to 50,000 contracts on the same side of the market, with no more than 30,000 contracts in the nearest expiration month, the same number of contracts that the Commission recently approved for options on the Russell 2000 Index ("Russell 2000") on the Chicago Board Options Exchange, Inc. ("CBOE"). See *infra* note 9. As of January 28, 1993, the Wilshire Index had a value of 298.53 while the Russell 2000 closed at 227.19. Accordingly, because the value of the Russell 2000 is approximately 25% less than that of the Wilshire, the PSE amended its filing to request position and exercise limits that are comparable to the Russell 2000 Index in terms of aggregate dollar value. See Letter from Michael D. Pierson, Senior Attorney, Market Regulation, PSE, to Stephen M. Youhn, Attorney, Options Branch, Division of Market Regulation, SEC, dated January 26, 1993.

[9] See Securities Exchange Act Release No. 31382 (October 30, 1992), 57 FR 52802 ("Exchange Act Release No. 31382").

capitalized, low-priced securities with small public floats and low trading volume.[10] As previously noted, markets that exhibit active and deep trading, as well as broad public ownership, are more difficult to manipulate or disrupt than less active markets with smaller public floats.[11] Accordingly, given the size and breadth of the Index, the Commission does not believe that increasing the position limits for the Index as proposed herein will increase the Index's susceptibility to manipulation or increase the potential for disruption in the markets for the underlying securities.

Additionally, the Commission notes that the proposed limits are comparable to those approved by the Commission in terms of aggregate dollar value for options on the Russell 2000 on the CBOE,[12] which have not, to date, posed any discernible problems.

Furthermore, the Commission notes that the settlement value of options on the Index is based on the opening prices of the component securities ("A.M.-Settled"). The Commission believes that settling index products based on opening prices significantly improves the ability of the market to alleviate and accommodate large and potentially destabilizing order imbalances associated with the unwinding of index-related positions.[13] Accordingly, the Commission believes that the a.m. settlement of the Index is helpful in insuring that the increased position limits should not unduly disrupt the market in the underlying securities comprising the Index.

In summary, the Commission believes that the increase in position and exercise limits for options on the Index will benefit market participants by allowing them to take larger positions in the context of an exchange-traded and regulated product without unnecessarily increasing manipulative concerns.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act,[14] that the proposed rule change (File No. SR–PSE–92–45) is approved.

[10] See Exchange Act Release No. 31397, *supra* note 4.

[11] See *e.g.*, Securities Exchange Act Release No. 31330 (October 16, 1992), 57 FR 48408 ("Exchange Act Release No. 31330").

[12] See Exchange Act Release No. 31382, *supra* note 9.

[13] The Commission has stated, for example, that "in general, basing the settlement of index products on opening, as opposed to closing, prices on expiration Fridays helps alleviate the stock market volatility once experienced frequently on expiration Fridays." See Exchange Act Release No. 31330, *supra* note 11.

[14] 15 U.S.C. 78s(b)(2) (1988).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–15919 Filed 7–6–93; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–32558; File No. SR–PSE–92–37]

Self-Regulatory Organizations; Filing and Order Granting Partial Accelerated Approval of a Proposed Rule Change by the Pacific Stock Exchange, Inc., Relating to an Extension of the Pacific Options Exchange Trading System ("POETS") Pilot Program

June 30, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 30, 1992, the Pacific Stock Exchange, Inc. ("PSE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization.[1] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PSE proposes to extend until July 31, 1993, its automated options trading system pilot program designated as the Pacific Options Exchange Trading System ("POETS").[2] In addition, the PSE seeks permanent approval of POETS.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In January 1990 the Commission approved POETS on a pilot basis.[3] Subsequently, the Commission approved several Exchange proposals to extend the pilot, including, most recently, a six-month extension through April 30, 1993.[4] The Exchange now seeks to extend the pilot program through July 31, 1993. In addition, the PSE is seeking permanent approval of POETS.

The PSE states that since POETS was implemented, the Exchange has expanded POETS on a floor-wide basis. Over the course of the pilot program, the performance of POETS has been assessed under a variety of market conditions. The Exchange believes, as evidenced by the POETS pilot report submitted by the PSE to the Commission ("Pilot Report"),[5] that POETS is a viable and effective trading system. The PSE believes that POETS has provided, and continues to provide, substantial benefits to the investing public, including the on-line updating of quotations, increased speed and

[15] 17 CFR 200.30–3(a)(12) (1993).

[1] The PSE amended its proposal to request an extension of the pilot program through July 31, 1993. *See* Letter from Michael D. Pierson, Senior Attorney, Market Regulation, PSE, to Yvonne Fraticelli, Staff Attorney, Options Branch, Division of Market Regulation ("Division"), Commission, dated May 4, 1993 ("Amendment No. 1").

[2] See Amendment No. 1, *supra* note 1. POETS is a completely automated trading system comprised of an automatic execution system, an options order routing system ("ORS"), an on-line limit order book system ("Auto-Book"), and an automatic market quote update system ("Auto-Quote"). The Commission approved the PSE's POETS system on a six-month pilot basis on January 18, 1990. See Securities Exchange Act Release No. 27633 (January 18, 1990), 55 FR 2466 (order approving File SR–PSE–89–26). The initial six-month approval expired on July 22, 1990, and was extended until October 22, 1990, in order to allow the PSE to complete installation of the system's hardware. See Securities Exchange Act Release No. 28264 (July 26, 1990), 55 FR 31272 (order approving File No. SR–PSE–90–28). In January 1991, the POETS pilot program was extended until June 30, 1991. See Securities Exchange Act Release No. 28778 (January 14, 1991), 56 FR 2576 (order approving File No. SR–PSE–90–36). In April 1991, the Commission approved the PSE's proposal to implement the system's automatic and semi-automatic execution features, termed "Auto-Ex" and "Semi Auto-Ex," respectively, on a floor-wide basis, and to extend the pilot until July 31, 1992. See Securities Exchange Act Release No. 29104 (April 16, 1991), 56 FR 19134. The POETS pilot program was extended through October 31, 1992. See Securities Exchange Act Release No. 31022 (August 12, 1992), 57 FR 37179 (order approving File No. SR–PSE–92–26), and, most recently, through April 30, 1993. See Securities Exchange Act Release No. 31935 (March 1, 1992), 57 FR 12611 (order approving File No. SR–PSE–92–46).

[3] See *Supra*, note 2 for a description of POETS.

[4] See Securities Exchange Act Release No. 31935, *supra* note 2.

[5] See "Report of the Pacific Stock Exchange on the Status of its POETS Pilot Program," dated September 18, 1992.

accuracy in the execution and reporting of trades, and improved accuracy and accessibility of trade information. The PSE states that there have been no capacity problems with POETS during the pilot program. The PSE believes that POETS has contributed to the quality and integrity of the Exchange's options markets.

In its Pilot Report, the PSE notes that Auto-Quote is used for approximately 80% of the options series traded on the PSE, and that Auto-Quotes's efficiency in updating quotes enhances the traders' ability to maintain updated and accurate markets. Moreover, the daily report generated through Auto-Quote helps the Exchange's Market Surveillance Department to recreate and trace trading activity.

The PSE states that ORS, which provides members with electronic routing, execution, and reporting of orders, has increased the efficiency of order processing on the Exchange, and that Auto-Ex allows eligible orders that are entered through ORS to be executed immediately at the current disseminated quotation. Since POETS reduces the paper flow in the trading crowds, orders that must be executed manually receive greater attention by the Exchange's staff and members. The Pilot Report concludes that all of the Exchange's members use or benefit from POETS, which provides all members with more accurately updated market quotes, faster executions and price reporting, and more complete and accurate audit trails. The Pilot Report states that as of August 1992, the year-to-date availability rate of POETS was 99.96%.

In addition, the Pilot Report states that the Exchange has received no formal complaints about POETS and that the Exchange has taken no disciplinary action against a member for activities involving POETS.

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act, in general, and furthers the objectives of section 6(b)(5), in particular, because the Exchange believes that POETS should enable the PSE to provide online updating of market quotes, more efficient execution of customer orders, and faster, more accurate trade information reports, which will help the PSE to maintain the quality and integrity of its markets.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change imposes any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange requests that Amendment No. 1 to the proposal, relating to the extension of the pilot program through July 31, 1993, be given accelerated effectiveness pursuant to section 19(b)(2) of the Act.

The Commission finds that the proposal to extend the pilot program through July 31, 1993, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6 thereunder.[6] In particular, the Commission finds that the extension of the pilot through July 31, 1993, is consistent with section 6(b)(5) of the Act based on the PSE's representations that POETS has enabled the Exchange to provide on-line updating of market quotes, more efficient execution of customer orders, and faster, more accurate trade information reports.[7] The Pilot Report also indicated that POETS availability from January through August 1992 was 99.96%. As the Commission has found in previous extensions of the pilot program, POETS is consistent with section 6(b)(5) of the Act because, according to the PSE, POETS has facilitated the efficient execution of public customer market and limit orders, has facilitated trading on high volume days, and has provided the PSE's Market Surveillance Department with more accurate trade information.[8] The Commission continues to believe that the enhanced efficiency of order processing resulting from POETS should help the PSE to provide deeper, more liquid and more efficient options markets. Moreover, the Commission believes that POETS has enabled the Exchange to develop more accurate and timely audit trails, thereby helping the PSE to maintain the integrity of its markets.

The Commission finds good cause for approving the extension of the pilot prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register** in order to permit the continuation of the pilot program. In addition, because there have been no adverse comments concerning the pilot program since its implementation or prior to the Commission's approval of POETS in January 1990 and because of the importance of maintaining the quality and efficiency of the PSE's options markets, the Commission believes good cause exists to approve the extension of the pilot program through July 31, 1993, on an accelerated basis.

With regard to the portion of the proposal seeking permanent approval of POETs, within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reason for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory

[6] 15 U.S.C. 78f(b)(5) (1982).

[7] See Pilot Report, *supra* note 5.

[8] In its July 1990 request to extend the pilot program, the PSE represented that POETS had benefitted Exchange members and public investors as follows: (1) By providing faster order turnaround time; (2) by providing better tracking of orders for members, member firms and Exchange staff due to the ability of POETS to retain large amounts of order and transaction information; (3) by facilitating trading during periods of high activity due to the ability of POETS to adjust to market fluctuations by upgrading its capability while on-line; and (4) by providing the Exchange's Regulation Department with more accurate trade data and information. See Securities Exchange Act Release No. 28264, *supra* note 1. See also Securities Exchange Act Release Nos. 28778, 29104, and 31022, *supra* note 2.

organization. All submissions should refer to the file number in the caption above and should be submitted by July 28, 1993.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act,[9] that Amendment No. 1 to the proposed rule change, relating to an extension of the POETS pilot program until July 31, 1993, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93-15973 Filed 7-6-93; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-32557; File No. SR-Phlx-92-30]

Self-Regulatory Organizations; Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Clearing Agents' Responsibility for Ensuring That Good Faith Margin Treatment Is Properly Granted

June 30, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 21, 1992, the Philadelphia Stock Exchange ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change, as amended on March 25, 1993, and as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx proposes to adopt new Options Floor Procedure Advice ("Advice") F-19 and new Commentary .14 to Phlx Rule 722 to require that clearing agents take reasonable steps to ensure that only positions in Phlx-listed options that qualify for good faith margin treatment are carried in the account of a market maker. The proposal was amended on March 25, 1993, to provide that reasonable steps include the adoption and implementation of procedures designed to detect any pattern of activity that results in options that do not qualify for good faith margin treatment being carried in the market maker account.[1]

The text of the proposed rule change is available at the Office of the Secretary, Phlx, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Phlx included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Phlx has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The Phlx proposes to adopt new Advice F-19 and new Commentary .14 to Phlx Rule 722 to require that clearing agents take reasonable steps to ensure that only positions in Phlx-listed options that qualify for good faith margin treatment are carried in the market functions accounts of specialists and Registered Options Traders ("ROTs"). The proposal provides that reasonable steps include the adoption and implementation of procedures designed to detect any pattern of activity that results in options that do not qualify for good faith margin treatment being carried in the market maker account. The purpose of the proposed rule change is to ensure that good faith margin treatment is granted to positions held in a specialist's or ROT's market functions accounts only where appropriate.

The Phlx believes that these requirements should help ensure that only market makers who are registered to trade in that capacity in options listed for trading on the Phlx are afforded market maker margin treatment with respect to Phlx options. The Phlx also believes that, in order to ensure compliance with Regulation T by its member-clearing agents, a policy clearly stating a clearing agent's responsibility is necessary.

The Phlx notes that proposed Advice F-19 would only be applicable to the equity options floor. Thus, the Phlx has placed the notation "(O)" after the Advice. In addition, the Phlx notes that the fine schedule for proposed Advice F-19 would run on a three year cycle, such that repeat violations within a three-year period would result in escalating fines.[2]

The Exchange believes that the proposal is consistent with section 6(b)(5) of the Act in that it is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, and to protect investors and the public interest.

The Exchange further believes the proposal is consistent with Regulation T of the Federal Reserve Board. Regulation T grants good faith margin treatment in the market functions accounts of specialists and ROTs only to qualified or offsetting positions. "Customer" margin is to be applied to all other positions. Accordingly, because the purpose of the proposal is to reserve good faith margin treatment for true market maker trades, the Phlx believes that the proposal is consistent with Regulation T.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

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[9] 15 U.S.C. 78s(b)(2) (1982).

[10] 17 CFR 200.30-3(a)(12) (1992).

[1] See letter from Edith Hallahan, Attorney, Market Surveillance, Phlx, to Richard Zack, Branch Chief, Options Regulation, Division of Market Regulation, Commission, dated March 25, 1993.

[2] The fine schedule for Advice F-19 provides that a fine of $500 will be imposed for the first violation and a fine of $1,000 will be imposed for the section violation. The sanction for the third violation is discretionary with the Phlx Business Conduct Committee. In addition, under a rolling three-year cycle, if three years elapse between the first and second violation, the second violation would be treated as a first violation. If there is a violation within three years after the most recent violation, the next highest fine will be issued. Thus, a third violation less than three years after a fine was issued for a second violation would be treated as a "third violation," even though more than three years may have elapsed after the first violation.

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by July 28, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[3]

[FR Doc. 93-15971 Filed 7-6-93; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-32559; File No. SR-Phlx-93-03]

Self-Regulatory Organizations; Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Extending the AUTOM Pilot Program

June 30, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on January 19, 1993, the Philadelphia Stock Exchange ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx proposes to extend the Exchange's Automated Options Market ("AUTOM") system, a pilot program, until December 31, 1993. AUTOM is an electronic delivery system of small options orders to the PHLX trading floor, with an automatic execution feature.

The text of the proposed rule change is available at the Compliance Department of the Phlx and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

On March 31, 1988, the Commission approved the establishment of AUTOM as a pilot program.[1] The Exchange currently is proposing to extend the AUTOM pilot program until December 31, 1993. The Exchange represents that, from the date of the last Commission order extending the AUTOM pilot program, AUTOM has operated efficiently and without any material problems being reported by Phlx members or AUTOM users.

The AUTOM system is an online system that allows electronic delivery of options orders from members firms directly to the appropriate specialist on the Phlx options trading floor, with electronic confirmation of order executions. Specifically, once AUTOM orders are entered into the system and routed to the specialists' post, they are executed manually by the specialist who, upon execution of the order, enters the relevant trade information into the system. An execution report is then automatically transmitted to the firm that placed the order.

The AUTOM system also has an automatic execution feature called "Auto-X." Currently, Auto-X is available to public customer market and marketable limit orders of up to 20 contracts. Orders eligible for automatic execution through AUTOM are: (1) Printed in hard copy form at the floor representative booth of the delivering member organization; (2) displayed on the trading crowd screen with buy/sell information omitted; and (3) printed in hard copy form at the specialist post. The order is priced and executed automatically at the best displayed bid or offer, and the execution is reported automatically to the Options Price Reporting Authority ("OPRA"). A report of the execution also is electronically sent to the delivering member organization. Under Auto-X, the specialist is the contra-side of all trades. However, the specialist is required to ensure participation of bids and offers on the limit order book and in the trading crowd that are entitled to execution pursuant to the Phlx's rules of priority, parity, and precedence.

The Exchange believes that the proposed rule change is consistent with section 11A(a)(1)(B) and (C)(i) of the Act in that the purpose of the development and implementation of AUTOM is to improve, through the use of new data processing and communications techniques, the efficiency with which transactions in Phlx equity options are executed. The Exchange also believes that the proposal is consistent with section 11A(a)(1)(C)(ii) of the Act in that it fosters competition among exchange markets since other options exchanges currently have in place option execution systems. Finally, the Exchange believes that the proposal is consistent with section 6((b)(5) of the Act in that it is designed to promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market and a national market system.

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[3] 17 CFR 200.30-3(a)(12) (1992).

[1] The Commission approved AUTOM on a pilot basis for market orders of up to five contracts for all exercise prices in the near month covering twelve Phlx equity options. See Securities Exchange Act Release No. 25540 (March 31, 1988), 53 FR 11390 (April 6, 1988). Since then, the order routing feature of AUTOM has been expanded to include all orders in all exercise prices and months in all Phlx equity options. In addition, day orders, good until cancelled orders, and cabinet orders (accommodation transactions) have become eligible for delivery through the system, and the eligible order size for the order routing feature of AUTOM has been increased from five to one hundred contracts. See Securities Exchange Act Release No. 28643 (November 26, 1990), 55 FR 49960 (December 3, 1990) at notes 2-6 for citations to Commission orders approving these expansions of the AUTOM pilot. See also Securities Exchange Act Release No. 28978 (March 15, 1991), 56 FR 12050 (March 21, 1991).

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Phlx does not believe that the proposed rule change will impose any inappropriate burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has requested that the proposed rule change be given accelerated effectiveness pursuant to section 19(b)(2) of the Act.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of sections 6 and 11A.[2] Specifically, the Commission continues to believe that the development and implementation of the AUTOM system provides for more efficient handling and reporting of orders in Phlx equity options through the use of new data processing and communications techniques, thereby improving order processing and turnaround time. The Commission also believes that the extension of the pilot program until December 31, 1993, will provide the Exchange with a better opportunity to study its operation and effectiveness prior to permanent approval of the program.[3]

The Commission further notes that the Exchange has represented that from March 15, 1991 until present, AUTOM has not suffered any operational failures and the Phlx has not received any formal complaints with respect to the system's operation.[4] Finally, since the pilot program is being extended without expansion of the scope of the pilot, the Commission does not believe that the capacity of the Exchange's automated systems will be adversely effected by this extension.[5]

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register** in order to permit the Phlx to continue the AUTOM pilot program on an uninterrupted basis. Specifically, the Commission believes that the Phlx's proposal to extend the AUTOM pilot program does not raise any new issues since it merely extends the pilot program as it is currently operating. The pilot is also important in maintaining the quality and efficiency of the Phlx's market. The Commission further notes that there have been no adverse comments concerning the pilot program since its implementation. Accordingly, the Commission believes that granting accelerated approval of the proposed rule change is appropriate and consistent with sections 6 and 11A of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the proposed rule change. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by July 28, 1993.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act,[6] that the proposed rule change (File No. SR–Phlx–93–03) is approved through December 31, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–15972 Filed 7–6–93; 8:45 am]

BILLING CODE 8010–01–M

[2] 15 U.S.C. 78f and 78k–1 (1988).

[3] Before any further extension of the pilot, the Commission expects the Phlx to submit a full report, by November 1, 1993, providing detailed statistics indicating the benefits provided by AUTOM, the degree of AUTOM usage, including the number and size of the orders routed through AUTOM and the number and size of the orders automatically executed through the Auto-X system, and the system capacity of AUTOM and Auto-X and any problems that have been encountered with the routing and execution features. The Commission also requests that the Phlx submit its request for an extension of the pilot or permanent approval by November 1, 1993.

[4] See letter from Jack McCarthy, Assistant Vice President of Financial Automation, Phlx, to Monica Michelizzi, Staff Attorney, Division of Market Regulation, Commission, dated February 18, 1993.

[5] The Commission recognizes that additional options classes added onto the system can have an effect on the systems operations. In this context, the Commission expects that the Phlx will notify the Commission if the expansion of options multiple trading, pursuant to Rule 19c–5 under the Act, has any material effect on the capacity of the Phlx's automated systems.

[6] 15 U.S.C. 78s(b)(2) (1988).

[7] 17 CFR 200.30–3(a)(12) (1992).

[Investment Company Act Rel. No. 19547; 812–8264]

AIM Funds Group, et al.; Notice of Application

June 29, 1993.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 ("Act").

APPLICANTS: AIM Funds Group (the "Fund"), AIM Advisors, Inc. (the "Advisor"), and AIM Distributors, Inc. (the "Distributor").

RELEVANT ACT SECTIONS: Exemption requested under section 6(c) from the provisions of sections 2(a)(32), 2(a)(35), 18(f), 18(g), 18(i), 22(c), and 22(d) of the Act, and rule 22c–1 thereunder.

SUMMARY OF APPLICATION: Applicants seek a conditional order permitting the Fund to issue separate classes of shares representing interests in its various investment portfolios, each of which would have different voting rights, conversion rights and expense allocations, to assess a contingent deferred sales charge ("CDSC") on certain redemptions of shares, and to waive or reduce the CDSC in certain instances.

FILING DATE: The application was filed on February 9, 1993, and amended on April 9, 1993, May 24, 1993, and June 29, 1993.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 26, 1993, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's

interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request such notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants, 11 Greenway Plaza, Suite 1919, Houston, Texas 77046–1173.

FOR FURTHER INFORMATION CONTACT: Courtney S. Thornton, Staff Attorney, at (202) 272–5287, or C. David Messman, Branch Chief, at (202) 272–3018 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicants' Representations

1. The Fund is a Massachusetts business trust and is registered under the Act as an open-end series management investment company.[1] The Fund currently offers fourteen separate investment portfolios (the "Portfolios"), each of which is managed independently of all other Portfolios.[2]

2. The Advisor is a Delaware corporation, which acts as investment adviser for the Portfolios pursuant to a Master Investment Advisory Agreement dated June 30, 1992. The Distributor is a Delaware corporation, which acts as principal underwriter for the Portfolios pursuant to a Master Distribution Agreement dated June 30, 1992.

3. All of the Portfolios currently offer a single class of shares to investors.[3] All of the Portfolios except AIM Cash Fund, AIM Tax-Exempt Cash Fund and AIM Tax-Exempt Cash Fund of Connecticut (collectively, the "No-Load Money Market Portfolios") currently offer their shares to investors at net asset value plus a front-end sales charge. The No-Load Money Market Portfolios currently offer their shares to investors at net asset value without imposition of any sales charge. The Fund also has adopted a Master Distribution Plan pursuant to rule 12b–1 under the Act with respect to each of the Portfolios. This plan provides for payments to the Distributor at an annual rate of up to 0.25% (0.20% with respect to AIM Tax-Exempt Cash Fund of Connecticut) of a Portfolio's average daily net assets for reimbursement of distribution expenses.

4. The Fund proposes to establish a multiple class distribution system (the "Multiple Distribution System") for certain of the Portfolios. Under the Multiple Distribution System, certain Portfolios would redesignate their currently existing shares as "Class A Shares" and would establish a new class of shares, designated as "Class B Shares." These Portfolios also may create additional classes of shares in the future. All classes of shares will have identical voting, dividend, liquidation and other rights, preferences, powers, restrictions, limitations, qualifications, designations, and terms and conditions, and will comply with all of the conditions contained in the application. The only differences among the various classes of shares of the Portfolios will relate solely to the following factors: (a) any such class may be subject to different class expenses consisting of (i) rule 12b–1 plan distribution and service fees, (ii) incremental transfer agency costs, (iii) Commission and blue sky registration fees incurred separately by a particular class, (iv) litigation or other legal expenses relating solely to a particular class, (v) printing and postage expenses related to the preparation and distribution of material such as shareholder reports, prospectuses and proxies to shareholders of a particular class, (vi) expenses of administrative personnel and services as required to support the shareholders of a particular class, (vii) trustee fees and expenses incurred as a result of issues relating solely to a particular class, and (viii) any other incremental expenses subsequently identified that should be properly allocated to a particular class, which shall be approved by the Commission pursuant to an amended order (collectively, "Class Expenses"); (b) any such class may bear different identifying designations; (c) any such class will have exclusive voting rights with respect to any rule 12b–1 plan adopted exclusively with respect to such class (except as set forth in condition 15 below; (d) any such class may have different exchange privileges; and (e) any such class may or may not have a conversion feature.

5. Expenditures attributable to the sale of shares of more than one class of a Portfolio will be allocated among those classes in the following manner: one-half of the amount of such expenditures will be allocated among such classes based upon the ratio in which the sales of each class of shares bears to the sales of all such classes of the Portfolio, and one-half of the amount of such expenditures will be allocated among such classes based upon the relative net assets attributable to all such classes of the Portfolio. Except for these expenditures and Class Expenses (which will be allocated to the appropriate class), all expenses incurred by each Portfolio will be allocated daily to each class of shares based on the percentage of net assets attributable to such class at the beginning of the day. Because of the different expenses attributable to the various classes of shares, the per share net income attributable to and the per share dividends payable on each of the classes will vary.

6. Class A Shares will continue to be sold at net asset value plus a front-end sales load. The sales load will be subject to reductions for larger purchases under a combined purchase privilege, a right of accumulation, or a letter of intent.[4] The sales load will be subject to certain other reductions permitted by section 22(d) of the Act and as set forth in the Portfolios' respective prospectuses. The current rule 12b–1 plans applicable to the Portfolios will continue to apply to the respective successor Class A Shares

[1] Applicants anticipate that, subject to shareholder approval, the Fund will be reorganized as a Delaware business trust during 1993. In connection with this reorganization, it is anticipated that certain current portfolios of the Fund will be merged into or reorganized as part of other investment companies advised by the Advisor and distributed by the Distributor. In addition, certain other investment companies advised by the Advisor and distributed by the Distributor will be merged into one or more portfolios of the Fund or be reorganized as part of the Fund. The exemptive relief requested herein would apply both to the Fund as it is currently organized and as it would exist following such reorganization.

[2] The currently existing Portfolios are: AIM Aggressive Growth Fund, AIM Cash Fund, AIM Government Securities Fund, AIM Growth Fund, AIM High Yield Fund(C), AIM Income Fund, AIM International Growth Fund(C), AIM Money Market Fund(C), AIM Municipal Bond Fund, AIM Tax-Exempt Cash Fund, AIM Utilities Fund, AIM Value Fund, AIM Tax-Exempt Bond Fund of Connecticut, and AIM Tax-Exempt Cash Fund of Connecticut.

[3] On February 27, 1987, the Commission issued an exemptive order (the "Prior Order"), which permitted all investment companies sponsored or advised by the Advisor to offer multiple classes of shares representing interests in the same investment portfolio. *Tax-Free Investment Truest, et al.*, Investment Company Act Release Nos. 15570 (Feb. 6, 1987) (notice) and 15592 (Feb. 27, 1987) (order). To date, none of these funds have created, issued or sold multiple classes of shares pursuant to the Prior Order. In the event the exemptive relief described in this notice is granted by the Commission, applicants have agreed that they will be subject solely to the new order. Although the Prior Order will continue to apply to the other investment companies covered by the Prior Order.

[4] Under an exemptive order issued by the Commission to applicants and certain other investment companies on March 9, 1993, the Registrant is permitted to assess and waive a CDSC on redemptions of certain of its shares purchased at net asset value in amounts of $1 million or more. *AIM Convertible Securities, Inc., et al.*, Investment Company Act Release Nos. 19260 (Feb. 8, 1993) (notice) and 19321 (Mar. 9, 1993) (order). When implemented, this CDSC arrangement will apply to some or all of the Portfolios or, if the exemptive relief outlined in this notice is granted and the Multiple Distribution System is implemented, to some or all of the Class A Shares of the Portfolios.

of the Portfolios. Thus, the specified percentage of average daily net assets payable under each Class A rule 12b–1 plan will be identical to the specified percentage under the current rule 12b–1 plan with respect to the applicable Portfolio. These rule 12b–1 plans recently have been amended to comply with applicable NASD rules regarding limitations on asset-based sales charges. The distribution structure for all classes of shares of the Portfolios will comply with applicable NASD limitations on asset-based sales charges, including rule 12b–1 plan distribution and service fees, which are contained in the NASD's Rules of Fair Practice, as they may be amended or modified from time to time.

7. Class B Shares will be offered to investors at net asset value without the imposition of a sales load. However, an investor's proceeds from a redemption of Class B Shares made within a specified period of years after their purchase, which will be at least four years but will not exceed ten years (the "CDSC Period"), generally will be subject to a CDSC payable to the Distributor as compensation for distribution-related expenses. The CDSC is expected to range from a maximum of 3% to 6% (but can be higher or lower) on shares redeemed during the first year after purchase, and will be reduced over the applicable CDSC Period so that redemptions of shares held after that period will not be subject to a CDSC. No CDSC will be imposed on (1) shares issued prior to the grant of any exemptive order, (2) amounts representing an increase in the value of the shareholder's account resulting from capital appreciation above the amount paid for shares purchased during the CDSC Period, or (3) shares derived from reinvestment of dividends and distributions. In determining whether a CDSC is applicable, it will be assumed that a redemption is made, first, of any shares in the shareholder's Portfolio account that are not subject to a CDSC; second, of shares derived from reinvestment of dividends and distributions; third, of shares held for a period longer than the CDSC Period; and fourth, of shares held for a period not longer than the CDSC Period. The CDSC will be assessed on an amount equal to the lesser of the then current market value or the cost of shares being redeemed. Class B Shares also will be subject to a rule 12b–1 distribution fee and service fee at a combined annual rate of up to 1% of the daily net assets attributable to the Class B Shares. Of this amount, 0.75% of the average daily net assets attributable to the Class B Shares would be payable to the Distributor as compensation for its services, and up to 0.25% of the average daily net assets attributable to the Class B Shares would be payable as service fees to the Distributor and/or certain financial intermediaries having agreements with the Distributor and whose customers own Class B Shares.

8. Applicants also request the ability to waive or reduce the CDSC on redemptions (a) following the death or disability, as defined in section 72(m)(7) of the Internal Revenue Code of 1986 (the "IRC"), of a shareholder, (b) in connection with certain distributions, described in the following paragraph, from individual retirement accounts, Keough plans and custodial accounts maintained pursuant to IRC section 403(b)(7) (collectively, "Retirement Plans"), (c) pursuant to a Portfolio's systematic withdrawal plan, provided that such plan is limited to 12% annually of the value of the account at the time the shareholder elects to participate in the systematic withdrawal plan, (d) effected pursuant to the right of a Portfolio to liquidate a shareholder's account if the aggregate net asset values of shares held in the account is less than the designated minimum account size described in the prospectus of the Portfolio, and (e) effected by the Advisor of its investment in a Portfolio.

9. The CDSC may be waived or reduced for any Retirement Plan redemption in connection with a tax-free lump sum or other distribution to a participant or beneficiary (other than tax-free rollovers or transfers of assets), provided the waiver or reduction would apply only to redemptions that do not exceed 12% annually of the participant's or beneficiary's account value. In addition, a waiver or reduction of the CDSC may apply to Retirement Plan transfers of assets if (1) The transfer of Retirement Plan assets is a transfer in kind, and (2) the participant or beneficiary notifies the Distributor of such transfer of assets in kind no later than the time such transfer takes place. The CDSC also may be waived or reduced upon the tax-free rollover or transfer of assets to another Retirement Plan invested in Class B Shares of one or more of the Portfolios. In such instances, a Portfolio will "tack" the period for which the original shares were held on to the holding period of the shares acquired in the rollover or transfer for purposes of determining what, if any, CDSC is applicable in the event that such acquired shares are redeemed subsequently. Finally, the CDSC may be waived or reduced on any redemption that results from a tax-free return of an excess contribution, the return of excess deferral amounts, or from the death or disability of the participant or beneficiary.

10. All Class B Shares of the Portfolios, other than those purchased through the reinvestment of dividends and distributions, will convert automatically to Class A Shares a certain number of years after the end of the calendar month in which the shares were purchased. This conversion period, which will be the same for all Class B Shares of all the Portfolios, will be at least four years but will not exceed ten years. For purposes of conversion to Class A Shares, shares purchased through the reinvestment of dividends and other distributions will be considered held in a separate sub-account. Each time any Class B Shares in a shareholder's account convert to Class A Shares, a proportionate number of the Class B Shares in the sub-account also will convert to Class A Shares. The existence of a conversion feature for any future classes of the Portfolios will be determined on a class-by-class basis. In no event would a class of shares have a conversion feature that automatically would convert shares of such class into shares of a class with a distributor arrangement that could be viewed as less favorable to the shareholder from the point of view of overall cost. The implementation of the conversion feature is subject to the continuing availability of a ruling of the Internal Revenue Service, or of an opinion of counsel or tax advisor, stating that the conversion of one class of shares to another does not constitute a taxable event under federal income tax law. The conversion feature may be suspended if such a ruling or opinion is not available. In the event that the conversion feature is not implemented or is terminated, Class B Shares would continue to be subject to the rule 12b–1 distribution and service fees, and any other higher class expenses attributable to the Class B Shares for an indefinite period.

11. After implementation of the Multiple Distribution System, Class A Shares of each Portfolio will be exchangeable for Class A Shares of the other Portfolios and for retail shares of other open-end investment companies advised by the Advisor (collectively, the "AIM Funds") that offer an exchange privilege, subject to such conditions as may be imposed from time to time on such exchanges and as disclosed in the prospectuses of the Portfolios and the AIM Funds. Class B Shares of each Portfolio will be exchangeable only for Class B Shares of other Portfolios that offer an exchange privilege, subject to such conditions as may be imposed from time to time on such exchanges

and as disclosed in the prospectuses of the Portfolios. The exchange privileges applicable to the various classes will comply with rule 11a–3 under the Act.

Applicants' Legal Analysis

1. Applicants are requesting an exemptive order to the extent that the proposed issuance and sale of an unlimited number of classes of shares representing interests in the Portfolios might be deemed: (a) To result in a "senior security" within the meaning of section 18(g) of the Act, the issuance and sale of which would be prohibited by section 18(f)(1) of the Act, and (b) to violate the equal voting provisions of section 18(i) of the Act.

2. Applicants believe that the proposed Multiple Distribution System does not present the concerns that section 18 of the Act is intended to redress. The Multiple Distribution System does not involve borrowings by investment companies and will not affect the Portfolios' assets or reserves. The proposed arrangement will not increase the speculative character of shares of the Portfolios, since all shares will participate *pro rata* in all of the income and expenses of their respective Portfolios, with the exception of the differing class expenses. Moreover, the capital structures of the Portfolios will not facilitate control without equity or other investment and will not make it difficult for investors to value the securities of the Portfolios.

3. Applicants believe that the issuance and sale by the Portfolios of an unlimited number of classes will better enable the Portfolios to meet the competitive demands of today's financial services industry. Under the proposed Multiple Distribution System, an investor will be able to choose the method of purchasing shares that is most beneficial to that investor, given the amount of purchase, the length of time the investor expects to hold the shares purchased and other relevant circumstances. The proposed arrangement will permit the Portfolios to both facilitate the distribution of their securities and provide investors with a choice as to the appropriate method of purchasing shares without assuming excessive accounting and bookkeeping costs or unnecessary investment risks.

4. Applicants believe that the proposed allocation of expenses and voting rights relating to the rule 12b–1 distribution plans is equitable and will not discriminate against any group of shareholders. With respect to any Portfolio, the rights and privileges of each class of shares are substantially identical, and consequently the possibility that their interests ever would conflict would be remote.

5. Applicants believe that the implementation of the CDSC in the manner and under the circumstances described above would be fair and in the best interests of the shareholders of the Portfolios. Thus, granting the order requested in this application would be appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. Each class of shares will represent interests in the same Portfolio, and be identical in all respects, except as set forth below. The only differences among the various classes of shares of the same Portfolio will relate solely to (a) class-specific expenses consisting of (i) rule 12b–1 plan distribution and service fees, (ii) incremental transfer agency costs, (iii) Commission and blue sky registration fees incurred separately by a particular class, (iv) litigation or other legal expenses relating solely to a particular class, (v) printing and postage expenses related to preparing and distributing materials such as shareholder reports, prospectuses and proxies to shareholders of a particular class, (vi) expenses of administrative personnel and services as required to support the shareholders of a particular class, (vii) Trustee fees and expenses incurred as a result of issues relating solely to a particular class, and (viii) any other incremental expenses subsequently identified that should be properly allocated to a particular class, which shall be approved by the Commission pursuant to an amended order, (b) any such class may bear different identifying designations; (c) any such class will have exclusive voting rights with respect to any rule 12b–1 plan adopted exclusively with respect to such class, except as provided in condition (15) below, (d) any such class may have different exchange privileges, and (e) any such class may or may not have a conversion feature.

2. The Trustees, including a majority of the Independent Trustees, shall have approved the Multiple Distribution System prior to the implementation of the Multiple Distribution System by the Portfolios. In addition, the Trustees, including a majority of the Independent Trustees, will approve the subsequent creation of any additional class of shares of each Portfolio. The minutes of the meetings of the Trustees regarding the deliberations of the Trustees with respect to the approvals necessary to implement the Multiple Distribution System will reflect in detail the reasons for the Trustees' determination that the Multiple Distribution System is in the best interests of the Portfolios and their respective shareholders.

3. On an ongoing basis, the Trustees, pursuant to their fiduciary responsibilities under the Act and otherwise, will monitor the Portfolios for the existence of any material conflicts among the interests of the various classes of shares. The Trustees, including a majority of the Independent Trustees, will take such action as is reasonably necessary to eliminate any such conflicts that may develop. The Advisor and the Distributor will be responsible for reporting any potential or existing conflicts to the Trustees. If a conflict arises, the Advisor and the Distributor, at their own cost, will remedy such conflict up to and including establishing a new registered management investment company.

4. The initial determination of the class expenses that will be allocated to a particular class and any subsequent changes thereto will be reviewed and approved by a vote of the Trustees including a majority of the Trustees who are not interested persons of the Fund. Any person authorized to direct the allocation and disposition of monies paid or payable by a Portfolio to meet class expenses shall provide to the Trustees, and the Trustees shall review, at least quarterly, a written report of the amounts so expended and the purposes for which such expenditures were made.

5. The Trustees will receive quarterly and annual statements concerning distribution and service fees complying with paragraph (b)(3)(ii) of rule 12b–1, as it may be amended from time to time. In the statements, only distribution expenditures properly attributable to the sale or servicing of a particular class of shares will be used to justify any distribution or service fee charged to shareholders of that class. Expenditures not related to the sale or servicing of a particular class of shares will not be presented to the Trustees to justify any fee attributable to that class. The statements, including the allocations upon which they are based, will be subject to the review and approval of the Independent Trustees in the exercise of their fiduciary duties.

6. Dividends paid by a Portfolio with respect to each class of its shares, to the extent any dividends are paid, will be calculated in the same manner at the same time on the same day and will be in the same amount, except that a class

will bear (a) Distribution and service fee payments relating to the 12b–1 plan of such class, (b) differing incremental transfer agency costs relating to such class, (c) Commission and blue sky registration fees incurred separately by such class, (d) litigation or other legal expenses relating solely to such class, (e) printing and postage expenses related to the preparation and distribution of materials such as shareholder reports, prospectuses and proxies to shareholders of such class, (f) expenses of administrative personnel and services as required to support the shareholders of such class, and (g) Trustee fees and expenses incurred as a result of issues relating solely to such class.

7. The methodology and procedures for calculating the net asset value and the dividends and distributions of the various classes and the proper allocation of expenses among such classes have been reviewed by an expert (the "Expert"), who has rendered a report to applicants stating that such methodology and procedures are adequate to ensure that such calculations and allocations will be made in an appropriate manner. On an on going basis, the Export, or an appropriate substitute Expert, will monitor the manner in which the calculations and allocations are being made and, based upon such review, will render at least annually reports to the Fund that the calculations and allocations are being made properly. The reports of the Expert shall be filed as part of the periodic reports filed with the Commission pursuant to sections 30(a) and 30(b)1) of the Act. The work papers of the Expert with respect to such reports, following request by the Fund (which the Fund agrees to provide), will be available for inspection by the Commission staff upon written request to the Fund for such work papers by a senior member of the Commission's Division of Investment Management or of a regional office of the Commission, limited to the Director, an Associate Director, the Chief Accountant, the Chief Financial Analyst, an Assistant Director and any Regional Administrators or Associate and Assistant Administrators. The initial report of the Expert is a "report on policies and procedures placed in operation" and the ongoing reports will be "reports on policies and procedures placed in operation and tests of operating effectiveness" as defined and described in the Statement of Auditing Standards No. 70 ("SAS No. 70") of the American Institute of Certified Public Accountants (the "AICPA"), as it may be amended from time to time, or in similar auditing standards as may be adopted by the AICPA from time to time.

8. Applicants have adequate facilities in place to ensure implementation of the methodology and procedures for calculating the net asset value and the dividends and distributions among the various classes of shares and the proper allocation of expenses among such classes of shares, and this representation has been concurred with by the Expert in the initial report referred to in condition (7) above and will be concurred with by the Expert, or an appropriate substitute Expert, on an ongoing basis at least annually in the ongoing reports referred to in condition (7) above. Applicants will take immediate corrective measures if this representation is not concurred in by the Expert or an appropriate substitute Expert.

9. The prospectus of each Portfolio will contain a statement to the effect that financial intermediaries and any other person entitled to receive compensation for selling or servicing Portfolio shares may receive different compensation for selling or servicing one particular class of shares over another in the Portfolio.

10. The Distributor will adopt compliance standards as to when a particular class of shares may appropriately be sold to particular investors. Applicants will require all persons selling shares of the Portfolios to agree to conform to such standards.

11. The conditions pursuant to which the exemptive order is granted and the duties and responsibilities of the Trustees with respect to the Multiple Distribution System will be set forth in guidelines, which will be furnished to the Trustees.

12. Each Portfolio will disclose the respective expenses, performance data, distribution arrangements, services, fees, sales loads, deferred sales loads and exchange privileges applicable to each class of shares in every prospectus, regardless of whether all classes of shares are offered through each prospectus. The shareholder reports of each Portfolio will disclose the respective expenses and performance data applicable to each class of shares. The shareholder reports will contain, in the statement of assets and liabilities and statement of operations, information related to each Portfolio as a whole generally and not on a per class basis. Each Portfolio's per share data, however, will be prepared on a per class basis with respect to all classes of shares of such Portfolio. To the extent any advertisement or sales literature describes the expenses of performance data applicable to a particular class of shares, it also will disclose the expenses and/or performance data applicable to all classes of shares. The information provided by applicants for publication in any newspaper or similar listing of the Portfolios' net asset values and public offering prices will separately present each class of shares.

13. Applicants acknowledge that the grant of the exemptive order requested by the application will not imply Commission approval, authorization or acquiescence in any particular level of payments that the Portfolios may make pursuant to their rule 12b–1 distribution or service plans in reliance on the exemptive order.

14. Any class of shares with a conversion feature ("Purchase Class") will convert into another class of shares ("Target Class") on the basis of the relative net asset values of the two classes, without the imposition of any sales load, fee, or other charge. After conversion, the converted shares will be subject to an asset-based sales charge and/or service fee (as those terms are defined in Article III, Section 26 of the NASD's Rules of Fair Practice), if any, that in the aggregate are lower than the asset-based sales charge and service fee to which they were subject prior to the conversion.

15. If a Portfolio implements any amendment to a rule 12b–1 plan (or, if presented to shareholders, adopts or implements any amendment of a non-rule 12b–1 shareholder services plan) that would increase materially the amount that may be borne by the Target Class shares under the plan, existing Purchase Class shares will stop converting into Target Class shares unless the Purchase Class shareholders, voting separately as a class, approve the amendment. The Trustees shall take such action as is necessary to ensure that existing Purchase Class shares are exchanged or converted into a new class of shares ("New Target Class"), identical in all material respects to the Target Class as it existed prior to implementation of the amendment, no later than the date such shares previously were scheduled to convert into the Target Class. If deemed advisable by the Trustees to implement the foregoing, such action may include the exchange of all existing Purchase Class shares for a new class ("New Purchase Class"), identical to existing Purchase Class shares in all material respects except that such New Purchase Class will convert into New Target Class. New Target Classes and/or New Purchase Classes may be formed without further exemptive relief.

Exchanges or conversions described in this condition shall be effected in a manner that the Trustees reasonably believe will not be subject to federal taxation. In accordance with condition (3) above, any additional cost associated with the creation, exchange or conversion of New Target Class or New Purchase Class shall be borne solely by the Advisor and the Distributor. Purchase Class shares sold after the implementation of the amendment may convert into Target Class shares subject to the higher maximum payment, provided that the material features of the Target Class plan and the relationship of such plan to the Purchase Class shares are disclosed in an effective registration statement.

16. Applicants will comply with the provisions of proposed rule 6c–10 under the Act, as such rule currently is proposed and as it may be reproposed, adopted or amended.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–15924 Filed 7–6–93; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–19548; Int'l Series Release No. 559; 812–7917]

IBM International Finance, N.V., et al; Notice of Application

June 29, 1993.

AGENCY: Securities and Exchange Commission ("SEC") or ("Commission").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: IBM International Finance, N.V. ("Finance"); and IBM International Treasury Services Company, IBM ITS Centre A Company, IBM ITS Centre B Company, and IBM ITS Centre C Company (collectively, the "Treasury Centres").

RELEVANT ACT SECTIONS: Exemption requested pursuant to section 6(c) from the provisions of subparagraph (a)(5), (a)(6), and (b) of rule 3a–5 of the Act.

SUMMARY OF APPLICATION: Applicants request an order, pursuant to section 6(c) of the Act, to permit Finance, an indirect wholly-owned finance subsidiary of certain operating companies, to rely on rule 3a–5 under the Act and to engage in certain short-term borrowing, lending, and investing activities not included within rule 3a–5.

FILING DATES: The application was filed on May 8, 1992, and amended on December 3, 1992.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 26, 1993, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicants, Finance, Johan Huizingalaan 765, 1066 VH Amsterdam, The Netherlands; Treasury Centres, Knockmaun House, 42147 Lower Mount Street, Dublin, Ireland.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Staff Attorney, at (202) 272–3026, or Barry D. Miller, Senior Special Counsel, at (202) 272–3030 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

APPLICANTS' REPRESENTATIONS AND LEGAL ANALYSIS:

1. Applicants are indirect wholly-owned subsidiaries of IBM World Trade Europe/Middle East/Africa Corporation ("EMEA"), which is a wholly-owned subsidiary of IBM World Trade Corporation ("World Trade"). World Trade is a wholly-owned subsidiary of International Business Machines Corporation ("IBM"). World Trade and its subsidiaries, including EMEA, conduct IBM's business outside of the United States.

2. Finance, a company incorporated under the laws of The Netherlands, was created specifically to centralize IBM's financing in Europe by issuing securities and lending the proceeds to various subsidiaries of EMEA. Finance is operated as a "Dutch Group Finance Company" pursuant to policy guidelines adopted by the Dutch Central Bank under the Act on the Supervision of the Credit System. As such, at least 95% of Finance's total assets must be loaned to or invested in IBM subsidiaries.

3. Each Treasury Centre is incorporated under the laws of the Republic of Ireland and was created to manage IBM's European financing operations by providing a center of expertise regarding interest rate risk, currency risk, and cash management. The primary purpose of each of the Treasury Centres, therefore, is to lend money to EMEA's operating subsidiaries in accordance with their business needs. To obtain funds for their proposed activities, the Treasury Centres seek to engage in short-term borrowing from EMEA operating subsidiaries, from Finance, and from banks.

4. The operations of the Treasury Centres have four principal components: (a) Short-term borrowing from and short-term lending to operating subsidiaries in Europe in their local currencies, (b) swapping cash flows arising out of borrowing and lending activities into United States dollars, (c) borrowing or investing temporarily the deficit/surplus of United States dollars, and (d) managing interest rate risk.

5. Section 3(a)(1) of the Act defines an investment company to include any issuer that is engaged primarily, or that proposes to engage primarily, in the business of investing, reinvesting, or trading in securities. Section 3(a)(3) defines investment company to include any issuer engaged in the business of investing, reinvesting, owning, holding, or trading in securities, and that owns or proposes to acquire investment securities having a value exceeding 40 percent of the issuer's total assets, exclusive of Government securities and cash items, on an unconsolidated basis. Applicants recognize that it consistently has been the position of the Commission and its staff that, absent appropriate exemptive relief, an entity engaging in financing activities as those of Finance is subject to registration as an investment company under the Act.

6. Finance has engaged in private placements of its commercial paper and medium-term notes in the United States and intends to conduct more of such offerings in the future. To the extent that Finance's lending activities may be considered investing or reinvesting in the debt securities of EMEA's operating subsidiaries, Finance may be viewed as falling within the definition of an investment company under the Act.

7. To date, Finance has relied on rule 3a–5 in its sales of securities. Generally, rule 3a–5 exempts from the registration provisions of the Act any finance subsidiary (as defined in the rule) of an operating company so as to permit the finance subsidiary to offer debt

securities or non-voting preferred stock in the United States.

8. Finance intends to lend the proceeds of its securities offering to various operating subsidiaries of EMEA. However, Finance also seeks to (a) remit all or a portion of the proceeds of its commercial paper and medium-term note sales to the Treasury Centres, while permitting the Treasury Centres to operate as described in the application; (b) provide funding to certain EMEA subsidiaries which may be viewed as companies encompassed by section 3(c) of the Act [1]; (c) invest temporarily in bank time deposits, certificates of deposit, and similar assets; and (d) provide financing to EMEA subsidiaries through "back-to-back" loans. For reasons stated below, Finance would be unable to rely on the rule 3a–5 exemption and requests an order of the Commission so that it may issue debt securities in the United States without registering as an investment company under the Act.

9. Section 6(c) provides, among other things, that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities, or transaction from any provision of the Act or rule thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the provisions of the Act. Applicants believe their request meets the applicable standards for exemption.

A. Loans to Treasury Centres

1. Subparagraph (a)(5) of rule 3a–5 requires that a finance subsidiary relying on the rule invests in or loans to its parent company or a company controlled by its parent company at least 85% of any cash or cash equivalents raised by the finance subsidiary as soon as practicable. Subparagraph (b)(3) of rule 3a–5 defines a "company controlled by a parent company" as a corporation that, among other things, is not considered an investment company under section 3(a) or that is excepted or exempted by order from the definition of investment company by section 3(b) or by the rules or regulations under section 3(a).

2. The Treasury Centres presently restrict their activities in order to receive loans from Finance. Finance may need exemptive relief to continue to make loans to the Treasury Centres because, if they operate as desired, they may not qualify as companies "controlled by a parent company" under subparagraph (b)(3) of rule 3a–5. Specifically, insofar as the Treasury Centres engage in lending activities similar to that of a traditional finance subsidiary, they may be viewed as investment companies. Accordingly, Finance could not lend to the Treasury Centres absent an exemption, ordinarily provided by rule 3a–5 except that they wish to engage in activities not literally within the rule. The Treasury Centres: (a) wish to engage in the types of activities for which Finance is seeking exemptive relief; (b) wish to provide financing to EMEA's operating subsidiaries by purchasing customer invoices (*i.e.*, accounts receivable) from EMEA subsidiaries, in addition to making loans to these subsidiaries; (c) wish to make temporary investments or engage in certain transactions that may be considered to be investing in securities under the Act; and (d) will receive short-term funds on an ongoing basis from various EMEA operating subsidiaries as well as from other sources, and will engage in a continuous program of short-term lending to such subsidiaries.

3. The rule's definition of a controlled company is intended to ensure that an entity receiving the proceeds of a securities offering by a finance subsidiary is not primarily engaged, directly or indirectly, in investment company activities. The instant situation is not, however, one of a foreign collective investment vehicle seeking to attract new investors in the United States indirectly through a putative finance subsidiary. All of the equity ownership of the Treasury Centres lies in the hands of EMEA's operating subsidiaries. More importantly, the business operations of the Treasury Centres are vastly different from those of an investment company. Since the Treasury Centres are internal facilities that coordinate and satisfy short-term financing needs for operating subsidiaries, they also may be characterized as a form of finance subsidiary.

4. The fact that the Treasury Centres need to engage in financing activities more complex than those envisioned by the rule and in interest rate or currency transactions, or in temporary investments that have remaining maturities of up to twelve months (including investments in time deposits and similar money market instruments), does not alter their essential nature. In short, none of the above activities turns the Treasury Centres into collective investment vehicles such that permitting Finance to lend to the Treasury Centres would raise investor protection concerns of the type addressed by the Act.

B. Loans to Section 3(c) Companies

1. As noted above, rule 3a–5 does not apply to situations where a parent or controlled company receiving funds from a finance subsidiary is excepted from the definition of an investment company by section 3(c).

2. Section 3(c)(5)(A) encompasses companies that are engaged primarily in "[p]urchasing or otherwise acquiring notes, drafts, acceptances, open accounts receivable, and other obligations representing part or all of the sales price of merchandise, insurance and services." Section 3(c)(5)(B) similarly encompasses companies primarily engaged in "making loans to manufacturers, wholesalers, and retailers of, and to prospective purchasers of, specified merchandise, insurance, and services."

3. Finance wants the flexibility to loan to subsidiaries of EMEA that qualify for an exception from the Act pursuant to section 3(c)(5)(A) or section 3(c)(5)(B) thereof. Finance presently intends to lend only to subsidiaries that are not investment companies, either under section 3(a) of the Act or excepted from that definition by section 3(b). Nonetheless, Finance does not wish to preclude the possibility of lending to section 3(c)(5)(A) or section 3(c)(5)(B) companies since EMEA may in the future wish to provide financing to companies whose activities could fall under those sections. Those types of businesses may be useful adjuncts to the primary operations of EMEA and its operating subsidiaries, the lease and sale of information technology systems and related services. Among other things, such companies may provide, or facilitate the provision of, financing to customers. Accordingly, it would be appropriate to grant Finance the flexibility to provide financing to EMEA subsidiaries that engage in such activities.

C. Investing in Bank Time Deposits

1. Subparagraph (a)(6) of rule 3a–5 limits the types of securities in which finance subsidiaries may invest, reinvest, own, hold, or trade. Specifically, the subparagraph provides that finance subsidiaries relying on the rule must not "invest in, reinvest in, own, hold or trade in securities other than Government securities, securities of its parent company or a company controlled by its parent company * * * or debt securities (including repurchase agreements) which are exempted from

[1] Section 3(c) generally excludes certain issuers from the provisions of section 3(a) of the Act under certain circumstances.

the provisions of the Securities Act of 1933 by section 3(a)(3) of that Act."

2. Applicants request that Finance be permitted to invest temporarily all or a portion of the proceeds of its securities offerings in bank time deposits, certificates of deposit, and similar money market instruments having a maturity of up to six months. Applicants wish to give Finance the flexibility to offer its debt securities under auspicious market conditions and to manage the cash received from the offering until its parent company or a company controlled by its parent is in a position to receive the offering proceeds. Applicants submit that it is consistent with the purposes of the rule to permit Finance to invest in time deposits, certificates of deposit, and similar money market instruments in addition to those presently permitted by rule 3a–5(a)(6).

3. Similarly, applicants submit that there is not investor protection concern based on the safety of the temporary investments requested above such as would warrant denying the relief sought. The time deposits, certificates of deposit, and similar instruments will have maturities of no greater than six months and will be entered into with established financial institutions in countries where such institutions are regulated as to their capital adequacy and other measures of financial soundness. Applicants state that these instruments are at least as safe as the types of temporary investments presently permitted by rule 3a–5, such as debt securities offered pursuant to section 3(a)(3) of the Securities Act of 1933.

D. Back-to-Back Loans

1. Under the terms of the back-to-back loans, Finance deposits funds with a bank pursuant to terms that require the bank, in turn, to make a loan of an equal or greater amount to a specified EMEA operating subsidiary. The subsidiary enters into an agreement requiring it to repay the principal of (and to pay interest on) the deposit if the bank fails to do so, making the borrowing subsidiary ultimately responsible for repayment of the deposit to Finance.

2. Subparagraph (a)(5) of rule 3a–5 provides a finance subsidiary relying on the rule must invest in or loan "to its parent company or a company controlled by its parent company at least 85% of any cash or cash equivalents raised by the finance subsidiary through an offering of its debt securities or non-voting preferred stock or through other borrowings as soon as practicable, but in no event later than six months after the finance subsidiary's receipt of such cash or cash equivalent."

3. The back-to-back loans that Finance seeks to use to provide financing to EMEA operating subsidiaries may raise concerns under paragraphs (a)(5) and (a)(6) of rule 3a–5 because such loans, while an accepted form of international lending, will appear on their face as bank deposits on the books of Finance. Such loans are not typical of those contemplated by rule 3a–5. Moreover, the ostensible bank deposits created by back-to-back loans may be considered a type of security holding by Finance not within rule 3a–5(a)(6).

4. Applicants state that back-to-back loans essentially are a mechanism for lending funds to the operating subsidiaries. That form of loan, rather than a direct loan, is often used in international finance in order to characterize the loan for tax purposes. Under the laws of certain foreign countries, if the operating subsidiary in such country were to borrow directly from a finance subsidiary in another country, rather than from a bank in the operating subsidiary's home country, the interest payable on the loan would be subject to a non-resident withholding tax by such country. Thus, it would be beneficial for Finance to be permitted to make loans to certain operating subsidiaries through back-to-back loans rather than directly, notwithstanding that the loans may not be contemplated by paragraph (a)(5) or that the deposits may be considered a type of security holding by Finance outside paragraph (a)(6). Back-to-back loans would, in effect, be included within the 85% minimum investment required by paragraph (a)(5), as well as the categories of investments permitted by paragraph (a)(6). Although applicants do not believe that back-to-back loans are inconsistent with the provisions of the rule, they request exemptive relief to avoid any interpretation to the contrary.

Applicants' Conditions

Applicants agree not to rely on the requested order unless the following conditions are met:

1. Any time deposits, certificates of deposit, or similar money market instruments invested in by Finance will have a maturity or no greater than six months and will be entered into with established financial institutions in countries where such institutions are regulated as to their capital adequacy and other measures of financial soundness.

2. Finance will loan and hold obligations of companies eligible to rely on section 3(c) of the Act only to the extent that such companies would fall within section 3(c)(5)(A) or section 3(c)(5)(B) solely by reason of their holdings of accounts receivable of either their own customers or of the customers of other EMEA subsidiaries, or by reason of loans made by them to such subsidiaries or customers.

3. Any bank deposits of Finance made in connection with back-to-back loans will provide expressly that the bank receiving the deposit must make a loan of equal or greater amount within one week of the deposit to the EMEA operating subsidiary specified by Finance, and such subsidiary will agree that if the bank defaults on its obligation to pay interest on or repay the principal amount of such deposit, the subsidiary will be obligated to pay such interest or repay such principal to Finance.

4. The Treasury Centres will continue to meet the primary purpose test of rule 3a–5(b)(1)(ii) in the manner described in the application as long as they receive and have not yet repaid loans from the proceeds of Finance's offerings in the United States.

5. The Treasury Centres will continue to be direct or indirect wholly-owned subsidiaries of IBM as long as they receive and have not yet repaid loans from proceeds of Finance's offerings in the United States.

6. The types of securities held by the Treasury Centres will be limited to securities meeting the requirements of rule 3a–5(a)(6) or that have a remaining maturity of no greater than twelve months, provided that the Treasury Centres may also acquire customer accounts receivable from other subsidiaries of EMEA.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–15923 Filed 7–6–93; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 92–076a]

Alternative Voluntary Advisory Groups, Prince William Sound and Cook Inlet

AGENCY: Coast Guard, DOT.

ACTION: Notice; policy on certification.

SUMMARY: Under the Oil Terminal and Oil Tanker Environmental Oversight and Monitoring Act of 1990 (the Act), the Coast Guard may certify, on an annual basis, an alternative voluntary advisory group (advisory group) in lieu of Regional Citizens' Advisory Councils

for Cook Inlet and Prince William Sound Alaska. The Coast Guard has published guidelines to assist advisory groups submitting information to the Coast Guard when seeking certification under the Act. This policy statement clarifies how the Coast Guard will evaluate that information in order to determine whether advisory groups should be certified in accordance with the Act; the factors that the Coast Guard will consider in making its determination to certify an advisory group; and, the procedures which the Coast Guard will follow in meeting its certification responsibilities under the Act.

EFFECTIVE DATE: This policy statement is effective on July 7, 1993.

FOR FURTHER INFORMATION CONTACT: Ms. Janice Jackson, Project Manager, Marine Environmental Protection Division, (G–MEP–3), (202) 267–0500, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001.

SUPPLEMENTARY INFORMATION:

Background and Information

As part of the Oil Pollution Act of 1990, Congress passed the Oil Terminal and Oil Tanker Environmental Oversight and Monitoring Act of 1990 (the Act), 33 U.S.C. 2732, to foster a long-term partnership among industry, government, and local communities in overseeing compliance with environmental concerns in the operation of crude oil terminals and oil tankers.

Section 2732(o) of Title 33, U.S. Code, provides for the certification of advisory groups to represent the communities and interests in the vicinity of the oil terminal facilities in the Cook Inlet and Prince William Sound areas in lieu of meeting the requirements of 33 U.S.C. 2732 (c) through (l), if certain conditions are met. Each group must: Enter into a contract with the owners and operators of terminal facilities and crude oil tanker owners or operators in their respective area to ensure annual funding; be certified annually that the group fosters the general goals and purposes of the Act; and be broadly representative of the community and interests in the vicinity of the terminal facilities. In 1991, the President granted certification to both the Cook Inlet Regional Citizens' Advisory Council and the Prince William Sound Regional Citizens' Advisory Council, alternative voluntary advisory groups.

The authority to certify advisory groups was delegated to the Commandant, United States Coast Guard and redelegated to the Chief, Office of Marine Safety, Security and Environmental Protection. The Coast Guard recertified both councils in 1992 as alternative voluntary advisory groups (57 FR 14440, 14442). On June 3, 1993, the Coast Guard recertified the Cook Inlet Regional Citizens' Advisory Council through May 31, 1994; and on June 9, 1993, the Prince William Sound Regional Citizens' Advisory Council was recertified through June 30, 1994.

On December 31, 1992, the Coast Guard published guidelines to assist these advisory groups submitting applications for recertification in accordance with the Act (57 FR 62600). In making its determination as to whether certification of a group is appropriate, the Coast Guard evaluates the information submitted to ensure that the advisory group requesting certification fosters the "general goals and purposes" of the Act. During the recent recertification process, the Coast Guard developed policies regarding its evaluation of the applications and its certification responsibilities under the Act. The Coast Guard followed these general policies during the 1993–94 recertification process. The Coast Guard has determined that publication of these policies, which will be followed in evaluating all future certification applications, will provide advisory groups and the public with a better understanding of the advisory groups' and the Coast Guard's responsibilities under the Act. This policy statement provides the Coast Guard's interpretation of what constitutes the "general goals and purposes" of the Act, and what factors the Coast Guard considers important in deciding whether to certify a group. Although these policies were developed for the recertification of existing groups, they will also apply to any new or successor groups seeking certification, with due consideration of the extent to which the evaluation involves planned activities rather than past actions.

General Goals and Purposes of the Act; Community Interests

In considering the March 24, 1989 grounding and rupture of the oil tanker the EXXON VALDEZ, Congress found that—

(a) Many people believe that complacency on the part of the industry and government personnel responsible for monitoring the operation of the Valdez terminal and vessel traffic in Prince William Sound was one of the contributing factors to the EXXON VALDEZ oil spill;

(b) One way to combat this complacency is to involve local citizens in the process of preparing, adopting, and revising oil spill contingency plans;

(c) A mechanism should be established which fosters the long-term partnership of industry, government, and local communities in overseeing compliance with environmental concerns in the operation of crude oil terminals; and

(d) Only when local citizens are involved in the process will the trust develop that is necessary to change the present system from confrontation to consensus.

To work toward addressing these concerns, Congress established two "Oil Terminal and Oil Tanker Environmental Oversight and Monitoring Demonstration Programs" (programs) to be carried out in the State of Alaska. These programs were designed to test the concept of building a partnership among industry, government and local communities. The Prince William Sound Program is responsible for environmental monitoring of the terminal facilities and the crude oil tankers operating in Prince William Sound. The Cook Inlet Program is responsible for environmental monitoring of the terminal facilities and crude oil tankers operation in Cook Inlet located south of the latitude at Point Possession and north of the latitude at Amatuli Island, including offshore facilities in Cook Inlet. The Act provided for an Oil Terminal Facilities and Oil Tanker Operations Association (Association) and a Regional Citizens' Advisory Council (Council) for each of the Demonstration Programs for the purposes of reviewing policies relating to the operation and maintenance of the oil terminal facilities and crude oil tankers which affect or may affect the environment in the vicinity of their respective terminals.

Each Association shall provide a forum among the owners and operators of the terminal facilities, the owners and operators of crude oil tankers calling at those facilities, the United States, and the State of Alaska, to discuss and to make recommendations concerning all permits, plans, and site-specific regulations governing the activities and actions of the terminal facilities which affect or may affect the environment in the vicinity of the terminal facilities and of crude oil tankers calling at those facilities.

Under the Act the Councils were to be representative of the community. They were to be self-governing, and perform the following duties:

(a) Provide advice and recommendations to the Associations created by the Act on policies, permits, and site-specific regulations relating to the operation and maintenance of terminal facilities and crude oil tankers

which affect or may affect the environment in the vicinity of the terminal facilities.

(b) Monitor the environmental impacts of the operation of the terminal facilities and crude oil tankers.

(c) Monitor those aspects of terminal facilities' and crude oil tankers' operations and maintenance which affect or may affect the environment in the vicinity of the terminal facilities.

(d) Review the adequacy of oil spill prevention and contingency plans for the terminal facilities and crude oil tankers operating in Prince William Sound or Cook Inlet.

(e) Provide advice and recommendations to the Associations on port operations, policies and practices.

(f) Make recommendations to the Associations regarding standards and stipulations for permits and site-specific regulation.

(g) Make recommendations to the Associations regarding modifications of operations, maintenance and oil spill prevention and contingency plans for terminal facilities and crude oil tankers in Prince William Sound and Cook Inlet intended to minimize the risk, mitigate the impact, and enhance the ability to prevent and respond to oil spills in the vicinity of the terminal facilities.

(h) Create committees as necessary to carry out the above functions including a scientific and technical advisory committee.

(i) Conduct scientific research, in conjunction with development and monitoring functions, and review the scientific work undertaken by, or on behalf of, the terminal or crude oil tanker operators, as a result of a legal requirement to undertake that work.

(j) Review the relevant scientific work undertaken by, or on behalf of, any government entity relating to the terminal facilities or crude oil tankers.

(k) Coordinate independent scientific work with the scientific work performed by, or on behalf of, the terminal or crude oil tanker operators to avoid unnecessary duplication.

Congress provided for the establishment of alternative voluntary advisory groups in lieu of the Councils and stated that the requirements of § 2732 (c) through (l) of the Act applying to the demonstration programs are deemed to be satisfied so long as the following conditions are met:

(a) With respect to the Prince William Sound Program, the Alyeska Pipeline Service Company or any of its owner companies enters into a contract for the duration of the operation of the Trans-Alaska Pipeline System with the Alyeska Citizens Advisory Committee in existence on tLe date of enactment of the advisory group, or a successor organization, to fund that Committee or organization on an annual basis in the amount provided for by the Act, and the President annually certifies that the Committee or organization fosters the general goals and purposes of the Act, and is broadly representative of the communities and interests in the vicinity of the terminal facilities and Prince William Sound.

(b) With respect to the Cook Inlet Program, the terminal facilities, offshore facilities, or crude oil tanker owners and operators enter into a contract with a voluntary advisory organization to fund that organization on an annual basis, and the President annually certifies that the organization fosters the general goals and purposes of this section, and is broadly representative of the communities and interests in the vicinity of the terminal facilities and Cook Inlet.

Evaluation of Advisory Groups

The guidelines published December 31, 1992, provided the advisory groups with assistance in determining the type of information to be submitted to the Coast Guard with applications for certification. That information assists the Coast Guard in assessing whether the groups should be certified. This policy statement identifies the factors the Coast Guard will consider in making its determination regarding the certification of the advisory groups.

The Coast Guard intends to use the general criteria in section 2732 (c) through (1) of the Act to evaluate an advisory group's request for certification. Specifically, the following factors will be considered when evaluating the application for certification.

(a) *Membership.* The advisory group should be broadly representative of the interests of the communities in the geographical area. Specific items reviewed will include but are not limited to the following:

(1) Membership policies, including the selection and appointment process for the advisory group, and any of its Committees, to ensure full public participation.

(2) Opportunities provided for interested groups to participate. Membership should represent but not be limited to—

(i) Local commercial fishing industry organizations whose members depend on the fisheries resources of the waters in the vicinity of the terminal facilities;

(ii) Aquaculture associations in the vicinity of the terminal facilities;

(iii) Alaska Native Corporations and other Alaska Native organizations whose members reside in the vicinity of the terminal facilities;

(iv) Environmental organizations whose members reside in or use the vicinity of the terminal facilities;

(v) Recreational organizations whose members reside in or use the vicinity of the terminal facilities; and

(vi) The Alaska State Chamber of Commerce or other organization, representing the locally based tourist industry.

(3) The extent to which meetings are publicized in the media and are accessible to members of the general public.

(b) *Establishing communications with industry and government.* The Coast Guard will consider the means by, and the extent to which, the advisory group maintains open communications with industry and government interests (oil terminal, oil tanker, and State and Federal government representatives). In assessing the group's ability to communicate with these interests, the Coast Guard's review will include but not be limited to the following:

(1) A determination as to whether the group works with industry and government to establish and employ communications protocols for reviewing policies, projects, and release of information relating to the operation and maintenance of the oil terminal facilities and crude oil tankers which affect or may affect the environment in the vicinity of their respective terminals.

(2) A determination as to whether the group participates in discussions with industry and government, concerning permits, plans and site-specific regulations governing the activities and actions of the terminal facilities which affect or may affect the environment in the vicinity of the terminal facilities and of crude oil tankers calling at those facilities.

(3) A determination as to whether the advisory group is working toward developing and fostering a relationship with the Area Committee established under 33 U.S.C. 1321(j) through consultation with, and recommendations to, the Area Committee.

(4) A determination regarding the extent to which the advisory group is working to build cooperation rather than confrontation with industry and government by—

(i) Working with industry and government to develop spill prevention and contingency plans;

(ii) Coordinating study projects, policies and legislative or regulatory recommendations; and

(iii) Keeping industry and government interests informed of its plans, findings, and recommendations.

(c) *Scientific work.* The Coast Guard will review the extent to which the advisory group coordinates its independent scientific work with the scientific work performed by or on behalf of the terminal operators and operators of the crude oil tankers in an effort to avoid unnecessary duplication, and to ensure that research and studies are relevant to issues that impact the environment in the vicinity of the terminal facilities and of crude oil tankers calling at those facilities.

(d) *Monitoring program.* The Coast Guard will review the extent to which the advisory group develops and carries out an effective monitoring program, including—

(1) Reviewing the operation and maintenance of terminals and tankers;

(2) Monitoring cleanup drills and actual spill cleanups;

(3) Reviewing the results of oil spills in its region;

(4) Reviewing government and company reports; and

(5) Conducting or reviewing necessary scientific studies with or by recognized experts in the field under study.

(e) *Efforts to prevent oil spills and to plan for responding to, containing, cleaning up, and mitigating impacts of oil spills.* The Coast Guard will review the extent to which the advisory group—

(1) Periodically reviews the respective oil spill prevention and contingency plans for terminal facilities and for the crude oil tankers while in Prince William Sound or Cook Inlet, the light of new technological developments and changed circumstances;

(2) Monitors periodic drills and testing of the oil spill contingency plans for the terminal facilities and for crude oil tankers while in Prince William Sound and Cook Inlet;

(3) Studies wind and water currents and other environmental factors in the vicinity of the terminal facilities which may affect the ability to prevent, respond to, contain, and clean up an oil spill;

(4) Identifies highly sensitive areas which may require special protection in the event of a spill in Prince William Sound or Cook Inlet;

(5) Monitors developments in oil spill prevention, containment, response, and cleanup technology;

(6) Periodically reviews port organization, operations, incidents and the adequacy and maintenance of vessel traffic service systems designed to assure safe transit of crude oil tankers pertinent to terminal operations; and

(7) Periodically reviews the standards for tankers bound for, loading at, exiting from, or otherwise using the terminal facilities.

(8) Reports findings to local industry, and to responsible State and Federal officials through the Area Committee.

(f) *Funding.* The Coast Guard will determine whether the advisory group has entered into a contract for funding in accordance with the requirements of 33 U.S.C. 2732(o) and will review the advisory group's expenditure of those funds.

Expenditures of funds may be made only on those projects or activities that foster the goals and purposes of the Act. Projects or activities may include those that develop information based on sound scientific and engineering principles that the community can use to improve its ability to prevent or respond to oil spills, or to expand the knowledge base of environmental information related to terminal or tanker operation. The Coast Guard will review the purpose and impact of each project or activity to determine whether—

(1) Expenditures and controls are carried out in a manner consistent with sound business practices; and

(2) Expenditures are reasonably related to the prevention or response to oil spills from tanker or terminal operations, including environmental information, in the advisory group's area of responsibility.

(g) *Accessibility of Application.* The Coast Guard's review will include an examination of the extent to which the advisory group provided notification to the public via local press releases that it has applied for certification and, the extent to which the advisory group has ensured that the application is accessible for public review.

Review and Certification Process

On receipt of an application from an organization requesting certification as an alternative voluntary advisory group, the Coast Guard will solicit written comments from interested groups including oil terminal facility owners and operators, owners and operators of the crude oil tankers calling at the terminal facilities, and citizen groups such as fishing, aquaculture, recreational and environmental groups, and will solicit comments from the general public by publication in the **Federal Register.**

After a 45 day comment period, the Coast Guard will review the application and all comments received within 45 days, and will take one of the following actions:

(a) Certify the advisory group under 33 U.S.C. 2732(o).

(b) Issue a conditional certification for a period of 90 days, with a statement of any discrepancies which must be corrected to qualify for recertification for the remainder of the year.

(c) Deny certification of the advisory group if the Coast Guard finds that the group is not broadly representative of the interests and communities in the area or is not adequately fostering the goals and purposes of the Act.

The Coast Guard will notify an alternative voluntary advisory group, by letter, of the action taken on its application. A notice will be published in the **Federal Register** to advise the public of any certifications granted.

Dated: June 23, 1993.

A.E. Henn,

Rear Admiral, U.S. Coast Guard Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 93–15980 Filed 7–6–93; 8:45 am]

BILLING CODE 4910–14–M

Coast Guard

[CGD 93–033]

Local Notice to Mariners Study

AGENCY: Coast Guard, DOT.

ACTION: Notice of study; request for comments.

SUMMARY: This notice announces a Coast Guard study on issues relating to the Coast Guard's dissemination of marine navigation safety information through the Local Notice to Mariners (LNM) publication.

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

ADDRESSES: Comments may be mailed to Commandant (G–NSR–3) (CGD 93–033), U.S. Coast Guard Headquarters, 2100 Second Street, SW, Washington, DC 20593–0001, or may be delivered to room 1418 at the same address between 8 am to 3 pm, Monday through Friday, except Federal holidays. The telephone number is (202) 267–0358. The comments should be marked "LNM Study." Comments can also be telefaxed to Commandant (G–NSR–3) at (202) 267–4222. Comments received will be available for examination or copying at this address between the hours of 8 am to 3 pm, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Frank Parker (202) 267–0358.

SUPPLEMENTARY INFORMATION: The LNM publication is the Coast Guard's primary means for disseminating information concerning aids to navigation, hazards to navigation, marine construction and dredging projects that may cause an

obstruction to navigation, corrective information for charts and publications, and other items to interest to mariners who use the navigable waters of the United States, its territories, and possessions. Notice of this study is published under the general authority contained in 14 U.S.C. 93.

Background and Purpose

The Department of Transportation's Inspector General (IG) conducted an audit of the LNM publication. The objectives of the audit were to evaluate the distribution frequency of the LNM and the cost effectiveness of producing the LNM. Questionnaires were distributed nationwide to 500 LNM subscribers. The results of the questionnaires showed a majority of the 500 LNM subscribers felt they did not require the LNM on a weekly basis, there were sections of the LNM that were not used, and that they would be willing to pay a fee to receive the LNM.

From the audit, the IG found the Coast Guard published the LNM more frequently than necessary, the LNM contained redundant information from week-to-week, and in the opinion of the subscribers, there are sections of the LNM that are not needed. As a result of the findings, the IG issued the following recommendations to the Commandant, U.S. Coast Guard: Establish a reasonable frequency for disseminating the LNM, identify all program costs, initiate a user fee sufficient to cover the entire cost of the LNM program, and eliminate the redundancy in LNM data.

The Coast Guard recognizes the process used to gather and disseminate navigation safety information has not kept pace with emerging technologies. However, because the IG recommendations required such widespread change, the results require substantial validation. The IG audit only focused on the dissemination of the LNM as a paper (hard copy) publication. To significantly reduce costs, the Coast Guard believes it must study the entire navigation information program, focusing on the costs, and the process of gathering, assembling, and disseminating the information. To further validate the IG's findings, among other things, the Coast Guard is undertaking a study that will closely examine the entire LNM process.

The goals of the study will be aimed toward reducing costs. However, reducing costs requires more than simply reducing the frequency of publishing and eliminating redundancy. While the study is being undertaken with the premise that the Coast Guard must continue to provide timely and accurate marine safety information to reduce the risk of casualty, the study will attempt to determine the information needs of a broad range of mariners and enable the Coast Guard to reduce overall costs of the LNM, while continuing to provide needed safety information.

Each week, the ten Coast Guard District Commanders issue the proper LNM, which includes items of interest within the district boundaries. This form of distribution requires many mariners to receive information for areas they have no interest in, while others must receive LNMs from more than one district to cover their area of interest. The wide proliferation of personal computers with data communications capability provides an opportunity to disseminate information contained in the LNM through non-traditional means such as electronic distribution or user access on demand from a navigation information data base. In addition, the introduction of digital nautical charts necessitates that the Coast Guard be capable of providing navigation information in a standard digital format. Some issues the Coast Guard will examine by means of this request for comments include:

1. The feasibility of creation of a navigation information data base and possible formats in which it should be available;
2. The determination of the information needs of those in the maritime community and how that information is used;
3. The effect of a reduced frequency of issuance on the individual LNM user who responds to this request for comments;
4. The need for redundancy of particular navigation information from week-to-week; and
5. The impact of charging a fee to users for LNM information.

Request for Comments

The Coast Guard encourages comments concerning these five subject areas and other areas concerning the LNM from shipowners, shipping agents, merchant mariners, pilots, commercial fishermen, recreational boaters, and others experienced in using LNM data. Due to the short time available, and the number of issues to be examined, the Coast Guard does not intend to hold public hearings. To ensure full consideration, comments should be submitted by August 16, 1993. Late comments will be considered to the extent possible without delaying the completion of the study. It is anticipated the study will be completed by October 1993. Since the study results may recommend changes to existing laws or regulations, the Coast Guard will publish a notice of completion of its study in the Federal Register.

Dated: June 30, 1993.

W.J. Ecker,

Rear Admiral, U.S. Coast Guard Chief, Office of Navigation Safety and Waterway Service.

[FR Doc. 93–115981 Filed 7–6–93; 8:45 am]

BILLING CODE 4910–14–M

[CGD 93–042]

Testing of American Underpressure Oil Spill Prevention System

AGENCY: Coast Guard, DOT.

ACTION: Notice.

SUMMARY: The Coast Guard seeks comments from the public on the extent, methodology, and cost of conducting a full-scale test of the "American Underpressure System" to reduce oil spills from tankers. The Coast Guard also specifically seeks indications of potential financial support for such a test from the private and public sectors.

DATES: Comments must be received on or before September 7, 1993.

ADDRESSES: Comments may be mailed to Chief, Marine Technical and Hazardous Material Division, Commandant (G–MTH), U.S. Coast Guard, 2100 2nd Street, SW., Washington, DC 20593–0001.

FOR FURTHER INFORMATION CONTACT: Zbigniew J. Karaszewski, Technical Advisor, Marine Technical and Hazardous Material Division (G–MTH), telephone (202) 267–6481, facsimile (202) 267–4816, or at the address listed above.

SUPPLEMENTARY INFORMATION: In House Report 102–639, to accompany the 1993 Department of Transportation Appropriations Bill, later enacted as Public Law 102–388 (Oct. 6, 1992), the Committee on Appropriations recommended that the Coast Guard conduct a full-scale test of the "American Underpressure System" as an alternative to double hull oil tankers. The Committee recommended funding of $250,000, but said that the funds should not be obligated until local, State, private, and other entities contributed at least $500,000 for this test. A later Conference Report on the 1993 Department of Transportation Appropriations Bill, Report 102–94, identified $200,000 for testing of double hull tanker alternatives. The 1993 Department of Transportation Appropriations Act included an appropriation of funds for scientific research, development, testing and evaluation. Although the Act did not specifically identify funds for this project, it provided that the Coast Guard may credit, to the appropriation, funds received from State and local

governments, other public authorities, private sources and foreign governments for research, development, testing and evaluation expenses.

When a tanker is loaded under normal loading conditions, the oil level inside the hull is higher than the surrounding seawater level. This creates a hydrostatic imbalance, with the pressure created by the height of the oil greater than the pressure of the surrounding seawater. If the hull ruptures, the higher pressure inside causes the oil to flow from the tank into the water.

The "American Underpressure System" uses the vacuum principle. The atmospheric pressure inside the tank is reduced below the atmospheric pressure on the surrounding water, counterbalancing the overpressure created by the height of the oil. This principle may be seen by submerging a jar in water, filling it, and turning it upside down. If the jar is partially lifted out of the water, the water stays inside the jar at a higher level than the surrounding water. A simple principle of hydraulics holds the water in the jar due to the differences in pressure on the water inside the jar and atmospheric pressure on the water outside the jar. In theory, the "American Underpressure System" would prevent a complete loss of oil from a damaged tank. However, applying this simple principle to a tank filled with oil onboard ship involves complex technical and structural problems.

The Coast Guard believes that a meaningful test of the "American Underpressure System" should evaluate the effectiveness of the system for various ship configurations. It should include review of detailed installation/assembly drawings, engineering analysis, including both hydrostatic and dynamic considerations, scale model testing, prototype system bench testing, as well as testing and evaluation of a full-scale installation onboard ship. The Coast Guard estimates this testing program will cost between $3 and $4 million over a two or three-year period.

The Coast Guard seeks comments on the testing procedures discussed above, any alternative test methods which could be used, and cost estimates for a testing program. It also seeks indications of potential financial support from interested public and private organizations, and of the amount of support which may be available.

Dated: June 22, 1993.

A.E. Henn,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 93–15983 Filed 7–6–93; 8:45 am]

BILLING CODE 4910–14–M

Maritime Administration

[Docket S–900]

American President Lines, Ltd.; Application for Amendment of Existing Waiver of Section 804(a) of the Merchant Marine Act, 1936, as Amended

American President Lines, Ltd. (APL), by application dated June 22, 1993, requests a change in an existing waiver of the provisions of section 804(a) of the Merchant Marine Act, 1936, as amended (Act), for foreign-flag operations of APL, under Operating-Differential Subsidy Agreement, Contract MA/MSB–417.

APL has authority, under a previous section 804 waiver, to operate one foreign-flag vessel of up to approximately 300 FEU capacity between Singapore and ports in Indonesia. APL requests a change to increase the authorized number of vessels from one to two, each of approximately 300 FEU capacity.

APL's Indonesia feeder 804 waiver authority, which is one of eight service areas in Waiver 6 of Appendix G to the operating subsidy agreement, currently reads as follows:

No. ships	Approx. capacity	Between	Service area
1.	300 FEU	Singapore	Indonesia.
	Port coverage	Singapore	Djakarta, optional Surabaya/ Semarang.

APL also has a section 804 waiver to allow APL to slot charter on foreign-flag vessels of Orient Overseas Container Line Inc. (OOCL) pursuant to the Operator's participation in a reciprocal slot exchange and coordinated sailing agreement, and in a Master Slot Charter Agreement (MSCA), both between APL and OOCL.

Addendum 1 to the MSCA adds two Indonesia feeder loops, each carrier operating one feeder vessel.

APL, in the instant application, is requesting approval of a revised Addendum 1 to the MSCA, providing for three (rather than two) feeder loops with APL providing two (rather than one) Indonesia feeder vessels.

Concomitantly, APL is requesting that Waiver 6 be amended to read:

No. ships	Approx. capacity	Between	Service area
2.	300 FEU each	Singapore	Indonesia.
	Port coverage	Singapore	Djakarta, other ports in Sumatra and Java.

This application may be inspected in the Office of the Secretary, Maritime Administration. Any person, firm, or corporation having any interest in such request within the meaning of section 804 of the Act and desiring to submit comments concerning the application must file written comments in triplicate with the Secretary, Maritime Administration, room 7300, Nassif Building, 400 Seventh Street SW., Washington, DC 20590. Comments must be received no later than 5 p.m. on July 14, 1993. This notice is published as a matter of discretion and publication should in no way be considered a favorable or unfavorable decision on the application, as filed or as may be amended. The Maritime Administrator will consider any comments submitted and take such action with respect thereto as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 20.804 (Operating-Differential Subsidies)).

By Order of the Maritime Administrator.

Dated: June 30, 1993.

James E. Saari,

Secretary, Maritime Administration.

[FR Doc. 93–15913 Filed 7–6–93; 8:45 am]

BILLING CODE 4910–81–M

National Highway Traffic Safety Administration

[Docket No. 93-48; Notice 1]

Cosco, Inc.; Receipt of Petition for Determination of Inconsequential Noncompliance

Cosco, Inc. (Cosco) of Columbus, Indiana, has determined that some of its child safety seats fail to comply with the flammability requirements of 49 CFR 571.213, "Child Restraint Systems," Federal Motor Vehicle Safety Standard (FMVSS) No. 213, and has filed an appropriate report pursuant to 49 CFR part 573. Cosco has also petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) on the basis that the noncompliance is inconsequential as it relates to motor vehicle safety.

This notice of receipt of a petition is published under section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417) and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Paragraph S5.7 of FMVSS No. 213 states that "[e]ach material used in a child restraint system shall conform to the requirements of S4 of FMVSS No. 302 (571.302)." Paragraph S4.3(a) of FMVSS No. 302 states that "[w]hen tested in accordance with S5, material described in S4.1 and S4.2 shall not burn, nor transmit a flame front across its surface, at a rate of more than 4 inches per minute."

During the period of November 1, 1989 to March 31, 1993, Cosco produced 133,897 add-on (as opposed to built-in) child restraint seats, with shoulder harness straps that do not comply with the flammability requirements of FMVSS No. 213. The principal restraining mechanism on the subject seats is a soft-shield harness assembly. The soft-shield harness assembly consists of a buckle, a soft molded urethane shield, and two straps, protruding to the top of the shield, which go over the child's shoulders through slots in the back of the child restraint and attach to a metal bar, which in turn is attached to an adjustment strap. When the seats were tested at Detroit Testing Laboratory and re-tested at U.S. Testing Laboratory by NHTSA (NCI 3269), the harness straps burned at a rate of 4.3 inches per minute, test failures under FMVSS No. 213.

Cosco supports its petition for inconsequential noncompliance with the following (Cosco also submitted photographs of the subject seats, photographs of the tests being conducted on the seats, and test data. These materials are available for review in the NHTSA docket.):

Cosco agrees generally that requiring child restraints to meet the [FMVSS] 302 standard does further the purpose of the standard when considering such child restraining components as vinyl or fabric pads or their foam contents. Cosco also concedes that the applicability of the standard to the harness systems of certain child restraints furthers the purpose of the standard, such as five-point harness system which attached to, or pass through, the seating surface of the child restraint where sources of ignition such as cigarettes or matches could become entrapped.

[Cosco believes t]he purpose of the standard is not, however, furthered in any respect by requiring a recall for the noncompliance with the flammability requirements of FMVSS 302 of the Cosco soft shield harness straps for the following reasons:

1. [Cosco believes i]t is not physically possible for the harness straps of the soft shield to ignite or burn unless the entire child restraint or the automobile seat upon which it is installed is already burning.

The configuration and placement of the straps of the Cosco soft-shield assembly are such that these straps cannot come into contact with an independent source of ignition, such as a cigarette or match, which would result in any burning of the harness strap.

These are the only two possible causes for the ignition of the shoulder straps of Cosco soft-shield child restraints. The first is fire already consuming the child restraint and/or the vehicle seat upon which the child restraining is installed is on fire. It cannot be seriously questioned that, in such an instance, the child would be seriously or fatally burned from these sources of fire as opposed to the shoulder straps of the child restraint contributing in any degree to the child's injury. Cosco retained John E. Pless, M.D., Director of Forensic Pathology, Department of Pathology, Indiana University, School of Medicine, to review this issue. Dr. Pless, one of the leading forensic pathologists in the country and, through his work with Riley Children's Hospital in Indianapolis, one of the most experienced pediatric pathologists, concludes that the webbing of the Cosco soft-shield child restraints would have no practical importance on the effects of such a fire on a child. [Dr. Pless' report and curriculum vitae are in the docket.] Dr. Pless' conclusions are supported by tests performed by Cosco [photographs of the test are in the docket.] The tests establishes that the webbing does not "ignite" as that term is commonly understood. The webbing burns in a fashion that can be more accurately described as smoldering and generally extinguishes itself after a brief period of time. It should be noted that the tests * * * do not reflect any possible ignition of the child restraint harness straps if the child restraint were occupied by a child. [Cosco believes t]here is simply no way for a source of ignition, such as a lighter, to come into contact with the strap * * * when the child restraint is occupied by a child.

The other possible source of ignition of the harness strap would be from a localized heat source, such as a match or cigarette. It is critical in the analysis of whether such a risk exists to examine the configuration and placement of the straps of the Cosco soft-shield child restraints. [T]hese straps only contact the child who is occupying the child restraint at the mid-chest level, or higher on the child's body. The straps are essentially vertical as they leave the shield. Cosco conducted tests attempting to ignite the harness strap with a burning cigarette. [Photographs of this test are in the docket.] Simply stated, a lighted cigarette cannot ignite the harness strap. Cosco conducted these tests under controlled conditions which, frankly, seemed inconceivable to occur in the actual use of child restraints.

For example, in order to come into contact, for any length of time, with the child restraint harness strap, a lighted cigarette would have to be balanced at the point where the strap emerges from the molded shield. This is so unlikely as to be virtually inconceivable. Dr. Pless also commented on this possibility and indicated that such a localized heat source is "not within the realm of practical consideration." Cosco believes that any practical examination of these issues concludes that the risk of the ignition of the harnesses of Cosco soft-shield child restraints could not, under any conceivable set of circumstances, result in injury or death to the occupant of the child restraint. The noncompliance of Cosco soft-shield child restraints is therefore inconsequential as it relates to motor vehicle safety as set forth in FMVSS 302.

2. Cosco has never received a report of the burning of a soft-shield harness strap. Cosco is unaware of any study that indicates that the burning of a child restraint harness has caused any injury or death. All occupant protection studies which Cosco has reviewed

indicate an almost infinitesimal risk of injury or death by vehicle fires in total, at least in collisions. Cosco is unaware of any data on fires of the interior of vehicles unrelated to collisions. [Cosco states that c]hild passenger safety advocates, child restraint manufacturers, and the Agency are aware of the negative impact of recalls resulting from technical noncompliance or defects that do not, as a practical matter, have true safety consequences. The most important negative effects of such recalls are:

1. That the public, because of the number and frequency of such recalls, pays no attention to recalls that actually affect, in a practical way, child passenger safety; and

2. That the public, upon seeing the number of recalls, concludes that child restraints currently available are unsafe and therefore decline to use them. The Agency is aware and, in fact, has publicly advised consumers to use child restraints that have defects or noncompliances that have resulted in recalls until such child restraints can be corrected. [An example of this advisement is contained in the docket.] This is in recognition of the fact that technical noncompliances or relatively insignificant safety defects do not compromise the overall effectiveness of child restraints.

In the event [that] a recall is ordered for the noncompliance at issue, both of the negative effects described above will impact consumers adversely.

Cosco submits any reasonable evaluation of the facts surrounding this technical noncompliance will result in the inescapable conclusion that no practical safety issue exists. It would in fact be difficult to find a noncompliance with FMVSS 213 that is more inconsequential as it relates to motor vehicle safety than this one.

Interested persons are invited to submit written data, views, and arguments on the petition of Cosco, described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, room 5109, 400 Seventh Street, SW., Washington, DC, 20590. It is requested but not required that six copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date, will also be filed and will be considered to the extent possible. When the petition is granted or denied, the notice will be published in the Federal Register pursuant to the authority indicated below.

Comment closing date: August 6, 1993.

(15 U.S.C. 1417; delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on July 1, 1993.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 93–16001 Filed 7–6–93; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–0770
Regulation ID Number: FI–182–78 NPRM
Type of Review: Extension
Title: Transfers of Securities Under Certain Agreements
Description: Section 1058 of the Internal Revenue Code provides tax-free treatment for security lending transactions. A written agreement is necessary to verify the existence of such lending agreement. Lenders of securities are affected.
Respondents: Individuals or households, Businesses or other for-profit, Non-profit institutions
Estimated Number of Respondents: 11,742
Estimated Burden Hours Per Respondent: 5 minutes
Frequency of Response: Annually
Estimated Total Reporting Burden: 9,781 hours

OMB Number: 1545–1045
Form Number: None
Type of Review: Reinstatement
Title: Conducting 1993 Focus Group Interviews on Federal Tax Forms
Description: Focus group interviews are necessary to obtain public input on a revised tax form. The results will be used to further simplify and improve the form so that taxpayers will understand it more easily.
Respondents: Individuals or households
Estimated Number of Respondents: 1,000
Estimated Burden Hours Per Respondent:
Focus Group Screening Time (100 per group)—8 hours, 20 minutes
Focus Group Session Time—3 hours
Frequency of Response: Other (One-time focus group interviews)
Estimated Total Reporting Burden: 384 hours

OMB Number: 1545–1128
Form Number: IRS Form 8814
Type of Review: Extension
Title: Parents' Election to Report Child's Interest and Dividends
Description: Form 8814 is used by parents who elect to report the interest and dividend income of their child under age 14 on their own tax return. If this election is made, the child is not required to file a return.
Respondents: Individuals or households
Estimated Number of Respondents/ Recordkeepers: 1,100,000
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—20 minutes
Learning about the law or the form—8 minutes
Preparing the form—16 minutes
Copying, assembling, and sending the form to the IRS—35 minutes
Frequency of Response: Annually
Estimated Total Reporting/ Recordkeeping Burden: 1,441,000 hours
Clearance Officer: Garrick Shear, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 93–15975 Filed 7–6–93; 8:45 am]

BILLING CODE 4830–01–P

Fiscal Service

Renegotiation Board Interest Rate Prompt Payment Interest Rate Contracts Disputes Act

Although the Renegotiation Board is no longer in existence, other Federal Agencies are required to use interest rates computed under the criteria established by the Renegotiation Act of 1971 (Pub. L. 92–41). For example, the

Contracts Disputes Act of 1978 (Pub. L. 95–563) and the Prompt Payment Act (Pub. L. 97–177) are required to calculate interest due on claims at a rate established by the Secretary of the Treasury pursuant to Public Law 92–41 (85 Stat. 97) for the Renegotiation Board (31 U.S.C. 3902).

Therefore, notice is hereby given that, pursuant to the above mentioned sections, the Secretary of the Treasury has determined that the rate of interest applicable for the purpose of said sections, for the period beginning July 1, 1993 and ending on December 31, 1993, is 5⅝% per centum per annum.

Dated: June 29, 1993.

Gerald Murphy,

Fiscal Assistant Secretary.

[FR Doc. 93–15897 Filed 7–6–93; 8:45 am]

BILLING CODE 4810–35–M

Treasury Advisory Committee on Commercial Operations of the U.S. Customs Service

AGENCY: Department Offices, Treasury.

ACTION: Notice of meeting.

SUMMARY: This notice announces the date of the next meeting and the agenda for consideration by the Treasury Advisory Committee on Commercial Operations of the U.S. Customs Service.

DATES: The next meeting of the Treasury Advisory Committee on Commercial Operations of the U.S. Customs Service will be held on July 22, 1993 at 9:30 a.m. in the Cash Room of the U.S. Treasury Department, 1500 Pennsylvania Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dennis M. O'Connell, Director, Office of Tariff and Trade Affairs, Office of the Assistant Secretary (Enforcement), room 4004, Department of the Treasury, 1500 Pennsylvania Avenue, NW., Washington, DC 20220. Tel.: (202) 622–0220.

SUPPLEMENTARY INFORMATION: The preliminary agenda to be considered at the meeting is as follows:

1. The Customs Modernization Act and Informed Compliance Legislation.
2. Status of the North American Free Trade Agreement.
3. Customs budget, staffing and resources.
4. The Committee recommendations to Secretary of the Treasury Bentsen.
5. Customs work shifts at airports.
6. Enforcement update.
7. Status of line release system.
8. Harbor Maintenance Fee issues.

The agenda may be supplemented or otherwise amended prior to the meeting date.

The meeting is open to the public; however, it is necessary for any person other than an Advisory Committee member who wishes to attend the meeting to give advance notice. In order to be admitted to the meeting, contact Mr. Daniel Reyer or Ms. Theresa Manning at (202) 622–0220 no later than Thursday, July 15, 1993.

Dated: July 1, 1993.

Ronald K. Noble,

Assistant Secretary (Enforcement).

[FR Doc. 93–15960 Filed 7–6–93; 8:45 am]

BILLING CODE 4810–25–M

Customs Service

Eligibility of Certain Jewelry Under General Note 3(a)(iv), Harmonized Tariff Schedule of the United States (HTSUS)

AGENCY: Customs Service, Department of Treasury.

ACTION: Proposed change of practice; solicitation of comments.

SUMMARY: This notice advises the public that Customs proposes to change the practice regarding the eligibility of certain jewelry from the United States Virgin Islands for duty-free treatment. Customs previously has ruled that attaching United States-origin clasps to foreign strung beads, thereby forming necklaces and bracelets, and fastening United States-origin metal spring clips to otherwise finished earrings substantially transforms those articles into "products of" the Virgin Islands. The proposed change set forth herein would not render the addition of fasteners, closures, clasps, etc., to otherwise finished articles of jewelry a substantial transformation of that jewelry into "products of" a United States insular possession.

DATES: Comments must be received on or before September 7, 1993.

ADDRESSES: Written comments (preferably in triplicate) may be addressed to the United States Customs Service, Office of Regulations and Rulings, 1301 Constitution Avenue, NW., Washington, DC 20229. Comments filed may be inspected at the Regulations Branch, Franklin Court, 1099 14th Street, NW., suite 4000, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Rebecca Hollaway, Special Classification Branch, Office of Regulations and Rulings (202) 482–6980.

Background

In Headquarters Ruling Letter (HRL) 094018 dated January 17, 1963, individually strung or linked glass and plastic beads, in varying lengths, were imported into the United States Virgin Islands from several foreign countries. Metal findings consisting of clasps and hooks were imported into the Virgin Islands from the United States. The hooks and clasps were attached to the strung beads, resulting in necklaces and bracelets.

Additionally, glass and plastic beads strung and fastened to metal screens and back findings to form earrings were imported into the United States Virgin Islands from foreign countries. Metal clips were imported from the United States.

Customs held that attaching United States clasps to the foreign strung lengths of beads by inserting hooks into eyes in the metal findings and bending the hooks closed, thereby forming necklaces and bracelets, and fastening United States metal spring clips to foreign earrings substantially transformed those imported articles into "products of" the United States Virgin Islands within the meaning of section 301, Tariff Act of 1930, as amended (19 U.S.C. 1301a) (repealed effective August 31, 1963).

Under the provisions of 19 U.S.C. 1301a, all articles imported from an insular possession of the United States, except Puerto Rico, were dutiable at the same rate as were importations from foreign countries, except that those which (1) were of native growth, or (2) were manufactured or produced in such possession and did not contain foreign materials to the value of more than 50 per centum of their final appraised value in the United States, and came into the United States directly from the insular possession, or (3) were articles previously imported into the United States with payment of all applicable duties and taxes which were shipped from the United States without remission, refund, or drawback of such duties and taxes, directly to the possession from which they were being returned by direct shipment, were entitled to free entry.

General Note 3(a)(iv), Harmonized Tariff Schedule of the United States (HTSUS) (formerly General Headnote 3(a), Tariff Schedules of the United States, which replaced 19 U.S.C. 1301a), provides for the duty-free treatment for goods imported from a United States insular possession if they: (1) Are the growth or "product of" the possession; (2) meet certain value-content requirements; and (3) come directly to the customs territory of the United States from the possession.

To comply with the requirements of General Note 3(a)(iv), an imported

article first must qualify as a "product of" a United States insular possession. *See Yuri-Fashions* v. *United States*, 632 F. Supp. 41, 46 (CIT 1986); T.D. 90–17 dated February 23, 1990. Where merchandise is imported into the insular possession, it must be substantially transformed into a product of that insular possession to receive duty-free treatment under General Note 3(a)(iv), HTSUS.

A substantial transformation occurs when a material is used "in the manufacture of a new article having a new name, character, and use * * *" *See United States* v. *Gibson-Thomsen Co., Inc.*, 27 CCPA 267, 273 (1940).

It is Customs' position that adding a closure, clasp or fastener to otherwise completed articles of jewelry (*i.e.*, bracelet, necklace, earring) does not change the essence of the jewelry which is dedicated to use as such, and has the fundamental character of such jewelry. This position is consistent with Customs' rulings issued under the Generalized System of Preference (GSP) and Country of Origin Marking statutes, 19 U.S.C. 2461–2465 and 19 U.S.C. 1304, respectively, which utilize the substantial transformation test for determining whether an article is the "product of" a country for purposes of those statues. See HRL 556624 dated July 31, 1992 (adding clasps and spring rings to chains is a simple combining operation for which duty free treatment under the GSP is not allowed); HRL 734350 dated April 9, 1992 (soldering a bar-pin clasp to a completed brooch is not a substantial transformation; soldering a metal clip to completed barrettes is not a substantial transformation; gluing of stainless steel posts to completed earrings is not a substantial transformation).

The proposed position with respect to the ineligibility of the described jewelry for duty free treatment under General Note 3(a)(iv), HTSUS, is in conflict with HRL 094018 dated January 17, 1963. Therefore, we propose to change the practice set forth therein to the position advanced above. We note, however, that it is possible that the operations described in HRL 094018, when performed in conjunction with other operations, may result in a substantial transformation of an article into a new and different article of commerce for purposes of General Note 3(a)(iv), HTSUS.

Authority

This notice is published in accordance with section 177.9, Customs Regulations (19 CFR 177.9).

Comments

Before adopting this proposed change in position, consideration will be given to any written comments timely submitted to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), section 1.4, Treasury Department Regulations (31 CFR 103.11(b)), on regular business days between the hours of 9 and 4:30 p.m. at the Regulations Branch, Franklin Court, 1099 14th Street, NW., suite 4000, Washington, DC.

Samuel H. Banks,

Acting Commissioner of Customs.

Approved: June 17, 1993.

Ronald K. Noble,

Assistant Secretary of the Treasury.

[FR Doc. 93–15898 Filed 7–6–93; 8:45 am]

BILLING CODE 4820–02–M

Sunshine Act Meetings

Federal Register
Vol. 58, No. 128
Wednesday, July 7, 1993

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

COPYRIGHT ROYALTY TRIBUNAL

TIME AND DATE: July 16, 1993 at 1:30 p.m.

PLACE: 1825 Conn. Ave., N.W., Suite 918, Washington, D.C. 20009.

STATUS: Closed pursuant to a vote taken June 30, 1993.

MATTERS TO BE CONSIDERED: Formal rule making—admissability of a survey based on Nielsen Company diaries into the record of the 1990 cable royalty distribution proceeding.

CONTACT PERSON FOR MORE INFORMATION: Linda R. Bocchi, General Counsel, Copyright Royalty Tribunal, 1825 Conn. Ave., N.W., Suite 918, Washington, D.C. 20009, (202) 606–4400.

Dated: July 1, 1993.

Cindy Daub,

Chairman.

[FR Doc. 93–16110 Filed 7–2–93; 11:47 am]

BILLING CODE 1410–00–M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 11:00 a.m., Monday, July 12, 1993.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: July 2, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93–16190 Filed 7–2–93; 3:52 pm]

BILLING CODE 6210–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

INSTITUTE OF MUSEUM SERVICES

SUMMARY: This notice sets forth the agenda of a forthcoming meeting of the National Museum Services Board. This notice also describes the functions of the Board. Notice of this meeting is required under the Government through the Sunshine Act (Public Law 94–409) and regulations of the Institute of Museum Services, 45 CFR 1180.84.

TIME/DATE: 9:00 a.m. to 4 p.m.—July 23, 1993.

STATUS: Open.

ADDRESS: Klondike National Historical Park, 117 South Main, Seattle, Washington 98108, 206/553–7220.

FOR FURTHER INFORMATION CONTACT: S. William Laney, Executive Assistant to the National Museum Services Board, Institute of Museum Services, 1100 Pennsylvania Avenue, N.W., Room 510, Washington, D.C. 20506–(202) 606–8536.

SUPPLEMENTARY INFORMATION: The National Museum Services Board is established under the Museum Services Act, Title II of the Arts, Humanities, and Cultural Affairs Act of 1976, Public Law 94–462. The Board has responsibility for the general policies with respect to the powers, duties, and authorities vested in the Institute under the Museum Services Act.

The meeting of Friday, July 23, 1993 will be open to the public.

If you need special accommodations due to a disability, please contact: Institute of Museum Services, 1100 Pennsylvania Avenue, N.W., Washington, D.C. 20506—(202) 606–8536—TDD (202) 606–8636 at least seven (7) days prior to the meeting date.

NATIONAL MUSEUM SERVICES BOARD

July 23, 1993, Meeting Agenda.

I. NMSB Chairman's Report and Approval of Minutes from April 23, 1993 Meeting
II. Agency Director's Report
III. Agency Agenda Reports: Appropriations/ Reauthorization
IV. NMSB Committee Report: Policy Issues Relative to Small, Minority, Ethnic & Rural Museums
V. Agency Agenda Reports: Programs
VI. Agency Agenda Reports: Legislative/ Public Affairs
VII. NNSB Open Agenda

Dated: July 1, 1993.

Linda Bell,

Acting Director, Institute of Museum Services.

[FR Doc. 93–16067 Filed 7–1–93; 5:50 pm]

BILLING CODE 7036–01–M

UNITED STATES POSTAL SERVICE BOARD OF GOVERNORS

The Board of Governors of the United States Postal Service, pursuant to its Bylaws (39 C.F.R. Section 7.5) and the Government in the Sunshine Act (5 U.S.C. Section 552b), hereby gives notice that it intends to hold a meeting at 8:30 a.m. on Tuesday, July 13, 1993, in Washington, D.C. The meeting is open to the public and will be held in the Benjamin Franklin Room at U.S. Postal Service Headquarters, 475 L'Enfant Plaza, S.W. The Board expects to discuss the matters stated in the agenda which is set forth below. Requests for information about the meeting should be addressed to the Secretary of the Board, David F. Harris, at (202) 268–4800.

There will also be a session of the Board on Monday, July 12, 1993, but it will consist entirely of briefings and is not open to the public.

Agenda

Tuesday Session

July 13—8:30 a.m. (Open)

1. Minutes of the Previous Meeting, June 7–8, 1993.
2. Remarks of the Postmaster General and CEO. Marvin Runyon)
3. Consideration of Amendments to the BOG Bylaws. (Governor Sam Winters)
4. Briefing on Diversity Development. (Veronica O. Collazo, Vice President, Diversity Development)
5. Update on the Quality Program. (David H. Charters, Vice President, Quality)
6. Annual Report on Engineering, Research and Development. (William J. Dowling, Vice President, Engineering, Research and Development)
7. Capital Investment. (Stephen E. Miller, Vice President, Operations Support)
   a. Integrated Mail Handling System (IMHS).
8. Tentative Agenda for the August 2–3, 1993, meeting in Washington, D.C.

David F. Harris,

Secretary.

[FR Doc. 93–16087 Filed 7–2–93; 11:45 am]

BILLING CODE 7710–12–M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of July 5, 12, 19, and 26, 1993.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of July 5

Thursday, July 8

2:00 p.m.
Briefing by Nuclear Safety Research Review Committee (NSRRC) (Public Meeting)
(Contact: George Sege, 301–492–3904)
3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of July 12—Tentative

Wednesday, July 14

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of July 19—Tentative

Tuesday, July 20

10:00 a.m.
Briefing on Options for Addressing Shutdown and Low Power Risk Issues (Public Meeting)
(Contact: Ashok Thadani, 301–504–2884)
11:30 a.m.
Affirmation/Discussion and Vote (Public meeting) (if needed)
2:00 p.m.
Briefing on Overview of NRC Research Program (Public Meeting)
(Contact: George Sege, 301–492–3904)

Week of July 26—Tentative

Thursday, July 29

10:00 a.m.
Briefing on Options for Changes to Regulation of Nuclear Medicine (Public Meeting)
(Contact: Darrel Nash, 301–504–3610)
11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed).

Note: Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

To Verify the Status of Meeting Call (Recording)—(301) 504–1292

CONTACT PERSON FOR MORE INFORMATION: William Hill, (301) 504–1661.

Dated: July 1, 1993.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 93–16139 Filed 7–2–93; 1:31 pm]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of July 6, 1993.

A closed meeting will be held on Tuesday, July 6, 1993, at 2:30 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Beese, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Tuesday, July 6, 1993, at 2:30 p.m., will be:

Institution of administrative proceedings of an enforcement nature.
Institution of injunctive actions.
Settlement of administrative proceedings of an enforcement nature.
Opinions.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Stephen Luparello at (202) 272–2100.

Dated: July 1, 1993.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–16109 Filed 7–2–93; 11:46 am]

BILLING CODE 8010–01–M

Corrections

Federal Register
Vol. 58, No. 128
Wednesday, July 7, 1993

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 23-93]

Proposed Foreign-Trade Zone—Holyoke, MA (Springfield Customs Port of Entry); Application and Public Hearing

Correction

In notice document 93–14232 appearing on page 33254 in the issue of Wednesday, June 16, 1993, in the second column, in the first paragraph, beginning in the seventh line, "[60 days from date of publication]." should read "August 16, 1993." and in the last line, "[75 days from date of publication])." should read "August 30, 1993)."

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[FRL-4625-3]
RIN 2060-AC80

Protection of Stratospheric Ozone; Refrigerant Recycling

Correction

In rule document 93–10832 beginning on page 28660 in the issue of Friday, May 14, 1993, make the following corrections:

1. On page 28707, in the third column, in the last paragraph, in the third line, "November 14, 1993" should read "November 14, 1994".

§ 82.154 [Corrected]

2. On page 28714, in the second column, in § 82.154 paragraphs (g) and (h), in the second line, "November 13, 1995" should read "May 15, 1995".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Final Review Criteria for Grants for the Health Administration Traineeships and Special Projects Program for Fiscal Year 1993

Correction

In notice document 93–13736 appearing on page 32711 in the issue of Friday, June 11, 1993, in the third column, the flushed paragraph after paragraph (3), should be removed.

BILLING CODE 1505-01-D

DEPARTMENT OF JUSTICE

28 CFR Part 55

[Attorney General Order No. 1752-93]

Amendment to the Attorney General's Minority Language Guidelines; New Coverage Determinations Under the Voting Rights Language Assistance Act of 1992

Correction

In rule document 93–15462 beginning on page 35371 in the issue of Thursday, July 1, 1993, make the following corrections:

Appendix to Part 55 [Corrected]

1. On page 35375, in the Appendix, under "South Dakota:", in the entry "Mellette County", in the second column, remove "American Indian", and in the third column add "American Indian (Dakota)".

2. On page 35376, in the Appendix, under "Texas", in the entry "Polk County", in the third column, "Spanish heritage" should read "American Indian (and Alabama)".

BILLING CODE 1505-01-D

THE PRESIDENT

3 CFR

Proclamation 6575 of June 25, 1993

Correction

On 58 FR 34858, Annex I to Proclamation 6575 should have read as follows:

Annex I

Modifications to the HTS

The HTS is modified as provided below, with bracketed matter included to assist in the understanding of proclaimed modifications. The following supersedes matter in the HTS. The subheadings and superior text are set forth in columnar format, and material in such columns is inserted in the columns of the HTS designated "Heading/Subheading", "Article Description", "Rates of Duty 1–General", "Rates of Duty 1–Special", and "Rates of Duty 2", respectively.

Effective with respect to articles both: (i) imported on or after January 1, 1976, and (ii) entered, or withdrawn from warehouse for consumption, on or after July 1, 1993.

1. Subheading 4418.20.00 is superseded by:

	[Builders' joinery . . .]				
"4418.20	Doors and their frames and thresholds:				
4418.20.40	French doors	7.5%	Free (A*, CA, E, IL, J)	33½%	
4418.20.80	Other	7.5%	Free (A,CA,E, IL, J)	33½%"	

2. Subheading 8521.10.00 is superseded by:

	[Video recording . . .:]			
"8521.10	Magnetic tape-type:			
	Color, cartridge or cassette type:			
8521.10.30	Not capable of recording	3.9%	Free (A, C, CA, E, IL, J)	35%
8521.10.60	Other	3.9%	Free (A*, C, CA, E, IL, J)	35%
8521.10.90	Other	3.9%	Free (A, C, CA, E, IL, J)	35%"

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Part II

Department of Housing and Urban Development

Office of the Assistant Secretary for Community Planning and Development

24 CFR Subtitle A and Part 572
HOPE for Homeownership of Single Family Homes Program (HOPE 3); Final Rule and Notice of Fund Availability

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

24 CFR Subtitle A and Part 572

[Docket No. R–93–1661; FR–2968–F–05]

RIN 2501–AB09

HOPE for Homeownership of Single Family Homes Program

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Final rule.

SUMMARY: This final rule governs the HOPE for Homeownership of Single Family Homes program (HOPE 3), authorized by title IV, subtitle C, of the National Affordable Housing Act (NAHA). The purpose of the HOPE 3 program is to provide homeownership opportunities for low-income families and individuals. The Department published, for public comment, Guidelines for HOPE 3 on February 4, 1991 and revised Guidelines on January 14, 1992. The preamble to the final rule contains the Department's responses to the public comments, as well as explanations of changes to the program as a result of amendments by the Housing and Community Development Act of 1992 and others initiated by the Department.

EFFECTIVE DATE: August 6, 1993.

FOR FURTHER INFORMATION CONTACT: John Garrity, Office of Affordable Housing Programs, room 7158, 451 Seventh Street SW., Washington, DC 20410; (202) 708–0324. To provide service for persons who are hearing- or speech-impaired, this number may be reached via TDD by dialing the Federal Information Relay Service on 1–800–877–TDDY (8339) or (202) 708–9300. (Telephone numbers, other than the "800" TDD number, are not toll-free.)

SUPPLEMENTARY INFORMATION: The information collection requirements contained in this rule have been approved by the Office of Management and Budget under section 3504(h) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520), and assigned OMB control number 2506–0128.

I. Background

The National Affordable Housing Act (NAHA) authorized three homeownership grant programs for low-income families and individuals under the name Homeownership and Opportunity for People Everywhere (HOPE). HOPE 3 is designed to provide homeownership opportunities for families in certain single family housing. (HOPE 1 and HOPE 2 provide homeownership opportunities in pubic and Indian housing and in certain multifamily housing, respectively.)

HUD published Guidelines for the HOPE 3 program on February 4, 1991 (56 FR 4458) and revised Guidelines on January 14, 1992 (57 FR 1592). A Notice of Fund Availability (NOFA) was published with the revised guidelines. Changes to the Guidelines contained in this final rule are in response to public comments and HUD's experience with the program during the first funding round, as well as amendments to the program by the Housing and Community Development Act of 1992 (1992 Act) (Pub. L. 102–550, approved Oct. 28, 1992). The final rule has also been reorganized.

II. Amendments by 1992 Act

Section 181 of the 1992 Act made several amendments to the HOPE programs. With regard to the HOPE 3 program specifically, the definition of eligible property was expanded to include single family properties owned or held by the Federal Deposit Insurance Corporation (FDIC), Secretary of Defense, Secretary of Transportation, General Services Administration (GSA), and any other Federal agencies. The amendment also excluded from the HOPE 3 definition of eligible property scattered-site, single family public housing. The changes to the definition of eligible property are reflected in the final rule at § 572.5. However, the change with respect to scattered-site, single family public housing is not intended to affect Fiscal Year 1992 implementation grants whose approved applications proposed the use of such housing. Such grantees can continue to use such housing under the terms of their 1992 grant, in accordance with the program Guidelines in effect at the time of approval.

In addition, section 219 of the 1992 Act amended the definition of "first-time homebuyer" contained in section 104 of NAHA, which applies to the HOPE 3 program. The amendment provides that an individual may not be excluded as a first-time buyer on the basis that the individual owns or owned, as a principal residence during the three-year period prior to purchase of a unit under the HOPE 3 program, a dwelling unit that is not permanently affixed to a permanent foundation under local or other applicable regulations, or is not in compliance with State, local, or model building codes and cannot be brought into compliance for less than the cost of constructing a permanent structure. This change is also contained in the final rule's definition of "first-time homebuyer" in § 572.5.

III. Departmental Changes

The maximum cap of $33,500 on per-unit rehabilitation costs paid from grant funds and match funds has been eliminated to provide greater flexibility to implementation grant recipients, especially those operating in high cost areas. However, the overall limitation on the cost of acquisition and rehabilitation, as provided in § 572.100(c) of the final rule, has been retained.

Even though the rehabilitation cost cap has been eliminated, the Department cautions grant recipients when selecting properties to carefully assess rehabilitation costs related to each unit and encourages recipients to make every effort to conserve program funds in order to maximize the number of low-income families served with grant and match resources. The Department also cautions grant recipients from spending excessive funds on rehabilitating properties whose after-rehabilitation value may not capture a reasonable portion of the rehabilitation costs. Finally, the Department reminds recipients of the provision in § 572.100(d) of the final rule that prohibits the use of grant and match funds for luxury items as part of the rehabilitation of the unit.

The selection process in subpart D of the rule has been written to state more clearly the procedures for reviewing applications. In an effort to streamline the review process, the threshold review for implementation grant applications described in the program Guidelines has been eliminated and combined with the "screening process" described in § 572.300(c). In addition, the detailed list of items to include in applications has been removed, and will be provided in the application package. The number of points that may be assigned to each rating factor will be included in the NOFA.

IV. Public Comments

The Department received 22 public comments on the Guidelines published on February 4, 1991, and 4 comments on the revised Guidelines published on January 14, 1992. A discussion of those comments and the Department's responses follows. (Comments on the 1991 Guidelines recommending a change that was subsequently made in the 1992 revised Guidelines have been omitted from the discussion. In addition, comments with regard to scattered-site, single family public

housing have been omitted since those properties are no longer eligible under HOPE 3.)

Relationships to Other Programs

Termination of section 8 or other rental assistance: A commenter stated that section 8 rental assistance should terminate "at the time of" rather than "before" transfer of ownership interest in order to assure the family is not without necessary assistance.

HUD response: The Department agrees with the commenter, and the final rule, at § 572.10, provides that rental assistance to the homebuyer will terminate not later than the date the family acquires an ownership interest in an eligible property or executes a lease-purchase contract.

Variations to FHA single family mortgage insurance programs: A commenter asked for clarification on the relationship of the requirement that a homebuyer not be required to pay more than 30 percent of adjusted income per month for principal, interest, taxes, and insurance to complete a sale, and FHA underwriting rules with regard to income. Specifically, the commenter was concerned about the treatment under HOPE 3 of rental income, stating that FHA allows 93 percent of gross rents to be added to adjusted personal income, with 30 percent of that total to be applied to principal, interest, taxes, and insurance.

HUD response: Section 444 of NAHA requires only that the family not be required to expend more than 30 percent of its adjusted income per month to complete a sale under the program. The Guidelines provided and the final rule (§ 572.120) provides that a homebuyer's income is to be calculated in accordance with 24 CFR part 813, which is the regulation used to calculate income and tenant payments under section 8 programs. (Part 813 is based on section 3(b) of the U.S. Housing Act of 1937.) The Department believes that, in using the 30 percent figures, Congress intended the HOPE programs to calculate income in the same manner used for other HUD assisted housing and public housing programs.

Definitions

Applicant: A commenter objected to the requirement that a public body must apply in cooperation with a private nonprofit organization. The commenter stated that it has operated an urban homesteading program for 10 years without involvement of nonprofit organizations.

HUD response: The definition of applicant is from section 446 of NAHA, which provides that a public body must apply in cooperation with a private nonprofit organization. Although the Department recognizes that many public bodies have experience in homeownership programs, it has no discretion to eliminate this statutory requirement.

Eligible family: A commenter stated that 80 percent of area median income in poor rural areas may be too low for the HOPE program, and suggested making any current resident of public housing eligible, since they were below 80 percent of median upon entering public housing. The commenter argued that even those working and above low-income level still can't afford a mortgage payment, insurance, taxes, and maintenance. Another commenter suggested that the word "first-time" be eliminated from the definition since it is misleading with the broad definition given the term.

HUD response: The definitions of both terms follow the statutory definitions. Section 446(3) of NAHA defines "eligible family" as a family or individual who has an income that does not exceed 80 percent of the median income for the area, with adjustments permitted only on the basis of family size. With regard to the second comment, "first-time homebuyer" is defined in section 104 of NAHA, which is incorporated by reference in section 446(5) of NAHA for HOPE 3. Although the statutory definition includes persons who may have been homeowners in the past, the Department does not believe the term is misleading, since it is defined in the rule with specificity.

Eligible property: One commenter expressed concern about its ability to participate in the HOPE program due to limited availability of eligible properties and the cost limitations. Another commenter questioned how applicants can be assured that foreclosed properties will be available for use in HOPE, since there is such a high demand for those properties in tight markets. The commenter also urged that seller financing from organizations holding the foreclosed properties be available to expedite the transfer for low-income use.

HUD response: As discussed earlier in this preamble, the 1992 Act expanded the definition of eligible property to allow properties owned or held by other Federal agencies not previously eligible. The Department is hopeful that the expanded definition will make more properties available in areas with limited properties. With regard to foreclosed properties, HUD cannot guarantee their availability. However, HUD will provide lists of available HUD-owned properties to grant recipients before the properties are listed for sale to the general public. The Department has negotiated a similar arrangement with the Department of Veterans Affairs.

The rule does not prohibit the use of seller-assisted financing (see § 572.105), but HUD cannot require organizations holding properties to make such financing available to all HOPE 3 homebuyers. In general, it is up to the Federal, State, or local agencies, which are selling properties for use in HOPE 3, to determine if they are authorized and willing to provide seller financing.

Eligible property—two-to-four unit properties: Three commenters strongly encouraged HUD to allow eligible families to buy two-to-four unit houses as "owner-occupants" of one unit and to rent the remaining units. One commenter argued that these are the dominant and most stable and desirable housing in its area, and the rental income allows families who otherwise might not be able to afford the mortgage to quality. This arrangement would also provide affordable rental units in a low density setting for families who are not able or willing to buy. Another commenter pointed out that it is more difficult to obtain mortgage financing for small units, and lenders especially are reluctant on low-income units, so it is even more problematic when it is a small, low-income unit.

HUD response: The general rule is that, in the case of multi-unit properties, only properties that may be divided so that an ownership interest in each unit may be acquired by an eligible family are eligible for the program. However, the final rule has been amended at § 572.115(c) to allow an exception on a program-by-program basis in those rare circumstances where the Department determines that such an exception will serve to further the purposes of the program. Exceptions will be granted to allow the transfer of two-to-four unit properties to an eligible homebuyer and the rental of the remaining units not occupied by the homebuyer under the following conditions: (1) The reasonably projected net rental income is included in the determination of the appraised value of the property at the time of the homebuyer's purchase; (2) the rents charged by the homebuyer will not exceed the Fair Market Rent established by HUD for the area; (3) the recipient will provide the homebuyer with counseling and training in property management and approve the form of lease used by the homebuyer; and (4) the recipient will include the family's potential net rental income in calculating the family's initial

affordability in accordance with § 572.120 of the final rule.

Ownership interest: A commenter recommended that land trusts and split deed arrangements be included as eligible ownership options since Congress intended that innovative alternatives be devised to provide homeownership opportunities while preserving properties as affordable.

HUD response: The definition of "ownership interest" in the final rule (§ 572.5) allows other forms of ownership to be proposed, subject to HUD approval. However, HUD will not approve any form of ownership that substantially limits the ability of homeowners to realize financial appreciation in the value of their homes, as determined by HUD.

Private nonprofit organization: A commenter suggested that housing finance corporations be included in examples of eligible private nonprofits.

HUD response: If a housing finance corporation is the same as a housing finance agency, it would generally be considered a public body or instrumentality of a public body, as defined in the rule, and, therefore, would be an eligible applicant, as well as an eligible source of properties.

Planning Grants

Applications—eligible property and families: A commenter contended that, in requesting information on the composition of tenants, the Guidelines assume all properties will be occupied when in fact vacant or partially vacant buildings are eligible. The commenter stated that the final rule should require information only on occupied units. The same commenter also objected to the requirement that applications for planning grants provide racial and ethnic characteristics of the neighborhood, arguing that this is not only difficult to obtain, but is not essential since the statute does not impose site selection standards or criteria for eligible neighborhoods.

HUD response: With regard to the request for information on the composition of tenants, the commenter has misinterpreted the requirement. The provision has nothing to do with vacant or occupied units, but rather requires the applicant to describe certain characteristics about families living in the general locations where the program will be carried out who are likely to participate, and who may or may not be living in the units that will be selected for the program.

With regard to the comment on the requirement for information on racial and ethnic characteristics of the neighborhood, this is authorized by the statutory provisions referenced in § 572.405(f) of the final rule.

Implementation Grants

Regional fund allocations—rental units occupied by low income persons: With regard to the factors considered in making Regional allocations (in § 572.210(b) of the final rule), two comments were received on the factor that weighs the number of rental units in a Region, as determined by the Bureau of the Census, occupied by persons with incomes at or below the poverty level and the total number of occupied rental units in the Region. One commenter argued that 1980 Census data are outdated and that locally generated data should be considered. The commenter also asked for clarification of how the weighted factors are to be used in determining Regional allocations.

A second commenter stated that the federal poverty level is an inappropriate measure of housing need in non-urban areas where the cost of living is very high and the need for housing is great, and that its use will result in inequitable allocation. The commenter recommended measuring housing occupied by very low-income persons by applying a proportion of the prevailing median income.

HUD response: Generally, allocation formulas recognize that resources are limited and that not all parts of the country have equal need. The formulas seek to target scarce funds where need is greatest to meet the purpose of the program, which is to increase homeownership among low and moderate income persons. The most current available data will be used. For FY 1992, the 1980 Census was the most current available data. The Department expects 1990 Census data to be available for use in the FY 1993 competition.

The three factors in the formula are not weighted; that is, they are all of equal weight. The first factor (§ 572.210(b)(1)) is composed of two parts of equal weight.

With regard to the second comment, the poverty level is not, in and of itself, a factor for allocation. The factor measured is the number of rental units occupied by persons at or below the poverty level. The formula does not discriminate against non-urban, high cost areas. Rather, it targets areas, urban or not, with large numbers of low income renters. The Department is unsure how to apply a proportion of median income to measure housing need. The commenter may have in mind the notion of using the number of low and very low income people in the service area. If so, then it is not feasible to distinguish low and very low income renters from the total low and very low income population. While it might not be burdensome to do Regional allocations using the low and very low income population, it would greatly complicate program administration to try to use this concept in the project scoring because special calculations for each applicant's service area would need to be done manually. Because it is impractical to use it in scoring, then it may be inconsistent to use it in the allocation process.

Regional fund allocations—unsuitable rental units: The second factor is intended to measure the number of rental units in the Region that are unsuitable because they (i) lack or have incomplete plumbing; (ii) are occupied by residents who are paying more than 30 percent of adjusted income toward rent; (iii) are occupied by an average of more than one person in the household per room; or (iv) lack or have incomplete kitchens. A commenter questioned why unsuitable conditions are limited to those listed, since this may result in units that are substandard or in substantial disrepair being considered suitable. The commenter suggested using HUD's definition of substandard in the Federal preference rule (see, *e.g.*, 24 CFR 881.613(f)).

HUD response: The Department believes the commenter may have misunderstood this factor. A unit is identified as substandard if it has any one of the four conditions. This factor has been used in other HUD programs (*e.g.*, Rental Rehabilitation).

Regional fund allocations—single family properties owned by certain Federal agencies: With regard to the third factor—the number of single family properties in the Region owned by HUD, the RTC, or VA, one commenter, a metropolitan city in the Northeast, argued that areas that have historically had few properties owned by HUD, RTC, or VA will not compete well for the allocation, although the city has a substantial inventory of vacant abandoned properties acquired through foreclosure or other acquisitions that are eligible and suitable. Another commenter generally agreed with the first, stating that the factor does not give credit to states whose HFAs have larger inventories than the Federal agencies. Another Northeast city also objected to the formula and suggested including the number of single family properties owned by a state or local government or a PHA/IHA. A fourth commenter opposed this allocation factor, arguing that it is a structural bias that will inevitably result in the majority of funds being diverted to the southern and

southwestern regions of the country where there are large inventories of Federally owned properties.

HUD response: The commenters are generally correct. The formula intentionally favors areas with large numbers of HUD, RTC, and VA properties, as one of the purposes of the program is to utilize available Federally owned single family properties for affordable housing. The Department has added properties owned by the Department of Agriculture in the final rule (§ 582.210(b)(3)). Further, there is no practical way to collect reliable data from all the jurisdictions that might potentially apply and to use it in a formula allocation.

Overall limitations on implementation grants: A commenter recommended that the limitation on total grant amounts that may be awarded in any given year within a particular locality may not exceed 10 percent of the total allocation for that fiscal year. The commenter also argued there should be no limit on the number of awards in a locality or on the amount awarded to individual applicants, and no requirement that individual awards be for programs in different neighborhoods.

HUD response: With regard to the first comment, it is unclear whether the commenter means 10 percent of the Regional allocation or the amount available nationally. However, HUD has removed from the final rule a maximum implementation grant amount for individual grantees, and will publish this amount in the NOFAs for the program each year, since the cap may vary depending on the amount appropriated. The Department disagrees that there should not be a limit on grant amounts for individual grantees, since a limitation ensures as broad a range of participation as possible with limited funds. With regard to the comment about limiting the number of awards in a locality, HUD will approve more than one grant in a locality as long as such awards do not result in substantial competition for available properties (§ 572.210(c)). However, the Department generally believes it would be an inefficient use of Federal dollars to fund several organizations to administer the same program in the same area.

Eligible activities—acquisition of eligible properties: A commenter asked for clarification whether the $33,500 is meant as a grant limit or a cap on the amount of allowable rehabilitation work, stating that $33,500 is insufficient for most of the eligible properties. Several commenters objected to the limit on rehabilitation costs, arguing that the overall limit on the cost of acquisition and rehabilitation significantly reduces the number of eligible properties in high cost areas. One of the commenters also asked whether rehabilitation includes demolition and new construction, which is often needed for property in large depressed areas.

HUD response: The Department agrees that the limit of $33,500 on rehabilitation costs may be unreasonable, and, therefore, has removed this separate rehabilitation limit in the final rule (§ 572.100(c)). The removal of the rehabilitation cap takes into account the relatively high costs for lead-based paint testing and abatement, which is included in the definition of rehabilitation. However, the overall limitation on the cost of acquisition and rehabilitation that may be paid for from grant funds and from matching funds (not in excess of 80 percent of the maximum amount that may be insured under section 203(b) of the National Housing Act) has been retained (§ 572.100(c)). The maximum cap on costs for acquisition and rehabilitation paid for from grant funds or matching contributions has also generally increased as a result of the publication of higher section 203(b) limits for most areas of the country.

There is no statutory basis for undertaking new housing construction in the HOPE 3 program. However, the Department will permit rehabilitation of eligible properties to include reconstruction of a single family unit on an existing foundation. In such instances, partial demolition of an existing structure would be permitted as long as the existing foundation is maintained. Again, the Department cautions grant recipients to carefully select properties requiring rehabilitation and try to conserve program funds in order to maximize the number of families served under the program.

Eligible activities—rehabilitation: Three commenters objected to the provision that HUD may disapprove improvements or amenities it determines are unsuitable, even if paid for with non-program funds.

HUD response: While applicants may use non-program funds for amenities that exceed those improvements that are eligible program costs, there are certain considerations that argue for some oversight of the use of funds. First, the Department has an obligation to assure that the rehabilitation does not include amenities or other features that could negatively affect the long-term affordability of the property. Second, to the extent that an applicant has resources available, those resources should be directed toward eligible grant activities in order to reduce the amount of Federal assistance required. Given the limited amount of assistance available, it is prudent to direct that assistance where it is most needed, rather than funding grant recipients who use significant amounts of their available funds to cover costs of ineligible amenities. The regulations clearly anticipate that HUD will approve reasonable use of non-program funds for this purpose, but include the essential safeguard of providing authority to disapprove expenditures where necessary to avoid program abuses.

Eligible activities—administrative costs: Two commenters stated that while 15 percent for administrative costs would be sufficient to run an existing program, HOPE envisions long term commitments that make it impossible to project what type of future costs will be involved. The commenter believes that the 15 percent allowance is not enough to cover present and future expenses. Another commenter stated that it is reasonable to assume that HOPE 3 will have higher per-unit monitoring costs, and recommended a 20 percent limit.

HUD response: The 15 percent cap on administrative costs is required under section 443(b) of NAHA. However, grant recipients may use up to 15 percent of their sale and resale proceeds for administrative expenses to expand their HOPE 3 program and provide additional homeownership opportunities. (See § 572.135(c).)

Eligible activities—counseling and training: A commenter urged continued funding of HUD's Housing Counseling program to ensure that families succeed in the HOPE 3 program.

HUD response: Funding for HUD's Housing Counseling program is not linked to funding for the HOPE 3 program. However, HOPE 3 recipients may participate in HUD's Housing Counseling program by contacting a HUD-approved Housing Counseling Agency. The Department also notes that counseling is an eligible, and required, activity under the HOPE 3 program.

Eligible activities—replacement reserves: A commenter argued that HUD should have specific limits on the use of replacement reserves for situations where necessary, rather than allowing grantees to determine how reserves will be used. In response to the request in the Guidelines for specific comments on whether a replacement reserve is necessary for HOPE 3, one commenter agreed that they are essential, since low-income families may not be able to afford to set aside funds to replace major systems.

HUD response: The Department agrees that there should be limits on the use of replacement reserves, and believes that they should be used only if necessary to achieve long-term affordability. The final rule, at § 572.125, provides that a replacement reserve fund may only be established to prevent severe financial hardship to families caused by the failure of a major system or component that renders the unit substandard.

Matching requirements—general requirement: Two commenters were concerned that limiting local match to non-Federal sources will eliminate small rural or economically poor PHAs whose need is the greatest. Another commenter objected to the ineligibility of Federal funds as a match, especially Community Development Block Grants (CDBG) funds, stating that this does not follow the original intent of the CDBG program. Two other commenters argued that the match should be lower, because local resources are targeted to the greatest need, which does not include homeownership programs.

HUD response: The 33 percent, non-Federal match requirement is a statutory requirement under section 443(c)(1) of NAHA. Section 443(c)(2) specifically provides that cash contributions may not include funds from a grant under section 106(b) or 106(d) of the Housing and Community Development Act of 1974 (*i.e.*, CDBG funds), except for up to 7 percent for administrative costs funded from CDBG.

Matching requirements—cash contributions: A commenter asked for clarification whether the ineligibility of "Federal tax expenditures" as a cash contribution precludes loans from the sale of mortgage revenue bonds for condos or underlying coop mortgages from the sale of tax-exempt bonds, and if so, the commenter urged reconsideration. In addition, the commenter asked about the status of State housing grant programs funded through direct State expenditures under appropriations, which are later reimbursed by proceeds of tax-exempt bond sales. The commenter also opposed the prohibition against using proceeds of low-income housing tax credits for HOPE projects otherwise eligible for tax credits.

HUD response: The Notice of Program Guidelines allowed and § 572.220(b)(1)(iv)(A) of the final rule continues to allow a portion of the proceeds from tax exempt bonds to count as match. With regard to the use of low income housing tax credits, they are an ineligible match source because HUD considers them a Federal source.

Matching requirements—administrative costs: One commenter stated that, while the 33 percent match is a difficult one for applicants, the 7 percent limit on contribution for administrative costs is even more so, since this eliminates the poorest and neediest from participation. Another commenter believes that if a local government contributes more than 7 percent in administrative fees, the amount above 7 percent should be applied toward the total match.

HUD response: The requirement is statutory under section 443(c)(2) of NAHA, which provides: "Contributions for administrative expenses shall be recognized only up to an amount equal to 7 percent of the total amount of grants made available under this section."

Matching requirements—land or other real property: A commenter asked for clarification whether the costs of moving structures includes such expenses as acquiring vacant property, building new foundations, preparing the house for the move, moving costs, preparing the move route, reconnecting plumbing and utilities at new site, digging holes for new foundations, grading, etc. The commenter also requested clarification of whether these costs are considered acquisition or rehabilitation, for purposes of determining maximum allowable costs.

HUD response: While vacant land may not be purchased with HOPE 3 funds, § 572.220(b)(4)(iii) of the final rule provides the circumstances under which land may be donated for match. The costs for acquiring and moving the structure, preparing the site, hooking up the utilities, and any other related costs are eligible acquisition costs. The rule provides that "[t]he total amount of the contribution and any amount paid from HOPE 3 funds for acquisition of the structure, moving, and rehabilitation costs must be within the limits provided in § 572.100."

Matching requirements—infrastructure: One commenter stated that the rule should require any infrastructure be built with the intent to last 10 years. Another stated that the rule should permit infrastructure improvements completed within a 24-month period before notice of implementation grant award to be considered as a match. The commenter also stated that a more workable standard than the requirement that the improvements be "required" for the program would be that the improvements "contribute" to the program, and that credit should be awarded for a pro rata share of the improvements that do not accrue to any single property, rather than solely for improvements that are directly related to the property. A third commenter stated that the amount to be counted as a match should be the cost of work on the block on which the house sits, arguing that the infrastructure investment on the block has the potential to increase the value of the property and assist in the overall revitalization of the neighborhood.

HUD response: HUD does not believe a rule requiring infrastructure to be built with the intent of lasting 10 years to be either necessary or enforceable. Both the program Guidelines and final rule specifically allow infrastructure improvements completed within 12 months of notification of grant award to be counted. The Department considers the 12-month period before date of notification of implementation grant approval and no more than five years after the date of the grant agreement a reasonable time period, since the infrastructure must be related to and supportive of the homeownership program. Section 443(c)(2)(D) of NAHA identifies infrastructure investments that are required for the homeownership program as eligible matching funds. The Department has interpreted this as permitting those infrastructure investments that can be shown to directly contribute to the homeownership program. The final rule, at § 572.220(b)(5), reflects this change. The final rules provides, as did the Guidelines, that if the investment infrastructure also benefits other properties, only the share of the costs directly benefiting the eligible property may be counted toward the match.

Matching requirements—debt forgiveness: One commenter objected to the ineligibility of forgiveness of the amount of any debt exceeding fair market value of a property. The commenter stated that this restriction will pose a significant problem in cases where the cost of rehabilitating a unit exceeds the post-rehabilitation appraised value of the property.

HUD response: The section on debt forgiveness has been deleted from the final rule. The Department does not believe that credit beyond fair market value is appropriate and may lead to abuse. With regard to the second issue, the property donor should not rehabilitate a property before donating it to the program to prevent that situation from occurring.

Matching requirements—other in-kind contributions: A commenter suggested that the final rule use the same language used in the HOME program in recognizing sweat equity as a match, and apply the same valuation principles.

HUD response: Section 572.220(b)(6) allows donated labor, including sweat equity provided by a homebuyer or homeowner, to count as match as long as it is not also counted toward a family's equity in the property.

Program Requirements

Acquisition and rehabilitation of eligible properties—acquisition: A commenter recommended that applicants be bound to no more than a 5 percent deviation from estimates of the sales prices unless justified.

HUD response: This comment is not practical for the HOPE 3 program, since, at the time of application, an applicant does not know which properties will be used in the program or what the exact acquisition and rehabilitation costs will be.

Acquisition and rehabilitation of eligible properties—housing quality standards: One commenter considers the requirement that units be free of defects that pose a danger before transfer of ownership interest to be too strict. The commenter argues that the repair can be made by the family after purchase but before occupancy, and recommends that the rule require necessary repairs to be completed before occupancy, but not before transfer of ownership. Another commenter believes that HUD should require units to meet minimum housing standards upon transfer and should not expect families to take over substandard property and own it for two years before meeting the minimum standards. A third commenter recommends that recipients be required to establish emergency repair programs to prevent low-income borrowers from losing their homes due to unforeseen events.

HUD response: With regard to the first two comments, the requirement that units be free from defects that pose a danger to health or safety before transfer of an ownership interest and the requirement that a unit meet minimum housing standards not later than two years after transfer are statutory (see section 444(e) (1) and (2) of NAHA). The two-year period was set up to allow for sweat equity or allow the family to rehabilitate the property according to its preferences and specifications. With regard to the comment on emergency repairs, recipients may choose to establish an emergency replacement reserve for repairs of major systems or components that would render a unit substandard if not repaired, but HUD does not see a need to make it a requirement.

Financing the purchase of properties by eligible families: Two commenters stated that assumptions should be allowed. Another suggested that the low-income housing tax credit be allowed, as it may be the final building block on which the program is based. Another commenter stated that, other than prohibiting balloon payment mortgages and allowing sweat equity, the Guidelines do not contain acceptable methods for secondary mortgage financing. The commenter asked for clear guidelines and acceptable options for secondary mortgage financing, since this is particularly important to recipients in high-cost areas.

HUD response: The final rule does not prohibit assumptions by homebuyers when purchasing the unit. However, where the debt assumed is subject to occupancy or resale restrictions that are inconsistent with HUD's policy in § 572.130(e) of the rule, HUD will not approve the assumption. In response to the last comment, the rule does not prohibit recipients from using secondary mortgage financing if it is available (see § 572.105(a)). HUD does not see the need to develop a list of potential financing options for the regulation. However, such options will be provided through training and technical assistance.

Identifying and selecting families—requirement for family to agree to occupy property as principal residence during 15-year period from acquisition of homeownership interest: One commenter stated that the requirement in the application section of the Guidelines did not conform to the section on restrictions on resale. The commenter argued that "change in income and family size" should also be valid reasons for relocating, even if not outside the market area. Another commenter stated that the 15-year term is too restrictive, and would be impractical for grant recipients to administer.

HUD response: It appears that the first commenter is confusing the family's ability to sell the property (which it can do at any time) with the ability to rent it out. If a family's size or income changes, the family can sell the property at any time and purchase another home. With regard to the second comment concerning the restrictiveness of the 15-year term, the term has been changed in the final rule to six years. (See § 572.110(c).)

Identifying and selecting families—requirement to describe composition of residents and potential eligible families: One commenter recommended that applicants should also be required to provide the same information on the composition of residents and potential eligible families for the number of people on the waiting lists for all assisted housing in the jurisdiction.

HUD response: The information would serve no practical purpose. The vast majority of assisted housing projects with waiting lists consist of rental units. The Department assumes that persons on waiting lists for assisted housing may also be included on the recipient's list of potential eligible families as long as they are otherwise qualified.

Affordability standards—initial affordability: Two commenters argued that the rule should allow the flexibility to allow a greater housing expense burden than the 30 percent income ratio. Another commenter argued that barring inclusion of closing costs in the affordability question will create situations where families cannot get past the financial barrier of closing costs, and also recommended including regular maintenance and repairs in the monthly costs estimate.

HUD response: The 30 percent income ratio is required under the HOPE 3 authorizing legislation. The final rule's provisions on initial affordability (§ 572.120(a)) indicate that closing costs may be financed and counted in the PITI calculation, and that other monthly housing costs should also be taken into consideration in determining whether a property is affordable.

Affordability standards—continued affordability: One commenter stated that it is unreasonable to expect recipients to create plans to ensure continuing affordability, arguing that a plan does little to affect divorce and unemployment, which are the main causes of foreclosures. The commenter was also concerned about the recipient's obligation to ensure continued affordability for such a long period of time, and asked that the final rule either establish a methodology to ensure continued affordability or allow recipients the discretion to formulate policies similar to section 8 recertification for monitoring homeowners' PITI payments.

HUD response: The Department agrees, and the final rule, at § 572.120(b), requires recipients to develop a plan demonstrating reasonable efforts to ensure continued affordability.

Restrictions on resale by initial homeowners—general: One commenter expressed concern that HUD's permitting transfer subject only to the right to purchase by certain parties will deter the use of additional resale restrictions in an applicant's program, arguing that the intent of section 445(c) of NAHA is to allow additional

restrictions if an applicant proposes them. Another commenter stated that HUD should encourage applicants to utilize resale restrictions (*e.g.*, ground leases, deed restrictions, restrictions on transfers of coop shares, etc.) on transfer of rental units in addition to those restrictions required by NAHA and the Guidelines.

HUD response: HUD disagrees with the first commenter on its interpretation of this provision. The intent of the HOPE program is to empower low income families and allow them to realize the benefits of homeownership. Resale restrictions, beyond those necessary to recover direct subsidies to the homebuyer, tend to deny homebuyers under HOPE 3 a basic freedom enjoyed by other homeowners—the freedom to sell their properties and recover their equity if they choose to do so. In response to the second comment, HUD believes the existing requirements on resale are restrictive enough, but the final rule, at § 572.130(e), continues to permit applicants to propose additional reasonable restrictions for HUD approval, provided such restrictions do not severely limit the homeowners' ability to realize financial appreciation in the value of their homes and are otherwise reasonable and consistent with the regulations.

Restrictions on resale by initial homeowners—promissory note: A commenter recommended that the rule provide that payments made toward principal will also reduce the amount payable on the promissory note. Another commenter believes the promissory note is too cumbersome and inflexible, and that it is an ineffective mechanism for achieving the goal intended. The commenter recommended that HUD seek statutory relief to provide applicants with flexibility to propose their own resale restrictions, subject to HUD approval. A third commenter believes that when a promissory note is required for subsequent purchasers, the term should be 20 years as required of the first purchaser.

A commenter recommended that if the fair market value (and eventual sales price) of the property drops faster than the reductions in the note, the owner should not be responsible for the difference. Another argued that while a promissory note equal to the difference between the fair market value of the unit and the purchase price may work for units where the post-rehabilitation appraised value is high enough to cover the actual rehabilitation cost, it may not be sufficient for coop or condo units in small properties where the cost of producing the unit will exceed the fair market value of the property. The commenter suggests that the promissory note should cover the amount equal to the difference between the cost of producing the unit and the purchase price.

HUD response: The requirement for a promissory note is statutory under section 445(c) of NAHA, but is only required if the homebuyer's purchase price, as defined in the regulations, is below fair market value or if any other substantial financial assistance in the acquisition of the unit would result in a family receiving an undue profit from sale of their property.

A homeowner will only be responsible for paying back the amount remaining on the promissory note to the extent that proceeds of sale remain after paying off other outstanding debt, other amounts due in connection with the sale (such as closing costs and transfer taxes), and the amount of the owner's equity as computed under § 572.130(c). Deficiency judgments based on the note is not based on the cost of producing the unit because that could result in the family being indebted for an amount greater than the fair market value of the property. In the case where the rehabilitation costs exceed the fair market value, the HOPE 3 grant is designed to cover the additional costs.

Restrictions on resale by initial homeowners—limitation on equity interest: A commenter suggested applying the fair market value to determine appreciation, since the CPI is not tied to housing or location.

HUD response: HUD is attempting to identify a better indicator that is available nationally, as well as at the metropolitan area level.

Restrictions on resale by initial homeowners—use of amounts family may not retain: A commenter recommended that additional costs necessary to administer the HOPE 3 program be an eligible use for recaptured resale proceeds.

HUD response: Recaptured resale proceeds may be used for a number of activities including, but not limited to, providing additional homeownership opportunities and other activities approved by HUD. Section 572.135(c) of the final rule allows the use of up to 15 percent of sale and resale proceeds for administrative costs to carry out the additional homeownership opportunities and other activities approved by HUD.

Nondisplacement: A commenter stated that the Guidelines contain several provisions on displacement and relocation and appear to be inconsistent. The commenter recommended that the final rule provide that no one may be involuntarily displaced due to HOPE.

HUD response: The final rule combines all requirements regarding displacement and relocation into one section at § 572.145, which provides that no person may be displaced from his or her dwelling as a direct result of a homeownership program.

Equal opportunity certifications: A commenter stated that the statement required in the application concerning desegregation orders, agreements, or plans applying to an applicant should also address any orders, consent decrees, agreements, or plans regarding the applicant's compliance with the Fair Housing Act or title VI.

HUD response: The Department interprets this requirement to include the items mentioned by the commenter.

Performance standards: Although not offering any suggestions for performance standards, one commenter responded to the Department's request for comments on what performance standards should be adopted for the program. The commenter encouraged the Department to present the standards, once developed, for public comment rather than simply inserting them in a final rule.

HUD response: The Department believes that the law and regulations contain sufficient performance standards for recipients at this time. However, if the Department decides to establish additional performance standards in the future, it intends to publish a proposed rule for public comment.

Selection Process

Threshold review—implementation grant applications: feasibility of the homeownership program: With regard to the requirement that the proposed program not result in appreciably reducing the number of affordable rental housing units of the type to be assisted that would be available to residents currently residing in the types of properties proposed for use under the program or to families who would be eligible to reside in the properties, one commenter stated that the term "appreciably" is so vague as to be meaningless. The commenter believes there should be no loss of affordable rental units if the State's CHAS coordinates appropriate addition of such units as replacement units. The commenter argued that NAHA contemplates improving the affordable housing situation. Another commenter also expressed concern about the potential loss of existing affordable rental housing stock and would like a clear definition of the terms "locality"

and "market area," arguing that depending on the meaning given, the loss could be greater. A third commenter suggested that applicants should be required to describe their housing markets; the number of standard rental units, rent levels, and the number of affordable to a range of persons eligible for public housing.

HUD response: The term "appreciably" is statutory language. HUD defines the term "appreciably" as no more than 10 percent of the affordable single family rental housing units in the market area being converted to homeownership as a result of application approval (§ 572.100(a)(2)). Typically, properties used in HOPE 3 are not rental properties, so their use in HOPE 3 should have little, if any, impact on rental housing availability. With regard to the third comment, most of this information is required in the CHAS.

Correcting deficiencies in applications: In response to HUD's request for comments on the policy of allowing applicants time to correct any deficiencies in original applications, one commenter responded, and agrees with the policy.

HUD response: The policy of allowing applicants time to correct any technical deficiencies in applications has been retained. Under the final rule, application changes will be permitted only if the application is not fundamentally incomplete, does not require substantial revision as originally received, or does not require revision that would affect the rating of the application. (See § 572.300(c).)

Rating criteria for implementation grants: One commenter recommended that the suitability of a property for homeownership be included as a rating criterion under HOPE 3, as it is in the HOPE 1 and HOPE 2 programs.

HUD response: The Department disagrees with the comment. The "suitability of property for homeownership" is not an appropriate rating criterion for HOPE 3 since it is infeasible for applicants to identify the specific properties they will use in their program at the time of application, as they can in HOPE 1 and 2. Such a requirement would not be feasible, due to the often rapid turnover of properties in government-held inventories.

Rating criteria for implementation grants—local support: A commenter suggested that other organizations, such as homeless coalitions, be notified of all options for the property and provided an opportunity to comment to HUD on the application. The commenter believes that priority should be given to applicants who will serve the poorest households.

HUD response: There is no requirement for site control in HOPE 3, nor does the applicant need to identify which properties it will be purchasing at the time of application. Existing Department procedures for notifying homeless providers of the availability of properties are not changed.

Rating criteria for implementation grants—quality: One commenter believes that under long term affordability, HUD should consider the nature of any resale restrictions proposed by the applicant in addition to those required under the rule.

HUD response: HUD does not interpret continued affordability to apply to keeping the property in the affordable housing stock once it has been sold by the initial homebuyer. However, the final rule has been revised to delete continued affordability as a specific rating criterion, although the applicant's plan for continued affordability will be considered, among other things, under the "Quality for Program Design" criterion.

Rating criteria for implementation grants—fair housing choice: A commenter believes the number of points under this criterion should be 10 or, alternatively, applications that do not propose an increase in housing choice should have up to five points subtracted.

HUD response: The final rule does not contain the number of points that will be assigned each criterion. This information will be contained in the NOFA for each funding round.

Notification of approval for implementation grant: A commenter recommended that the waiting period should be no longer than 45–60 days, arguing that a six-month period is too long to tie up resources and will drive up costs on vacant properties due to rapid deterioration normally seen in these properties.

HUD response: HUD is streamlining the review and rating process to shorten it, but anticipates that the process will still require several months to complete. Section 443(f) of NAHA allows for up to a 180-day period. Since there are no site control requirements for HOPE 3, the applicant will most likely select properties that become available after application approval.

Miscellaneous

Lead-based paint testing and abatement: One commenter related experience with the lead-based paint requirements gained from an FHA single family property disposition demonstration, which had as its goal homeownership for low- and moderate-income buyers. The commenter stated that the 10 percent discount on properties was undone by the cost of compliance ($8,000–$15,000 per unit), and recommended additional discounts equal to the estimated cost to comply.

HUD response: HUD plans to allow a discount of up to 15 percent from the listed sales price on the purchase of five or more properties at a time.

The Department will soon be publishing a rule amending its Single Family Property Disposition rule at 24 CFR part 291 to reflect this policy. Furthermore, if a property is listed on the market and open for bids, the grant recipient may submit a bid on the property at any price it believes is reasonable.

Recordkeeping: A commenter urged that the data collections requirements be revised to include ages and disability status of family members in order to track the different experiences of older, disabled, and younger families. Records should be submitted by sponsors for nonapplicants as well as applicants for homeownership in order to serve those who opt not to purchase their units. The commenter also recommended that the same information on family characteristics be kept for applicants for relocation assistance, and that the success rates of those seeking relocation be documented.

HUD response: The Department believes that the recordkeeping requirements are adequate concerning family characteristics, and does not believe that further regulatory requirements should be imposed. With regard to the second comment, the Department does not understand how recipients could gather information on "nonapplicants." The rule does require recipients to maintain certain records on families who apply for homeownership whether they are selected or rejected (§ 572.425(b)). Concerning the last comment, recipients will need to keep records on relocation assistance to document compliance with the requirement in § 572.145(a).

Abuse or fraud: One commenter expressed concern that the Guidelines did not address the possibility of program abuse or fraud, and recommended that the final rule provide for consequences in instances of family fraud, such as not reporting income or other relevant data used to determine PITI.

HUD response: New language has been included in § 572.225(b) to address program abuse generally, insofar as grant recipients are concerned. Concerning possible homebuyer income reporting fraud, § 572.110(d) of the final

rule requires prospective homebuyers to comply with the procedures for reporting their Social Security numbers and consenting to the disclosure and use of State wage and claim information in 24 CFR parts 750 and 760, which implement 42 U.S.C. 3543 and 3544, respectively. Recipients are expected to use this information to verify homebuyers' incomes and other relevant financial information for purposes of determining homeownership eligibility.

Elderly residents: A commenter questioned the attractiveness and workability of the HOPE programs for very low-income elderly people who make up a substantial portion of the residents of public housing and multifamily housing programs assisted by HUD. The commenter is especially concerned that despite protecting tenants' rights to stay and providing relocation assistance to those who choose to move, older tenants may have their homes jeopardized at a time when both ownership and moving are out of the question.

Hud response: HUD believes the statute and regulations adequately address this issue. If a unit is occupied and the existing tenant does not want to purchase the unit or is not willing to relocate, the unit is not eligible under HOPE 3.

Opportunity to cure financial default: A commenter recommended that the final rule require lenders participating in the program to provide reasonable opportunity to cure a financial default before foreclosing on the property (i.e., temporary relief from payment, reduced payments, restructuring the mortgage).

HUD response: The Department does not believe it is appropriate to place requirements on lenders that may discourage them from participating in the program.

V. Other Matters

Paperwork Reduction Act

The information collection requirements contained in this rule have been approved by the Office of Management and Budget under section 3504(h) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3051–3520), and assigned OMB control number 2506–0128.

Impact on the Economy

The Department received no comments on its previous finding that the Guidelines did not constitute a "major rule" as that term is defined in section 1(b) of the Executive Order on Federal Regulations issued by the President on February 17, 1981 and, therefore, finds no need to update that finding. An analysis of this final rule indicates that it also will not have (a) an annual effect on the economy of $100 million or more; or (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

Impact on the Environment

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development, room 10276, 451 Seventh Street SW., Washington, DC 20410.

Impact on the Family

The General Counsel, as the designated official under Executive Order 12606, The Family, has determined that this final rule does not have a potential significant impact on the formation, maintenance, and general well-being of the family. Achievement of homeownership by low-income families in the program can be expected to support family values, by helping families achieve security and independence; by enabling them to live in decent, safe, and sanitary housing; and by giving them the skills and means to live independently in mainstream American society.

Federalism Impact

The General Counsel has also determined, as the Designated Official for HUD under section 6(a) of Executive Order 12612, Federalism, that this rule is closely based on statutory requirements and imposes no significant additional burdens on States or other public bodies. The rule does not affect the relationship between the Federal government and the States and other public bodies or the distribution of power and responsibilities among various levels of government. Therefore, the policy is not subject to review under Executive Order 12612.

Impact on Small Entities

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this rule before publication and by approving it certifies that this rule will not have a significant economic impact on a substantial number of small entities. The rule governs the procedures under which HUD will make assistance available to applicants under a program designed to provide homeownership opportunities to low-income families and individuals.

Semiannual Agenda

This rule was listed as item number 1398 in the Department's Semiannual Agenda of Regulations published at 58 FR 24382, 24400 on April 26, 1993 under Executive Order 12291 and the Regulatory Flexibility Act.

Catalog of Federal Domestic Assistance

(The Catalog of Federal Domestic Assistance program number is 14.240.)

List of Subjects in 24 CFR Part 572

Condominiums, Cooperatives, Fair housing, Government property, Grant programs—housing and community development, Low and moderate income housing, Nonprofit organizations, Reporting and recordkeeping requirements.

In accordance with the reasons as stated in the preamble and under the authority of 42 U.S.C. 3535(d), title 24 of the Code of Federal Regulations is amended as follows:

Appendix C to Subtitle A [Reserved]

1. Subtitle A is amended by removing and reserving Appendix C to subtitle A.

2. Chapter V is amended by adding part 572, to read as follows:

PART 572—HOPE FOR HOMEOWNERSHIP OF SINGLE FAMILY HOMES PROGRAM (HOPE 3)

Subpart A—General

Sec.

572.1 Overview of HOPE 3.
572.5 Definitions.
572.10 Section 8 assistance.
572.15 Waivers.

Subpart B—Homeownership Program Requirements—Implementation Grants

572.100 Acquisition and rehabilitation of eligible properties; rehabilitation standards.
572.105 Financing the purchase of properties by eligible families.
572.110 Identifying and selecting eligible families for homeownership.
572.115 Transfer of homeownership interests.
572.120 Affordability standards.
572.125 Replacement reserves.
572.130 Restrictions on resale by initial homeowners.
572.135 Use of proceeds from sales to eligible families, resale proceeds, and program income.
572.140 Third party rights.
572.145 Displacement prohibited; protection of nonpurchasing residents.

Subpart C—Grants

572.200 Planning grants.
572.205 Planning grants—eligible activities.

572.210 Implementation grants.
572.215 Implementation grants—eligible activities.
572.220 Implementation grants—matching requirements.
572.225 Grant agreements; corrective and remedial actions.
572.230 Cash and Management Information System.
572.235 Amendments.

Subpart D—Selection Process

572.300 Notice of fund availability; planning and implementation grant applications.
572.305 Selection process for planning grants.
572.310 Selection process for implementation grants.
572.315 Rating criteria for planning grants.
572.320 Rating criteria for implementation grants.

Subpart E—Other Federal Requirements

572.400 Comprehensive Housing Affordability Strategy (CHAS).
572.405 Nondiscrimination and equal opportunity requirements.
572.410 Environmental procedures and standards.
572.415 Conflict of interest.
572.420 Miscellaneous requirements.
572.425 Recordkeeping and reports; audit of recipients.

Authority: 42 U.S.C. 3535(d) and 12891.

Subpart A—General

§572.1. Overview of HOPE 3.

(a) *Purpose.* The purpose of the HOPE for Homeownership of Single Family Homes program (HOPE 3) is to provide homeownership opportunities for eligible families to purchase Federal, State, and local government-owned single family properties. HOPE 3 provides grants to eligible applicants to plan and implement homeownership programs designed to meet the needs of low-income first-time homebuyers.

(b) *Scope.* HUD will make planning grants for the purpose of developing the capacity of recipients and assisting them in the preparation of implementation grant applications. HUD will make implementation grants for the purpose of acquiring eligible property, rehabilitating the properties, providing financial assistance to homebuyers to purchase properties, providing homeownership counseling, and other eligible program costs. Recipients of implementation grants must provide matching funds in accordance with §572.220.

§572.5 Definitions.

As used in this part:

Administrative costs means reasonable and necessary costs, as described and valued in accordance with OMB Circular Nos. A–87 or A–122[1] as applicable, incurred by a recipient in carrying out a homeownership program under this part. For purposes of complying with the 15 percent limitation in §572.215(o), administrative costs do not include the costs of activities that are separately eligible under §572.215.

Applicant means a private nonprofit organization; a cooperative association; or a public body in cooperation with a private nonprofit organization that applies for a HOPE 3 grant under this part. A cooperative association is an eligible applicant only for eligible property it proposes to acquire and transfer ownership interests to eligible families under a homeownership program.

Comprehensive Housing Affordability Strategy (CHAS) means the housing strategy prepared by a jurisdiction and approved by HUD in accordance with 24 CFR part 91.

Cooperating entity means a private nonprofit organization or public body that the lead applicant has designed in its application to carry out certain functions in the HOPE 3 program. The responsibilities of a cooperating entity must be specified in a memorandum of agreement signed by the lead applicant and the cooperating entity.

Cooperative association means an association organized and existing under applicable State, local, territorial, or tribal law primarily for the purpose of acquiring, owning, and operating housing for its members or shareholders, as applicable.

Displaced homemaker means an individual who—

(1) Is an adult;

(2) Has not worked full-time full-year in the labor force for a number of years (at least two) but has, during such years, worked primarily without remuneration to care for the home and family; and

(3) Is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

Eligible family means a low-income family who is a first-time homebuyer.

Eligible property means a single residential property, containing no more than four units, that is owned or held by HUD, the Secretary of Veterans Affairs, the Secretary of Agriculture, the Secretary of Defense, the Secretary of Transportation, the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, the General Services Administration, or any other Federal agency; a State or local government (including any in rem property); or a PHA/IHA (excluding public or Indian housing under the 1937 Act). This definition includes individual condominium units located in multifamily structures owned or held by an eligible source and properties held by institutions within the jurisdiction of the Resolution Trust Corporation. All cooperative units acquired under HOPE 3 must be located in properties containing no more than four units to qualify as eligible property under this part. In the case of two- to four-unit property, only property that may be divided so each unit may be acquired by an eligible family is eligible, except as provided in §572.115(c). For purposes of this definition, the term State or local government means any entity included in the first sentence of the definition of public body.

First-time homebuyer means an individual and his or her spouse (if any) who have not owned a home during the three-year period before purchase of a home with assistance under this part, except that:

(1) Any individual who is a displaced homemaker may not be excluded from consideration on the basis that the individual, while a homemaker, owned a home with his or her spouse or resided in a home owned by the spouse;

(2) Any individual who is a single parent may not be excluded from consideration as a first-time homebuyer on the basis that the individual, while married, owned a home with his or her spouse or resided in a home owned by the spouse; and

(3) An individual may not be excluded from consideration as a first-time homebuyer under this part on the basis that the individual owns or owned, as a principal residence during such three-year period, a dwelling unit whose structure is:

(i) Not permanently affixed to a permanent foundation in accordance with local or other applicable regulations; or

(ii) Not in compliance with State, local, or model building codes, or other applicable codes, and cannot be brought into compliance with such codes for less than the cost of constructing a permanent structure.

Homeownership program means a program for homeownership meeting the requirements under this part. The program must provide for acquisition by eligible families of ownership interests in the units in an eligible property under an ownership arrangement approved by HUD under this part. All eligible properties assisted under the program must be initially acquired by eligible families.

[1] See §572.420(a) concerning the availability of OMB Circulars.

HUD means the United States Department of Housing and Urban Development.

IHA means an Indian Housing Authority, which means any entity that—

(1) Is authorized to engage in or assist in the development or operation of low-income housing for Indians under the 1937 Act; and

(2) Is established by exercise of the power of self-government of an Indian tribe independent of State law; or by operation of State law providing specifically for housing authorities for Indians, including regional housing authorities in Alaska.

Lead applicant means an eligible applicant designated in a HOPE 3 application to assume legal responsibility as the recipient and execute the grant agreement.

Lease-purchase means

(1) An agreement, enforceable under State (or territorial) and local law, between the recipient or its designee and an eligible family under which the family:

(i) Obtains the right to occupy a unit in an eligible property, subject to the payment of rent and other reasonable lease conditions, for a period of not more than two years, except as provided in § 572.115(a)(2); and

(ii) At the end of such two years has the right to purchase the unit under the terms stated in the lease-purchase agreement, including the completion of any additional rehabilitation required during the lease-purchase period.

(2) A lease-purchase agreement qualifies as a transfer of the unit to the eligible family for purposes of the deadline for transfer in § 572.115(a), but it is not otherwise an "ownership interest" under this part. The interest that the family acquires at the end of the two-year lease-purchase period must be an ownership interest under this part, and the terms and conditions of the purchase of such interest must meet the affordability requirements of this part.

Low-income family means a family or individual qualifying as a low-income family under 24 CFR part 813 (where the recipient is not a PHA/IHA), part 913 (where the recipient is a PHA), or part 905 (where the recipient is an Indian tribe or IHA). A low-income family is generally defined as a family whose annual income does not exceed 80 percent of median income for the area, as determined by HUD with adjustment for family size. HUD may establish income limits higher or lower than 80 percent of median income for the area on the basis of its finding that such variations are necessary because of prevailing construction costs or unusually high or low family incomes.

NAHA means the Cranston-Gonzalez National Affordable Housing Act, Public Law 101–625, 104 stat. 4079, as amended.

1937 Act means the United States Housing Act of 1937.

NOFA means Notice of Fund Availability.

Ownership interest means ownership by an eligible family by fee simple title to a unit in an eligible property (including a condominium unit), ownership of shares of or membership in a cooperative, or another form of ownership proposed and justified by the applicant and approved by HUD pursuant to § 572.115(b).

PHA means a public housing agency, which means any State, county, municipality, or other governmental entity or public body (or agency or instrumentality thereof) authorized to engage in or assist in the development or operation of low-income housing under the 1937 Act.

Private nonprofit organization means any nonprofit organization that

(1) Is organized and exists under applicable Federal, State, territorial, local, or tribal law;

(2) Has no part of its net earnings inuring to the benefit of any individual, corporation, or other entity;

(3) Has a voluntary board;

(4) Has an accounting system or has designated a fiscal agent in accordance with requirements established by HUD;

(5) Practices nondiscrimination in the provision of assistance;

(6) Is a tax exempt entity under Section 501(c) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)), or for a private nonprofit organization in the Commonwealth of Puerto Rico, is a tax-exempt entity under Puerto Rico law;

(7) Is privately controlled and has a governing body that is controlled 51 percent or more by private individuals acting in a private capacity. An individual is considered to be acting in a private capacity if the individual is not an employee of a public body, is not appointed by or acting as the representative of a public body (including the applicant or recipient), and is not being paid by a public body (including the applicant or recipient) while performing functions in connection with the nonprofit organization.

Program income means income earned from the program as described in 24 CFR 85.25. Notwithstanding anything to the contrary in 24 CFR 85.25, program income in HOPE 3 does not include proceeds from the sale and resale of properties. Such sale and resale proceeds, and interest earned thereon by the recipient or its designee are governed by § 572.135(a)-(c).

Public body means any State of the United States; any city, county, town, township, parish, village, or other general purpose political subdivision of a State; the Commonwealth of Puerto Rico, the District of Columbia, Guam, the Northern Mariana Islands, the Virgin Islands, American Samoa, or a general purpose political subdivision thereof; any Indian tribe, as defined in title I of the Housing and Community Development Act of 1974; any public agency or instrumentality of any of the foregoing jurisdictions that is created by or pursuant to State, territorial, local, or tribal law, including a State or local Housing Finance Agency; and any PHA or IHA. For purposes of this definition, an organization that meets the requirements of paragraphs (1) and (2) of the definition of private nonprofit organization, but is controlled 51 percent or more by public officials acting in their official capacities, may qualify as a public body.

Recipient means the lead applicant that is approved by HUD to receive a HOPE 3 grant and is legally responsible for the grant.

Single parent means an individual who—

(1) Is unmarried or legally separated from a spouse; and

(2) Has one or more minor children for whom the individual has custody or joint custody; or is pregnant.

§ 572.10 Section 8 assistance.

Assistance under section 8 of the 1937 Act and other rental assistance to the homebuyer will be terminated not later than the date an eligible family acquires an ownership interest in an eligible property or executes a lease-purchase agreement for the property.

§ 572.15 Waivers.

Upon determination of good cause, the Assistant Secretary for Community Planning and Development may waive any provision of this part, not otherwise required by law, except that the provisions that establish deadlines for receipt of any applications or modifications to applications and the cap on planning grants as specified in the NOFA may not be waived. Each such waiver must be in writing and must be supported by documentation of the pertinent facts and grounds. HUD periodically will publish notice of granted waivers in the **Federal Register**.

Subpart B—Homeownership Program Requirements—Implementation Grants

§ 572.100 Acquisition and rehabilitation of eligible property; rehabilitation standards.

(a) *Minimum number of properties.* (1) Each homeownership program must involve acquisition of at least ten units in eligible properties by eligible families.

(2) A homeownership program may not result in appreciably reducing in the locality the number of affordable rental housing units of the type to be assisted that would be available to residents currently residing in the types of properties proposed for use under the program or to families who would be eligible to reside in the properties. HUD will determine whether the application complies with this criterion if it determines that no more than 10 percent of the affordable single-family (one to four units) rental housing units in the market area would be converted to homeownership as a result of approval of the application.

(b) *Maximum acquisition costs.* The cost of acquiring an eligible property (by a recipient or other entity for transfer to eligible families or by an eligible family from a recipient or directly from an eligible source) may not exceed the as-is fair market value of the property, plus reasonable and customary closing costs charged for comparable transactions in the market area. The as-is fair market value of a property must be determined in accordance with a recent appraisal conducted under procedures consistent with appraisal standards published by The Appraisal Foundation in the current edition of "Uniform Standards of Professional Appraisal Practice."

(c) *Maximum cost of acquisition and rehabilitation.* The cost of acquisition and rehabilitation paid for from grant funds or credited as match may not exceed 80 percent of the maximum amount that may be insured in the area under section 203(b) of the National Housing Act, plus reasonable and customary closing costs charged for comparable transactions in the market area.

(d) *Rehabilitation standards.* (1) The recipient is responsible to assure that rehabilitation of eligible property meets local codes applicable to rehabilitation work in the jurisdiction (but not less than the housing quality standards established under the Section 8 Certificate Program, described in 24 CFR 882.109). Rehabilitation must also include work necessary to meet applicable Federal requirements, including applicable lead-based paint testing and abatement requirements, described in § 572.420(h), and accessibility requirements for persons with disabilities, described in § 572.405(b). Rehabilitation may include energy conservation-related repairs and improvements and the repair or replacement of major systems in danger of failure.

(2) The property must be rehabilitated to a level that makes it marketable for homeownership in the market area to families with incomes at or below 80 percent of the median for the area. Luxury items (fixtures, equipment, and landscaping of a type or quality that substantially exceeds that customarily used in the locality for properties of the same general type as that being rehabilitated) are not eligible expenses. HUD reserves the right to disapprove improvements or amenities to be paid for from nonprogram funds that it determines are unsuitable for the HOPE 3 program.

(3) Rehabilitation costs must comply with the cost standards established by HUD (see paragraph (c) of this section for applicable cost limitations covering both acquisition and rehabilitation). If improvements are made to an eligible property beyond those that qualify as eligible costs, the applicant must assure that the entire cost of the excess improvements will be covered by funds other than the HOPE 3 grant and any amounts contributed toward the match, and that the affordability of the property will not be impaired.

(4) Higher standards may be proposed by the applicant or required by lenders.

(5) The applicant must adopt written rehabilitation standards.

(e) *Rehabilitation and transfer of units.* (1) The unit must be free from any defects that pose a danger to life, health, or safety before transfer of an ownership interest in the unit to the family or occupancy of a unit by an eligible family under a lease-purchase agreement. The recipient must inspect, or ensure inspection of, each unit to determine that it does not pose an imminent threat to the life, health, or safety of residents and that the property has passed recent fire and other applicable safety inspections conducted by appropriate local officials.

(2) The unit must, not later than 2 years after transfer of an ownership interest in the unit to an eligible family, or execution of a lease-purchase agreement for the unit, meet minimum rehabilitation standards under paragraph (d)(1) of this section. The recipient must inspect, or ensure inspection of, each unit to determine that it meets the rehabilitation standards required under paragraph (d)(1) of this section.

§ 572.105 Financing the purchase of properties by eligible families.

(a) *Types of financing.* (1) Financing may include use of the implementation grant to permit transfer of an ownership interest in a unit to an eligible family for less than fair market value or with assisted financing; or other sources of financing (subject to requirements that apply to those sources), including, but not limited to, conventional mortgage loans, mortgage loans insured under title II of the National Housing Act, and mortgage loans under other available programs, such as Veterans Administration (VA), Farmers Home Administration (FmHA), and Resolution Trust Corporation (RTC) seller-assisted financing.

(2) *FHA single family mortgage insurance requirements.* All regulatory requirements and underwriting procedures established for FHA single family mortgage insurance apply to mortgages insured by FHA on properties assisted under the HOPE 3 program. Exceptions in the regulations specifically for homebuyers under the HOPE 3 program are:

(i) The eligible family/mortgagor may obtain a loan for the down payment from a corporation or another person under conditions satisfactory to HUD (24 CFR 203.19(b) and 234.28(c));

(ii) A second mortgage may be placed against the property even though the entity holding a second mortgage is not a Federal, State, or local government agency, if the entity is designated in the homeownership plan of an applicant for an implementation grant (24 CFR 203.32(b) and 234.55(b)); and

(iii) Certain restrictions on conveyance may be permissible. Property with restrictions that do not comply with FHA regulations will be ineligible for FHA mortgage insurance, notwithstanding HUD approval under § 572.130(e).

(b) *Financial assistance to homebuyers.* Recipients may provide assistance to, or on behalf of, eligible families to make acquisition and rehabilitation of eligible properties affordable. This may include interest rate reductions ("interest rate buy-downs"), payment of all or a portion of closing costs, down payments, mortgage insurance premiums, and other expenses, and other forms of assistance approved by HUD. No mechanisms to financially assist homebuyers that would require grant recipients to make lump sum deposits of HOPE 3 grant funds will be permitted.

§ 572.110 Identifying and selecting eligible families for homeownership.

(a) *Selection procedures.* (1) Recipients must establish written equitable procedures for identifying and selecting eligible families to participate in the homeownership program, consistent with the affordability standards in § 572.120. Except for Indian tribes and IHAs as described in § 572.405(a)(2), the recipient must have a procedure to carry out its affirmative fair marketing responsibilities, described in § 572.405(e), that apply whenever homeownership opportunities are made available to other than current residents of the property. These procedures must include specific steps to inform potential applicants and solicit applications from eligible families in the housing market area who are least likely to apply for the program without special outreach.

(2) The written selection procedures must provide for selection only of families that are creditworthy and have the financial capacity to handle the anticipated costs of homeownership. Any family determined not to have paid the appropriate amount of tenant contribution under a HUD housing assistance program must be required to resolve any deficiency before being selected for homeownership.

(b) *Preferences.* (1) Recipients must give a first preference for selection for the program otherwise qualified residents who legally occupied units on the date the implementation grant application was submitted to HUD and to current residents at the time the properties are selected. If the unit occupied by a former resident on the date the implementation grant application was submitted to HUD is occupied by a different resident at the time of property selection, a vacant unit under this program must be offered to the former resident at the earliest possible time.

(2) In the case of vacant properties for which the preferences in paragraph (b)(1) of this section do not apply, recipients must give a first preference to otherwise qualified eligible families who reside in public or Indian housing under the 1937 Act. Recipients must use whatever measures are considered appropriate to inform residents of public and Indian housing developments within the housing market area of the preference, such as informing resident councils, PHAs, and IHAs, or other appropriate measures.

(3) Recipients must give a second preference to otherwise qualified eligible families who have completed participation in one of the following economic self-sufficiency programs: Project Self-Sufficiency, Operation Bootstrap, Family Self-Sufficiency, JOBS, and any other Federal, State, territorial, or local program approved by HUD as equivalent.

(c) *Responsibilities of selected families.* (1) Each eligible family selected for homeownership must certify at the time it acquires an ownership interest in the unit (or enters into a lease-purchase agreement for the unit) that it intends to occupy the unit as its principal residence during the six-year period from the date it acquires ownership interest in the unit, unless the recipient determines that the family is required to move outside the market area due to a change in employment or an emergency situation or the family sells its ownership interest. The family may permit others to rent space (such as a basement area or a spare bedroom) in the unit occupied by the family as its principal residence. (See § 572.115(c) concerning the rental of units in a multi-unit property purchased by a homebuyer under this part.)

(2) Any homebuyer that violates the agreement made under paragraph (c)(1) of this section shall be subject to penalties as provided in the transfer documents, as prescribed by HUD.

(3) Each eligible family selected for the program must participate in counseling and training of homebuyers and homeowners regarding the general rights and responsibilities of homeownership.

(d) *Social security numbers; wage and claims information.* As a condition of eligibility for homeownership under this part, at the time a family applies for howeownership, the recipient (or other appropriate entity) must:

(1) Require the family to meet the requirements for the disclosure and verification of social security numbers, as provided by 24 CFR part 750; and

(2) Require the family to sign and submit consent forms for the obtaining of wage and claim information from State Wage Information Collection Agencies, as provided by 24 CFR part 760.

(e) *Notification of rejected applicant families.* Recipients or another appropriate entity must promptly notify in writing any rejected applicant family of the grounds for any rejection.

§ 572.115 Transfer of homeownership interests.

(a) *Deadline for transfer.* (1) All units in eligible properties (including in rem properties) must be transferred to eligible families within two years of the effective date of the implementation grant agreement, except as otherwise provided for multi-unit properties in paragraph (c) of this section. The transfer must involve either:

(i) Acquisition by an eligible family of an ownership interest in a unit; or

(ii) Execution of a lease-purchase agreement for a unit.

(2) The HUD Field Office may approve a request for an extension of a period not to exceed one year of the deadline in paragraph (a)(1) of this section on a per program or per unit basis, provided that the Field Office determines that all program activities will be completed in accordance with the timing requirements of § 572.210(f) (including any extension permissible thereunder).

(b) *Form of ownership.* (1) Forms of ownership interests acquired by eligible families under this part may include fee simple ownership (including condominium ownership), cooperative ownership, or another form of ownership interest proposed and justified by the applicant and approved by HUD. HUD will not approve other forms of ownership that would substantially limit the ability of homeowners to realize financial appreciation in the value of their homes as determined by HUD. The type of ownership interest must be consistent with any applicable State (or territorial), local, or tribal law.

(2) The ownership interest may be subject only to:

(i) The restrictions on resale required or approved under § 572.130;

(ii) Mortgages, deeds of trust, or other liens or instruments securing the eligible family's purchase money financing as approved by the recipient; or

(iii) Any other restrictions or encumbrances that do not impair the good and marketable nature of title to the ownership interest except as otherwise approved by the recipient. In approving the terms of an eligible family's purchase money financing or any other encumbrances on the property under paragraphs (b)(2) (ii) and (iii) of this section, the recipient shall not approve financing terms that do not comply with the affordability standards in § 572.120, or mortgage terms and conditions or other encumbrances that in effect constitute resale restrictions that would not be approved by HUD under this part.

(3) Mutual housing is eligible only to the extent it provides for the transfer of ownership interests to eligible families.

(c) *Transfer of multi-unit properties.* (1) In the case of a two-to-four unit property, only property that may be divided so that an ownership interest in each unit may be acquired by an eligible

family is eligible. HUD may grant an exception to this requirement on a program-by-program basis when it determines that such an exception will serve to further the purposes of the HOPE 3 program.

(2) HUD Headquarters will consider and may approve an exception under the following circumstances:

(i) The reasonably projected net rental income will be included in the determination of the appraised value of the property at the time of the homebuyer's purchase;

(ii) The rent charged by the owner will not exceed the Fair Market Rent established by HUD for the area;

(iii) The recipient will provide the homebuyer with counseling and training in property management, and will approve the form of lease used by the homebuyer; and

(iv) The recipient will include the family's potential net rental income in calculating the family's initial affordability in accordance with § 572.120 of this part.

§ 572.120 Affordability standards.

(a) *Initial affordability.* (1) The monthly expenditure for principal, interest, taxes, and insurance by an eligible family that is required under the financing for acquisition of a unit must be not less than 20 percent and not more than 30 percent of the adjusted income of the family, determined in accordance with 24 CFR part 813 (where the recipient is not a PHA/IHA), part 913 (where the recipient is a PHA), or part 905 (where the recipient is an Indian tribe or IHA), as appropriate. HUD may approve a justified request for a floor lower than 20 percent to avoid undue hardship to families, such as where the cost of utilities is high.

(2) The 30 percent cap on monthly payments includes closing costs only if closing costs are included in the costs of principal and interest, or are otherwise required to be paid by the homeowner over time after acquisition.

(3) Applicants are encouraged to consider the additional monthly costs of utilities and other monthly housing costs, such as condominium and cooperative fees, in determining whether the family can afford to purchase a unit.

(b) *Continued affordability.* The recipient must develop a plan demonstrating reasonable efforts to ensure continued affordability by homeowners in the eligible property. Financing that would impair the continued affordability of the property for homebuyers, such as a mortgage that is not fully amortizing (*e.g.*, a "balloon" mortgage) may not be used. The plan should take into account such program features as long-term financing at reasonable terms, energy conservation, and improvements that will entail low-cost maintenance.

§ 572.125 Replacement reserves.

(a) *Purpose.* A single replacement reserve may be established for the homeownership program only if HUD determines it is necessary to prevent severe financial hardship to families caused by the failure of a major system or component of the property that would render the unit substandard. Initially, the reserve must be justified by the applicant and approved by HUD as part of the program budget in the application or an amended application.

(b) *Need for reserve account.* In determining the need for a replacement reserve, the applicant or recipient must demonstrate that the financial status of eligible families is insufficient to meet the needs for which the reserve is established, and that the amount proposed for the reserve is reasonable, taking into account the following factors:

(1) The size of the implementation grant and the amount of matching contributions;

(2) The availability of insurance, and the home maintenance and repair capabilities of the families; and

(3) The condition and age of the properties and each of their major systems and components (including at least the heating, plumbing, and electrical systems, the roof, foundation, windows, exterior walls, and common area, if any).

(c) *Drawdown of reserve funds.* Replacement reserve funds may only be drawn down under the Cash and Management Information System when specifically needed to assist a homeowner. At time of program closeout, all funds approved for a replacement reserve may be drawn down to fund a reserve account. The account may not exceed six years estimated replacement cost needs for the properties transferred under the homeownership program.

(d) *Administration of the reserve account.* The recipient must identify the entity that will administer the replacement reserve account at time of program closeout. The entity responsible for administering the account must be bonded and approved by HUD. The account must be interest bearing, if possible, and interest earned thereon must be used for the purposes for which the account is established. Unused funds at the end of the term of the account must be treated as program income in accordance with § 572.135(d).

§ 572.130 Restrictions on resale by initial homeowners.

(a) *Right to transfer.* A homeowner may transfer the homeowner's ownership interest in the unit, subject only to the right to purchase under paragraph (b) of this section; the requirement for the purchaser to execute a promissory note, if required under paragraph (d) of this section; and the limitation on the amount of sales proceeds a family may retain upon sale within the first six years, as required under paragraph (c) of this section.

(b) *Right to purchase.* (1) Where a cooperative has jurisdiction over the unit, it has the prior right to purchase the ownership interest in the unit from the initial homeowner for the amount and on the terms specified in a firm contract between the homeowner and a prospective buyer. The cooperative association has 10 days after receiving notice of the firm contract to decide whether to exercise its right and 60 additional days to complete closing of the purchase.

(2) If no cooperative has jurisdiction over the unit and if the prospective buyer is not a low-income family, the recipient or a PHA/IHA with jurisdiction for the area in which the unit is located, whichever is specified in the documents under which the initial family acquires an ownership interest in the unit, has the prior right to purchase the ownership interest in the unit for the amount and on the terms specified in a firm contract between the homeowner and a prospective buyer. The recipient or PHA/IHA has 10 days after receiving notice of the firm contract to decide whether to exercise its right and 60 additional days to complete closing of the purchase.

(3) Where a recipient, cooperative, or PHA/IHA exercises a right to purchase, it must resell the unit to an eligible family promptly.

(4) Unless otherwise provided in the property transfer documents, none of the provisions of paragraph (b) of this section apply in the case of liquidation of a security interest in the property. If FHA has insured a mortgage on the property, the provisions of paragraph (b) of this section shall not apply upon occurrence of an event requiring termination under 24 CFR 203.41(c)(2) or 234.66(c)(2).

(c) *Limitation on equity interest an initial homeowner may retain from sale during first six years.* (1) The HOPE program is designed to assure that an initial or subsequent homeowner does not receive any undue profit from acquiring a unit under the program and that, to the extent the sales price is sufficient, an initial homeowner

recovers the equity interest in the property. With respect to any sale by an initial homeowner during the first six years after acquisition, the family may retain only the amount computed under this paragraph. Any excess must be distributed as provided in § 572.135(b). The amount of equity an initial homeowner has in the property is determined by computing the sum of the following:

(i) The contribution to equity paid by the family (such as any downpayment (in the form of cash or the value of sweat equity) and any amount paid towards principal on a mortgage loan during the period of ownership);

(ii) The value of any improvements (not including normal or routine maintenance) installed at the expense of the family during the family's tenure as owner (including improvements made through sweat equity), as determined by the recipient or other entity specified in the approved application based on evidence of amounts spent on the improvements, including the cost of material and labor (or the value of the sweat equity); and

(iii) The appreciated value, determined by applying the Consumer Price Index (Urban Consumers) or other HUD approved index against the contribution to equity under paragraphs (d) (i) and (ii) of this section.

(2) The recipient (or other entity) may, at the time of initial sale, enter into an agreement with the family to set a maximum amount which this appreciation may not exceed.

(3) Amounts that count towards a family's equity may not also count towards the match.

(d) *Promissory note.* (1) If the purchase price of the unit (adjusted, if applicable as described in this paragraph) paid by the initial homebuyer is less than the fair market value of the property (based on an appraisal of the value of the unit after rehabilitation to applicable program standards conducted in accordance with the appraisal requirements in § 572.100(b)), the initial homeowner must, at closing, execute a nonamortizing, nonrecourse, noninterest-bearing promissory note, in a form acceptable to HUD, equal to the difference between such fair market value of the unit and the adjusted purchase price, together with a security instrument securing the obligation of the note and recorded in local land records or other applicable system of recordation appropriate to the type of security interest being recorded. The note must be payable to the recipient or other entity designated in the approved homeownership plan. In determining the amount of the promissory note and for that purpose only, the purchase price must be adjusted by deducting all substantial amounts of financial assistance with respect to the family's acquisition or rehabilitation of the unit that would result in an undue profit to the family if it were to sell the unit at the beginning of the 7th year of homeownership. (See paragraph (c) of this section for an additional restriction on return to the homeowner on reasales during the first six years.) For this purpose, "substantial financial assistance" includes all forms of assistance or subsidy from HOPE 3 resources that reduce the cash return (sales proceeds) received by the recipient for the unit below its appraised after-rehabilitation fair market value by more than a total of $4,000, including (without limitation) discounted purchase prices, downpayment assistance, and rehabilitation or purchase money grants or loans that are not repayable on an amortizing basis. Financing to homeowners provided from HOPE 3 resources may not be assumed by subsequent homebuyers.

(2) With respect to a sale by an initial homeowner, the note must require payment upon sale by the initial homeowner, to the extent proceeds of the sale remain after paying off other outstanding debt secured by the property that was incurred for the purpose of acquisition or property improvement, paying any other amounts due in connection with the sale (such as closing costs and transfer taxes), and paying the family the amount of its equity in the property, computed in accordance with paragraph (c) of this section.

(3) With respect to a sale by an initial homeowner after the first six years after acquisition, through the 20th year, the amount payable under the note must be reduced by 1/168 of the original principal amount of the note for each full month of ownership by the family after the end of the sixth year. The homeowner may retain all other proceeds of the sale.

Example: If the family sells at the end of the 13th year of homeownership (at the halfway point between the end of the sixth year and the end of the 20th year of ownership), 84/168 (or one-half) of the note would be forgiven, and only half of the principal amount of the note would be payable from sales proceeds. The family could retain all remaining proceeds, including proceeds due to normal market value increases in the value of the property. If the initial homeowner retains ownership for 20 or more years, the entire amount of the note would be forgiven.

(4) Where a subsequent purchaser during the 20-year period, measured by the term of the initial promissory note, purchases the property for less than the then current fair market value (determined in accordance with the appraisal requirements in § 572.100(b)), the purchaser must also execute at closing a promissory note and mortgage (to be recorded as stated in paragraph (d)(1) of this section) payable to the recipient or its designee, for the amount of the discount (but no more than the amount payable at the time of the sale on the promissory note by the seller). The term of the promissory note must be the period remaining of the original 20-year period. The note must require payment upon sale by the subsequent homeowner, to the extent proceeds of the sale remain after covering costs of the sale, paying off other outstanding debt secured by the property that was incurred for the purpose of acquisition or property improvement, and paying any other amounts due in connection with the sale. The amount payable on the note must be reduced by a percentage of the original principal amount of the note for each full month of ownership by the subsequent homeowner. The percentage must be computed by determining the percentage of the term of the promissory note the homeowner has owned the property. The remainder may be retained by the subsequent homeowner selling the property.

Example: If the subsequent homeowner acquires the property from an initial homeowner at the end of year 4, there are 192 months (16 years × 12) remaining in the 20-year period. The term of the promissory note is 16 years. If the subsequent homeowner sells at the end of year 10, having owned the property for 72 months (6 years × 12), 72/192 (37.5 percent) of the note would be forgiven, and 62.5 percent of the principal amount of the note would be payable from sales proceeds. The family could retain all remaining proceeds, including proceeds due to normal market value increases in the value of the property. If the subsequent homeowner retains ownership until the end of the initial 20-year period (for 16 years, in the example), the entire amount of the note would be forgiven.

(e) *Additional restrictions.* Notwithstanding paragraph (a) of this section, an applicant may propose in its application, and HUD may approve, additional reasonable restrictions on the resale of units under the program. HUD does not encourage additional restrictions, but HUD approval will be based on a review of the individual circumstances. However, HUD will not approve restrictions that it determines will substantially limit the ability of homeowners to realize financial appreciation in the value of their homes.

§ 572.135 Use of proceeds from sales to eligible families, resale proceeds, and program income.

(a) *Proceeds from sales.* The recipient or another entity approved by HUD must use the proceeds, if any, from the initial sale for costs of their HOPE 3 program, including additional homeownership opportunities eligible under the HOPE 3 program, improvements to properties under the HOPE 3 program, business opportunities for low-income families participating in the HOPE 3 program, supportive services related to the HOPE 3 program, and other activities approved by HUD, either as part of the approved application or later on request. Such proceeds include the full consideration received by the recipient or other entity for the property, including principal and interest on purchase money loans from HOPE 3 funds or match.

(b) *Resale proceeds.* Fifty percent of any portion of the net sales proceeds that may not be retained by the homeowner under § 572.130 (c), (d), and (e) must be paid to the recipient, or another entity approved by HUD, for use for additional homeownership opportunities eligible under the HOPE 3 program, improvements to properties under the HOPE 3 program, business opportunities for homeowners under the HOPE 3 program, supportive services related to the HOPE 3 program, and other activities approved by HUD in the approved homeownership program or later on request. The remaining 50 percent must be collected by the recipient and returned to HUD within 15 days of the sale for use under the HOPE 3 program, subject to any limitations contained in appropriations Acts.

(c) *Requirements for use of sale and resale proceeds.* Sale and resale proceeds must be committed for approved activities within one year of receipt but may not be commingled with HOPE 3 grant or match funds being expended on approved activities. All sale and resale proceeds must be separately accounted for by the recipient, and 50 percent of all resale proceeds received by the recipient must be returned to HUD, as described in paragraph (b) of this section. Recipients may use up to 15 percent of their sale and resale proceeds for administrative expenses to expand their HOPE 3 program and provide additional homeownership opportunities. Recipients must retain records on the use of these funds to the same level of detail as required of grant funds under the HOPE 3 system or whatever records HUD otherwise prescribes. The recipient, and any other entity approved by HUD to administer the sale and resale proceeds, remain responsible to comply with the requirements of this part with respect to such proceeds, notwithstanding closeout of the HOPE 3 grant.

(d) *Program income.* Any program income, as defined in § 572.5, received by the recipient must be treated as such in accordance with the requirements of 24 CFR part 85.

§ 572.140 Third party rights.

The requirements under this part regarding housing quality standards, resale, or transfer of the ownership interest of a homeowner are judicially enforceable against the recipient with respect to actions involving rehabilitation, and against purchasers of eligible property under the HOPE 3 program or their successors in interest (to the extent such requirements apply to purchasers and their successors in interest) with respect to other actions, by affected low-income families, PHAs/IHAs, and any agency, corporation, or authority of the United States government. The parties specified in the preceding sentence are entitled to reasonable attorney fees upon prevailing in any such judicial action.

§ 572.145 Displacement prohibited; protection of nonpurchasing residents.

(a) *Displacement prohibited.* (1) No person may be displaced from his or her dwelling as a direct result of a homeownership program under this part. This does not preclude terminations of tenancy for violation of the terms of occupancy of the unit. Each resident of an eligible property on the date the application for an implementation grant was submitted to HUD and each resident at the time the property is selected must be given an opportunity to become a homeowner under this program if the resident qualifies as an eligible family and meets other program requirements. If the resident does not qualify or does not elect to move, the property is not eligible. The protections provided to residents under this section do not apply to the former owner of the property if the property is acquired from him or her as a result of a tax or mortgage foreclosure.

(2) In addition to any applicable sanctions under the grant agreement, a violation of paragraph (a)(1) of this section may trigger a requirement to provide relocation assistance in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and governmentwide implementing regulations at 49 CFR part 24.

(b) *Relocation assistance for residents who elect to move.* The recipient must offer each nonpurchasing resident who elects to move relocation assistance in accordance with the approved homeownership program. The program must provide, at least, the following assistance:

(1) Advisory services, including timely information, counseling (including the provision of information on a resident's rights under the Fair Housing Act), and referrals to suitable, affordable, decent, safe, and sanitary alternative housing;

(2) Payment for actual, reasonable moving expenses; and

(3) Financial assistance sufficient to permit relocation to suitable, affordable, decent, safe, and sanitary housing. This requirement is met if the family is provided the opportunity to relocate to suitable, decent, safe, and sanitary housing for which the monthly rent and estimated average utility costs do not exceed the greater of 30 percent of the person's income or the person's monthly rent before relocation and the estimated average monthly utility costs. The homeownership program must specify the period for which replacement housing assistance will be provided to persons who do not receive assistance through a Section 8 rental certificate or voucher or other housing program subsidy.

(c) *Temporary relocation.* The recipient must provide each resident of an eligible property, who is required to relocate temporarily to permit work to be carried out, with suitable, decent, safe, and sanitary housing for the temporary period and must reimburse the resident for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, including the costs of moving to and from the temporarily occupied housing and any increase in monthly costs of rent and utilities.

(d) *Notice of relocation assistance.* As soon as feasible, each recipient must give each resident of an eligible property a written description of the applicable provisions of this section.

Subpart C—Grants

§ 572.200 Planning grants.

(a) *General authority.* HUD will make HOPE 3 planning grants to applicants for the purpose of developing HOPE 3 homeownership programs under this part. Applications will be selected in a national competition in accordance with the selection process and NOFA described in subpart D of this part. The maximum amount of a planning grant will be specified in the NOFA.

(b) *Overall limitations.* (1) If two or more fundable applications for planning grants propose substantially the same general locations, the highest ranking application will be selected. However, HUD may reduce the scope of an application if the size of the jurisdiction is sufficiently large to justify approval of more than one grantee. HUD may also approve a planning grant in an area where an implementation grant already exists or is being approved in the current funding round as long as the program that could result from the planning grant will not lead to substantial competition among grant recipients for eligible properties. However, if a determination is made that the approval of both a planning grant and implementation grant will lead to substantial competition for eligible properties, only the implementation grant will be approved.

(2) A single applicant may apply for more than one planning in response to any NOFA, but HUD will not approve more than one planning grant for any one applicant.

(3) An applicant who has previously received a HOPE 3 planning grant or implementation grant is not eligible for an additional HOPE 3 planning grant.

(4) No amendments to increase previously approved grant amounts are allowed.

(c) *Scope of program.* (1) Applications that identify a public body as the entity to execute the grant agreement may only propose a program to be carried out within the jurisdiction of that entity. Applications that identify a private nonprofit organization as the entity to execute the grant agreement may propose a program to be carried out within two or more jurisdictions. No application may propose a program to be carried out in more than one State, except for Indian tribes or IHAs whose jurisdiction covers more than one State.

(2) An applicant must demonstrate that at least 10 units in eligible properties will be available for use in the area proposed for the program through evidence of current availability or evidence of availability during the 12-month period prior to submission of the application.

(d) *Deadline for completion of activities.* (1) Activities under a planning grant, including the requirements outlined in paragraph (d)(2) of this section, must be carried out within 12 months of the effective date of the planning grant agreement. HUD Field Offices may extend the period up to 60 days. HUD may deobligate amounts not drawn down by the approved completion date. HUD Headquarters may approve a request for an additional extension for costs related to the preparation of an implementation grant application where it determines an extension is necessary.

(2) Each recipient must submit either:

(i) An implementation grant application by the deadline date stated in a HOPE 3 NOFA issued within 12 months of the effective date of the planning grant agreement; or

(ii) A report on activities undertaken under the planning grant agreement, including the recipient's determination whether it is feasible for it to undertake a homeownership program and an assessment of the factors used to make the determination.

§ 572.205 Planning grants—eligible activities.

Planning grants may be used for the reasonable costs of eligible activities necessary to develop homeownership programs under this part. No additional activities may be approved. Applicants are not required to request funding for each type of eligible activity. Only costs incurred on or after the effective date of the grant agreement qualify for funding under this part. Activities eligible under a planning grant are:

(a) *Assessing stock of eligible properties.* Assessing the availability on an ongoing basis of eligible properties of the appropriate condition, type, and price in specific neighborhoods or areas to implement a homeownership program. For example, planning grants may be used to fund the costs of obtaining and analyzing lists of potentially eligible properties from appropriate Federal, State, and local agencies and inspecting representative properties, including inspection for the purpose of evaluating potential lead-based paint hazards. Technical studies to evaluate environmental problems and to determine whether mitigation is feasible are eligible.

(b) *Training and technical assistance for grant recipients.* Training of and technical assistance to grant recipients related to development of a specific homeownership program. This may include, for example, courses in real estate financing and examining alternative approaches for carrying out a homeownership program. Training and technical assistance may only be provided by qualified entities other than the recipient and may not be provided to any individual or group other than the grant recipient and any cooperating entity named in the approved application.

(c) *Feasibility studies.* Studies of the feasibility of a specific homeownership program, including whether the program can be designed to meet the affordability standards under § 572.120 and achieve financial feasibility.

(d) *Preliminary architectural and engineering work.* Preliminary architectural and engineering work, including developing estimates of the amount of work necessary to support rehabilitation of a typical unit that may be acquired by an eligible family under the program and other cost estimates to be included in a HOPE 3 implementation grant application.

(e) *Identification of counseling and training curricula and sources.* Identification of course curricula and sources that can provide homebuyer and homeowner counseling and training, including such subjects as personal financial management, home maintenance, home repair, construction skills (to the extent appropriate, especially where eligible families will do some of the rehabilitation ("sweat equity")), and general rights and responsibilities of a homeowner. Development of new curricula is not an eligible cost.

(f) *Economic development planning.* Planning for economic development activities that are eligible implementation grant activities under § 572.215. The aggregate amount of planning and implementation grants that may be used for economic development activities related to any one HOPE 3 program may not exceed $250,000.

(g) *Security plans.* Development of security plans. This activity may cover, where necessary, such costs as assessing the need for negotiating agreements with local law enforcement agencies and for planning security systems.

(h) *Application for an implementation grant.* Preparation of an application for an implementation grant to carry out a homeownership program under this part.

(i) *Administrative costs.* Administrative costs necessary to carry out the eligible activities specified in the approved application.

§ 572.210 Implementation grants.

(a) *General authority.* HUD will make implementation grants to HOPE 3 applicants for the purpose of carrying out homeownership programs approved under this part. Applications will be selected competitively within Regional allocations in accordance with the selection process described in subpart D of this part. The maximum amount of an implementation grant will be specified in the NOFA.

(b) *Regional fund allocations.* HUD will allocate funding authority for each of the 10 HUD Regions by formula based on three equally weighted factors. The

factors in paragraphs (b) (1) and (2) of this section measure the need for the program and the factor in paragraph (b)(3) of this section measures the supply of eligible property available for the program. The factors are:

(1) The number of rental units in the Region, as determined by the Bureau of the Census, occupied by persons with incomes at or below the poverty level (half of the weight for this factor), and the total number of occupied rental units in the Region (for the other half);

(2) The number of rental units in the Region that are unsuitable because:

(i) The units lack or have incomplete plumbing;

(ii) The units are occupied by residents who are paying more than 30 percent of adjusted income toward rent (including utilities);

(iii) The units are occupied by an average of more than one person in the household per room; or

(iv) The units lack or have incomplete kitchens; and

(3) The number of single family properties (with up to four units, including condominium units) in the Region owned by HUD, the Resolution Trust Corporation, the Department of Veterans Affairs, and the Department of Agriculture.

(c) *Overall limitations.* (1) HUD may approve more than one grant for a program to be carried out in a jurisdiction, so long as different applicants are the grantees and the size of the jurisdiction is sufficiently large to justify approval of more than one grantee. A single applicant may apply for more than one implementation grant, but HUD will not approve grants for any one applicant that total more than the maximum grant amount specified in the NOFA.

(2) Applicants must propose a geographic scope that is reasonably related to the number of units and total cost of the proposed program.

(3) No amendments to increase previously approved grant amounts are allowed.

(4) HUD reserves the right to reject one or more fundable applications or adjust their proposed geographic scope when it finds substantial competition for eligible properties is likely to result from approval of all applications proposing to serve substantially overlapping areas.

(d) *Scope of program.* (1) Applications that identify a public body as the entity to execute the grant agreement may only propose a program to be carried out within the jurisdiction of that entity. Applications that identify a private nonprofit organization as the entity to execute the grant agreement may propose a program to be carried out within two or more jurisdictions. No application may propose a program to be carried out in more than one State, except for Indian tribes or IHAs whose jurisdiction covers more than one State.

(2) An applicant must demonstrate that at least 10 units in eligible properties will be available for use in the area proposed for the program through evidence of current availability or evidence of availability during the 12-month period prior to submission of the application.

(e) *Matching requirement.* (1) Except as provided in paragraph (e)(2) of this section, recipients of implementation grants must assure that matching contributions equal to not less than 33 percent of the amount of the implementation grant will be provided from non-Federal sources to carry out the homeownership program. Eligibility requirements for matching contributions are described in § 572.220.

(2) Where the recipient is an IHA, and the IHA (acting in that capacity) has not received, and will not receive, amounts under title I of the Housing and Community Development Act of 1974 for the fiscal year in which HUD obligates HOPE grant funds, the match requirements under paragraph (e) of this section and § 572.220 will not apply.

(f) *Deadline for completion of activities.* A recipient must spend all implementation grant amounts within four years from the effective date of the grant agreement. The HUD Field Office may approve a request to extend the deadline not to exceed six months. HUD Headquarters may approve a request to extend the deadline up to six additional months for the completion of eligible activities, where it determines an extension is necessary.

§ 572.215 Implementation grants—eligible activities.

Implementation grants may be used for the reasonable costs of eligible activities necessary to carry out a homeownership program under this part. Only costs incurred on or after the effective date of an implementation grant agreement qualify for funding under this part. Eligible activities include:

(a) *Acquisition of eligible properties by the recipient. Acquisition of eligible properties for the purpose of transferring ownership interests to eligible families in a homeownership program under this part, in accordance with § 572.100. (Where the applicant owns the eligible property or where HUD otherwise determines that an "arms length" relationship for acquisition does not exist, program funds may not be used for acquisition of the property for the program. However, if the property is owned by an eligible source, it may be donated as match in accordance with § 572.220(b)(4).)*

(b) *Recipient closing costs.* Customary and reasonable closing costs of the buyer associated with the purchase of eligible properties under the program.

(c) *Financial assistance to homebuyers.* Provision of assistance to families to make acquisition and rehabilitation of eligible properties affordable, in accordance with § 572.105(b).

(d) *Rehabilitation.* Rehabilitation of the eligible property covered by the homeownership program, in accordance with standards and cost limitations established by HUD in § 572.100.

(e) *Architectural and engineering work.* Architectural and engineering work, and related professional services required to prepare architectural plans or drawings, write-ups, specifications, or inspections, including inspections for the purpose of evaluating potential lead-based paint hazards.

(f) *Relocation.* Relocation of residents in eligible properties who elect to move, in accordance with § 572.145(b).

(g) *Temporary relocation of homebuyers.* Temporary relocation of residents during rehabilitation, in accordance with § 572.145(c).

(h) *Legal fees.* Customary and reasonable costs of professional legal services.

(i) *Replacement reserves.* A single replacement reserve for the properties under the program if necessary, in accordance with § 572.125.

(j) *Homebuyer outreach and selection.* Reasonable and necessary costs of marketing the program to potential homebuyers and of identifying and selecting homebuyers under the program. These costs may include costs related to implementing the affirmative fair housing marketing strategy required under § 572.110.

(k) *Counseling and training.* Counseling and training of only those homebuyers (and their alternates) and homeowners selected under the homeownership program. This may include such subjects as personal financial management, home maintenance, home repair, construction skills (especially where the eligible family will do some of the rehabilitation), property management for owners of multi-unit properties, and the general rights and responsibilities of homeownership.

(l) *Property management and holding costs.* Reasonable and necessary costs related to properly maintaining and securing eligible properties after

acquisition or donation and before sale to an eligible homebuyer. These costs may include property insurance expenses, security costs, property taxes, utility charges, and other costs related to sound property management of recipient-owned properties before sale under the program. These costs may not be charged relative to eligible properties donated to the program by the recipient or another entity that HUD determines does not have an "arm's length" relationship with the recipient.

(m) *Recipient training needs.* Defraying costs for ongoing training needs of the recipient for courses of instruction that are directly related to developing and carrying out the homeownership program.

(n) *Economic development.* Economic development activities that promote economic self-sufficiency of homebuyers and homeowners under the homeownership program. The economic development activities must be directly related to the homeownership program, and may only benefit families and individuals who are homeowners or who have been selected as homebuyers under the program. These costs are limited to job training or retraining and day care costs of those participating in job training and retraining activities approved under the HOPE 3 program. The recipient must enter into written agreements with the providers of economic development services specifying the services to be provided, including estimates of the numbers of homebuyers and homeowners to be assisted. The aggregate amount of planning and implementation grants that may be used for economic development activities related to any one program may not exceed $250,000.

(o) *Administrative costs.* Reasonable and necessary costs, as described and valued in accordance with the OMB Circular Nos. A–87 or A–122, as applicable, incurred by a recipient in carrying out the HOPE 3 program. The total amount that may be spent on administrative activities from the implementation grant and any contribution toward the match may not exceed 15 percent of the amount of the grant. For purposes of complying with the 15 percent limitation, administrative costs do not include the cost of activities that are separately eligible under this section.

(p) *Other activities.* Other activities proposed by the applicant, to the extent the applicant justifies them as necessary for the proposed homeownership program and HUD approves them.

§ 572.220 Implementation grants—matching requirements

(a) *General requirements.* (1) Each recipient must assure that matching contributions equal to not less than 33 percent of the amount of the implementation grant shall be provided from non-Federal sources to carry out the homeownership program. (See § 572.210(e) for an exception for certain IHAs to the matching requirements.) Amounts contributed to the match must be used for eligible activities or in accordance with the requirements of this section.

(2) All contributions toward eligible activities to be counted toward the match must be provided no later than the deadline for completion of program activities established in accordance with § 572.210(f), except as permitted under paragraphs (b)(1)(iv) and (b)(3) of this section.

(b) *Form.* Contributions may only be in the form of:

(1) *Cash contributions.* (i) Cash contributions from non-Federal resources contributed permanently for uses under the HOPE 3 program by the applicant, non-Federal public entities, private entities, or individuals, except that a cash contribution in the form of a down payment made by an eligible family may not count as a matching contribution. Funds will be considered permanently contributed if all principal, interest, and any other return on the contribution are used for eligible activities in accordance with program requirements.

(ii) Non-Federal resources may include:

(A) Contribution of trust funds held by Federal agencies for Indian tribes;

(B) PHA section 8 operating reserve funds, where approved by HUD;

(C) Income from a Federal grant earned after the end of the award period if no Federal programmatic requirements govern the disposition of the program income (*e.g.*, repayments from closed out grants under the Urban Development Action Grant Program (24 CFR part 570, subpart G), the Housing Development Grant Program (24 CFR part 850), and the Rental Rehabilitation Program (RRP) when all RRP grant years of participation by an RRP recipient have been closed out by HUD);

(D) Amounts, determined in accordance with paragraph (b)(1)(iv)(B) of this section, that have been requested by the applicant in an application submitted to the Federal Housing Finance Board for assistance under its affordable housing program, so long as the application is approved within 30 days of HUD's conditional approval of the HOPE 3 application.

(iii) Non-Federal resources may not include:

(A) Funds from a Community Development Block Grant under section 106(b) or section 106(d), respectively, of the Housing and Community Development Act of 1974, except to the extent permitted for administrative expenses under paragraph (b)(2) of this section;

(B) Federal tax expenditures, including low-income housing tax credits.

(iv) The grant equivalent of a below-market interest rate loan to the homebuyer from non-Federal resources, where all repayments, interest, and other return will not be permanently contributed to the HOPE 3 program, may be counted as a cash contribution. The grant equivalent of a below market interest rate loan must be calculated in accordance with paragraphs (b)(1)(iv)(A) and (B) of this section—

(A) If the loan is made from proceeds of obligations issued by or on behalf of a public body that are exempt from taxation by the United States, the contribution is the present discounted cash value of the difference between payments to be made on the borrowed funds and payments to be received on the loan to the homebuyer, based on a discount rate equal to the interest rate on the borrowed funds;

(B) If the loan is made from funds other than under paragraph (b)(1)(iv)(A) of this section, the contribution is the present discounted cash value of the yield forgone, calculated based on a discount rate approved or prescribed by HUD. In determining the yield forgone, the recipient must use as a measure of a market yield one of the following, as appropriate:

(*1*) With respect to housing financed with a fixed interest rate mortgage, a rate equal to the 10-year Treasury note rate plus 200 basis points; or

(*2*) With respect to housing financed with an adjustable interest rate mortgage, a rate equal to the one-year Treasury bill rate plus 250 basis points.

(v) Cash contributions may also be made from sales proceeds from the Turnkey III Homeownership and Mutual Help programs, as approved by HUD, or an approved homeownership program under section 5(h) of the 1937 Act.

(2) *Administrative costs.* (i) Contributions of eligible administrative services up to a value equal to 7 percent of the amount of the implementation grant. This limitation is in addition to the limitation that the total amount that may be spent on administrative activities from the amount of the grant and any contributions toward the match

may not exceed 15 percent of the grant amount (§ 572.215(o)).

(ii) If an applicant proposes to contribute administrative services, HUD will automatically approve an applicant's assurances for matching purposes that it will pay eligible administrative costs from non-Federal sources in an amount up to 7 percent of the implementation grant, and will not require further documentation of those expenditures for purposes of the HOPE 3 program. If a recipient uses more than 8 percent of its implementation grant to pay administrative costs, the amount credited toward the match will be reduced to less than 7 percent to stay within the 15 percent limitation.

Example: If the grant amount is $600,000, the recipient must assure the provision of at least $198,000 (33 percent of the grant) from non-Federal sources. Contributions for administrative costs that may be counted toward the match may not exceed $42,000 (7 percent of the grant amount of $600,000). Although a recipient can spend more than this on administrative costs, it may not be counted towards the match. In addition, the recipient must provide contributions covering the remaining $156,000 ($198,000–$42,000) required for the match from non-Federal sources.

(iii) Non-Federal resources, for the purposes of counting contributions for administrative costs, may include funds from a Community Development Block Grant under section 106(b) or section 106(d) of the Housing and Community Development Act of 1974 and are subject to the recordkeeping and documentation requirements of that program.

(3) *Taxes, fees, and other charges.* (i) The present value of taxes, fees, or other charges that are normally and customarily imposed but are waived, forgone, or deferred in a manner that facilitates the implementation of a homeownership program assisted under this part. Only amounts that would have been imposed after the date a property is acquired by a recipient or other entity for transfer to eligible families, the effective date of the implementation grant agreement if the recipient already owns the property, or the date after an eligible property is acquired directly from an eligible source by an eligible family, as applicable, may be counted towards the match.

(ii) Amounts that would be waived, forgone, or deferred for longer than 20 years from the date a family acquires homeownership interests in the unit may not be counted towards the match.

(iii) The present value of taxes, fees, or other charges waived, forgone, or deferred must be computed by discounting the estimated amount that would be otherwise payable over the time period (up to 20 years) based on a discount rate approved or prescribed by HUD.

(iv) Where the match includes amounts under paragraph (b)(3) of this section, the documents transferring the homeownership interest to the family must evidence the contribution, to the extent the contribution has not already been received.

(4) *Real property.* Real property contributed for use under an approved homeownership program. To the extent properties were acquired with Federal resources or are donated directly to the program from Federal sources, their value is not an eligible match contribution.

(i) The as-is fair market value of eligible property may be counted as a contribution toward the match, determined in accordance with a recent appraisal conducted under procedures established or approved by HUD. The maximum value contributed will be limited as provided in § 572.100.

(ii) When eligible real property is sold to the recipient or its designee from non-Federal sources at a price below fair market value, the differential between the fair market value and the discounted sales price may be counted toward the match.

(iii) Vacant land from any non-Federal source located on existing streets with available utilities (which need not include laterals) may be contributed for use under the program, but only if a structure acquired or donated from an eligible HOPE 3 source will be moved onto it. The total amount of the contribution and any amount paid from HOPE 3 funds for acquisition of the structure, moving, and rehabilitation costs must be within the limits provided in § 572.100.

(5) *Infrastructure.* The fair market value of investment (as approved by HUD), not made with Federal resources, in on-site and off-site infrastructure that directly contributes to a homeownership program. The infrastructure investment may be counted toward the match only if it was completed no earlier than 12 months before the deadline date set by HUD in the NOFA for receipt of implementation grant applications. Investment in infrastructure may include such activities as new or repaired utility laterals connecting eligible property to the main line and new or rebuilt walkways, sidewalks, or curbs on or contiguous to the eligible property. If the investment in infrastructure also benefits other properties, only the share of the costs directly benefiting the eligible property under the homeownership program may be counted toward the match.

(6) *Donated labor.* All donated labor, including sweat equity provided by a homebuyer or homeowner, to be valued at $10 an hour or at a rate promulgated by HUD in the NOFA, except for donated professional labor, as approved by HUD, including professional labor by homebuyers and homeowners. The donated professional labor will be valued at the fair market value of the work completed. Professional labor is work ordinarily performed by the donor for payment, such as work by attorneys, electricians, carpenters, and architects that is equivalent to work they do in their occupations. Sweat equity may be counted towards the match only if it is not also counted toward a family's equity.

(7) *Donated materials and supplies.* Donated materials and supplies may be counted toward the match contribution at their fair market value. The recipient must maintain a written enumeration of what donated materials and supplies are being used in the program, as well as documentation of their cost or value.

(8) *Other in-kind contributions.* The reasonable value of in-kind contributions proposed by the applicant in the application and approved by HUD. In reviewing proposed in-kind contributions, HUD will review to ensure:

(i) The proposed contribution is to be used for an eligible activity under the proposed homeownership program;

(ii) The application demonstrates that the proposed in-kind contribution will actually be provided; and

(iii) The proposed value of the contribution is reasonable. In determining whether the value is reasonable, HUD will generally consider the amount such contribution would otherwise cost the program.

§ 572.225 Grant agreements; corrective and remedial actions.

(a) *Terms and conditions.* After HUD approves an application for a planning grant or an implementation grant under this part, it will enter into a grant agreement with the recipient setting forth the amount of the grant and applicable terms and conditions. The grant agreement will be effective for purposes of this part and funds may be disbursed under the Cash and Management Information (C/MI) System, described in § 572.230, after the grant agreement has been executed by the authorized official of the recipient and HUD. Among other things, the grant agreement will provide that the recipient agrees:

(1) To carry out the program in accordance with the provisions of this part, applicable law, the approved application, and all other applicable requirements; and

(2) To comply with such other terms and conditions, including recordkeeping and reports, as HUD may establish for the purposes of administering, monitoring, and evaluating the program in an effective and efficient manner.

(b) *Corrective and remedial actions.* (1) HUD may withhold, withdraw, or recapture any portion of a grant, terminate the grant agreement, or take other appropriate action authorized under the grant agreement, if HUD determines that the recipient is failing to carry out the approved homeownership program in accordance with the terms of the approved application and this part, including failure to provide the contributions toward the match. Corrective or remedial actions that HUD may instruct the recipient to undertake include:

(i) Preparing and following a schedule of actions or a management plan for properly completing the approved activities;

(ii) Cancelling or revising the affected activities before expending grant funds for them, revising the grant budget as necessary, and substituting other eligible activities;

(iii) Discontinuing draws under the C/MI System, and not incurring further costs for the affected activities;

(iv) Reimbursing its HOPE 3 program account in the amount not used in accordance with this part and the grant agreement; and

(v) In the case of implementation grants, making additional matching contributions in substitution for contributions not in compliance with this part and the grant agreement or submitting to HUD acceptable evidence that matching contributions sufficient to meet the total match required under this part and the grant agreement will be made, before additional draws are made.

(2) If HUD determines that the recipient is not complying with the corrective or remedial actions agreed upon with the recipient, or as otherwise authorized in the grant agreement, HUD may implement the following additional corrective and remedial actions:

(i) Changing the method of payment under the C/MI System to a reimbursement basis;

(ii) Suspending the recipient's authority to make draws under the C/MI System for affected activities;

(iii) Reducing (deobligating) the grant in the amount affected by the performance deficiency, including, in the case of implementation grants, failure to furnish matching contributions in the required amount;

(iv) Terminating the grant for all further activities and initiating close-out procedures;

(v) Taking action against the recipient under 24 CFR part 24 and Executive Order 12549 (3 CFR, 1986 Comp., p. 189) with respect to future HOPE 3, HUD, or Federal grant awards; and

(vi) Taking any other remedial action legally available.

(3) If the amount of grant funds that has been disbursed under the C/MI System exceeds the amount finally determined by HUD to be authorized (including any authorized deobligation), the recipient must repay such excess amount to HUD, and will have no right to reclaim or reuse such excess amount.

(c) *Failure to complete and transfer a property to a homebuyer.* If a property assisted under this part or credited as match is not completed and transferred to homebuyers as required under this part, whether voluntarily by the recipient or otherwise, grant expenditures on the property are considered ineligible, and HOPE 3 funds for acquisition and rehabilitation must be repaid to the program account. Preliminary costs (such as architectural and engineering, inspection, and appraisal fees) expended before acquisition are considered general program expenses and need not be repaid.

(d) *Failure to provide homeownership opportunities under an implementation grant.* Failure to provide at least 70 percent of the number of homeownership opportunities proposed in the application for an implementation grant within the timeframe specified in § 572.210(f) may result in remedial actions, as described in paragraph (b) of this section, being taken by HUD, including requiring repayment of all or part of the grant.

§ 572.230 Cash and Management Information System.

(a) *General.* Disbursement of all approved HOPE 3 planning and implementation grant funds is managed through HUD's Cash and Management Information (C/MI) System for the HOPE 3 program. The C/MI System is a computerized system that manages and disburses HOPE 3 funds, and collects and reports information on their use. Funds will be disbursed through the United States Treasury. The United States Treasury account includes funds awarded to the recipient and obligated through the grant approval letter issued by HUD. Recipients will be required to establish or identify a local account in a financial institution to serve as the local HOPE 3 account for the receipt and deposit of HOPE 3 funds disbursed from the United States Treasury. The local account must be in the recipient's name.

(b) *Disbursement of HOPE 3 funds.* After the recipient and HUD execute the HOPE 3 grant agreement and the recipient submits the appropriate banking and security documents to HUD, HOPE 3 funds may be drawn down for approved activities under a planning or implementation grant, as applicable. HOPE 3 funds are drawn down from a United States Treasury account for the program by the recipient or its authorized designee using the Treasury Automatic Clearinghouse (ACH) System. For implementation grants, all drawdowns related to specific properties will only be allowed if information about the individual properties has been entered into the C/MI System (see paragraph (c) of this section). All funds drawn down will be deposited in the local account authorized by the HOPE 3 recipient within 48 to 72 hours of an authorized disbursement request. Any drawdown of HOPE 3 funds from the United States Treasury account is conditioned upon the submission of satisfactory information about the program and compliance with other procedures specified by HUD in HUD's forms and issuances concerning the C/MI System. Copies of these forms and issuances may be obtained from HUD field offices. Funds not disbursed within program deadlines will be automatically deobligated by the C/MI System.

(c) *Property set-up (implementation grants only).* (1) Before disbursement of any HOPE 3 funds related to specific properties, each property or unit must be set up in the C/MI System, as described in HUD's C/MI issuance. Disbursements that require the set-up of properties in the C/MI System include any disbursements related to a specific property including acquisition, rehabilitation, financial assistance to homebuyers (such as down payment assistance, interest rate buy-down, and closing cost assistance), architectural and engineering, permanent and temporary relocation. Within 10 calendar days of property set-up, a property set-up form must be submitted to HUD for each property set-up in the C/MI System.

(2) If the property set-up form is not received within 20 days of the property set-up call, the property or unit will be canceled automatically by the C/MI System. In addition, a property or unit that has been set up in the C/MI System for 12 months without an initial

disbursement of funds may be cancelled by the C/MI System.

(d) *Payment voucher.* As documentation of each drawdown of funds from the United States Treasury account, a copy of the voucher for each drawdown must be retained in the program file.

(e) *Submission of property transfer report.* A property transfer form for all properties assisted with implementation grants must be submitted to HUD within 15 days of the transfer of the property or unit, as described in HUD's C/MI issuance. If a satisfactory property transfer form is not submitted by the due date, HUD will suspend further property set-ups and may suspend program draws. Property set-ups, and program draws, if applicable, will remain suspended until a satisfactory property transfer form is received and entered into the C/MI System.

(f) *Submission of property completion form.* A property completion form for properties assisted with implementation grants must be submitted to HUD within 30 days of the final disbursement of funds from all sources for that particular property. If a satisfactory property completion form is not submitted by the due date, HUD will suspend further property set-ups and may suspend program draws for the recipient. Property set-ups, and program draws, if applicable, will remain suspended until a satisfactory property completion form is received and entered into the C/MI System.

§ 572.235 Amendments.

Amendments to the approved program must be documented or approved by HUD in accordance with instructions provided by HUD.

Subpart D—Selection Process

§ 572.300 Notice of fund availability; planning and implementation grant applications.

(a) *Notice of fund availability (NOFA).* When funds are made available for planning grants or implementation grants under this part, HUD will publish a NOFA in the **Federal Register** in accordance with the requirements of 24 CFR part 12. The NOFA will specify the amount of funding available; the location for obtaining application packages; the time and place for submitting completed applications; the rating criteria for the competition; and other appropriate information and guidance. The NOFA will also inform potential applicants how to obtain information and guidance from HUD about program requirements and preparation of the application.

(b) *Applications.* Applications for grants must be submitted in the form and within the time period established by HUD in the NOFA. The application package will request information in sufficient detail for HUD to determine whether the proposed activities are feasible and meet all the requirements of applicable statutes and regulations.

(c) *Application screening.* (1) HUD will screen each application submitted on or before the deadline specified in the NOFA to determine whether it is complete, is internally consistent, contains correct computations, and complies with all requirements of this part and the NOFA. In addition, HUD will determine whether there appears to be a sufficient number of suitable, available eligible properties in the general locations identified in the application for the proposed activities. Where HUD determines that an application, as initially submitted, is fundamentally incomplete or requires substantial revisions, it will not consider the application further.

(2) Where HUD determines an application is deficient in one or more of the areas in paragraph (c)(1) of this section but is not fundamentally incomplete and does not require substantial revision, it will notify the applicant in writing and give it an opportunity to correct the technical deficiencies in its application. HUD will not notify the applicant of any deficiencies that relate solely to the rating of the application. The notification will require applicants to submit additional or corrected material so that it is received in the appropriate HUD office no later than 4:00 p.m. local time on the 14th calendar day after the date of the written notification to the applicant. HUD may not extend this deadline for actual receipt of the material for any reason. The applicant may not substantially revise the application, such as by submitting or resubmitting fundamental components of the application, substituting another neighborhood, applicant, cooperating entity, or by changing other fundamental features of the howeownership program.

(3) After review of all material submitted under this paragraph (c), HUD will not consider further any applications that do not comply with the requirements of the NOFA and this part.

(Approved by the Office of Management and Budget under control number 2506–0128.)

§ 572.305 Selection process for planning grants.

(a) *Rating and ranking applications.* (1) For planning grant applications that qualify for further consideration after review under § 572.300(c), HUD will assign points in accordance with the rating criteria described in § 572.315. In connection with rating applications, HUD will make any reductions in the requisite grant amounts or geographic scope of the applications that it determines necessary under § 572.200(b) or § 572.305(d). After initially assigning points to each application, HUD will review the applications and may adjust the ratings to ensure consistency among Field and Regional Office scores.

(2) HUD will rank planning grant applications according to total points assigned. Where HUD determines that applications falling below a certain point total are not suitable or not feasible for developing a homeownership program, it may establish a minimum number of points for an application to be selected. HUD will also exclude any applications as required by § 572.200 (b) and (c) before making final selections.

(b) *Selecting applications.* (1) To ensure national geographic diversity among the grants awarded, HUD will select a minimum number of the highest rated applications in each HUD Region as specified in the NOFA. HUD will then select the highest ranking remaining applications without regard to their location.

(2) If two or more applications receive the same number of points and sufficient funds are not available to fund all such applications, first the application or applications requesting the smallest grants will be selected if a sufficient amount remains to fund them. If two or more tied applications request the same amount and sufficient funds are not available to fund all such applications, the following system will be used to break the ties:

(i) If the tied applications are for programs to be carried out in different jurisdictions, applications with the highest number of points for the rating criterion described in § 572.315(c), Need for homeownership program, will be selected, if sufficient funds remain.

(ii) If the tied applications are to be carried out in the same jurisdiction, applications with the highest number of points for the rating criterion described in § 572.315(a), Capability, will be selected, if sufficient funds remain.

(3) Funds remaining after applying the procedures described in paragraph (b) (1) and (2) of this section will be reallocated in accordance with paragraph (f) of this section.

(c) *Procedural errors.* Procedural errors by HUD discovered after initial ratings, but before notification of applicants, will be corrected and

rankings revised. Procedural errors discovered after notification of approved applicants that, if corrected, would result in approval of an application that was not approved will be corrected by funding the application from any unused amounts of "off the top" from amounts available in the next funding round.

(d) *Reduction in requested grant amounts and/or geographic scope of the program.* (1) HUD will approve an application for an amount lower than the amount requested or adjust line items in the proposed budget within the amount requested (or both) if it determines that:

(i) The amount requested for one or more eligible activities is unreasonable, unnecessary, or unjustified;

(ii) An activity proposed for funding does not qualify as an eligible activity;

(iii) The amount requested exceeds the cost limitations established in this part;

(iv) The applicant is not able to carry out all the activities requested; or

(v) Insufficient amounts remain in that funding round to fund the full amount requested in the application.

(2) In addition, HUD may reduce the geographic scope of the proposed program or existing program if it determines that:

(i) Two or more fundable applications substantially overlap, or one or more fundable applications overlap with an existing program;

(ii) The proposed geographic scope is overly large given the capacity of the organization and/or the number of units it proposes for the homeownership program.

(e) *Notification of approval or disapproval.* After completion of the rating and selection of applications, but no later than six months after the deadline date for submission of the application, as stated in the NOFA, HUD will notify the selected applicants and the applications that have not been selected, in writing.

(f) *Remaining amounts due to insufficient approvable applications or deobligation of grant amounts.* (1) If funds remain after HUD approves all approvable planning grant applications or if any funds become available due to deobligation of grant amounts, the available amounts may be combined and HUD may use them in the following ways:

(i) Correct procedural errors in selecting planning or implementation grant applications;

(ii) Reallocate the remaining funds to Regions having more approvable implementation grant applications than can be funded from the initial allocation to those Regions; or

(iii) Add the remaining funds to funds available for the next competition for planning or implementation grants.

(2) Any reallocation of funds will be carried out under the allocation factors described in § 572.210(b).

§ 572.310 Selection process for implementation grants.

(a) *Rating and ranking applications.* (1) If the regional allocation described in § 572.210(b) is not sufficient to fund each application that qualifies for further consideration under § 572.300(c), HUD will review each such application and assign points in accordance with the rating criteria described in § 572.320. In connection with rating applications, HUD will make any reductions in the requisite grant amounts or geographic scope of the applications that HUD determines necessary under § 572.210(c) or § 572.310(d). After initially assigning points to each application, HUD will review the applications and may adjust the ratings to ensure consistency among Field Office scores. HUD will then rank implementation grant applications according to total points assigned, by Region. HUD will also exclude any applications as required by § 572.210(c).

(b) *Selecting applications.* HUD will select the highest ranking applications within each Region within the Regional allocation.

(1) If two or more applications in a Region receive the same number of points and sufficient amounts are not available to fund all such applications, first the application or applications requesting the smallest grants will be selected if a sufficient amount remains to fund them. If two or more tied applications request the same amount and sufficient funds are not available to fund all such applications, the following system will be used:

(i) If the tied applications are for programs to be carried out in different jurisdictions, the application or applications with the greatest need will be selected, using whatever remaining funds are available. To determine need, HUD will consider the percentage of the number of rental households in the jurisdiction or jurisdictions in which the program will be carried out that are living in poverty, as defined by the Bureau of the Census.

(ii) If the tied applications are to be carried out in the same jurisdiction, the application or applications with the highest number of points for the rating criterion described in § 572.320(e), Efficiency, will be selected, using whatever remaining funds are available.

(2) If any amounts remain after applying the procedures described in paragraph (b)(1) of this section, they will be reallocated in accordance with paragraph (f) of this section.

(c) *Procedural errors.* Procedural errors by HUD discovered after initial ratings but before notification of applicants will be corrected and rankings revised. Procedural errors discovered after notification of approved applicants that, if corrected, would result in approval of an application that was not approved will be corrected by funding that application from any unused amounts or "off the top" from amounts available in the next funding round.

(d) *Reduction in requested grant amounts and/or geographic scope of the program.* (1) HUD will approve an application for an amount lower than the amount requested or adjust line items in the proposed budget within the amount requested (or both) if it determines that:

(i) The amount requested for one or more eligible activities is unreasonable, unnecessary, or unjustified, or does not otherwise meet applicable cost limitations under this part;

(ii) There is an insufficient inventory of potential eligible properties;

(iii) The applicant lacks adequate past experience or otherwise is not able to carry out as large a program as requested;

(iv) The applicant has requested an ineligible activity;

(v) The applicant has proposed an inadequate match; or

(vi) Insufficient amounts remain in that funding round to fund the full amount requested in the application.

(2) In addition, HUD may reduce the geographic scope of a proposed program or an existing program if it determines that:

(i) Two or more fundable applications substantially overlap, or one or more fundable applications substantially overlap with an existing approved program; or

(ii) The proposed geographic scope is overly large given the capacity of the organization and the number of units or the total cost of the proposed program.

(e) *Notification of approval or disapproval.* After completion of the ranking and selection of applications, but no later than six months after the deadline date for submission of the application, as stated in the NOFA, HUD will notify the selected applicants and the applicants that have not been selected, in writing.

(f) *Remaining amounts due to insufficient approvable applications, reallocation, and deobligation of grant*

amounts. (1) If funds remain after HUD approves all approvable applications in a Region after the initial allocation or reallocation, or if any funds become available due to deobligation of grant amounts, the available amounts may be combined and HUD may use them in the following ways:

(i) Correct procedural errors in selecting planning grant or implementation grant applications;

(ii) Reallocate the remaining funds to Regions having more approvable applications than can be funded from previous allocations to that Region;

(iii) Make the remaining funds available to fund the highest ranked, unfunded planning grant applications; or

(iv) Add the remaining funds to funds available for the next competition.

(2) Any reallocation of funds will be carried out under the allocation factors described in § 572.210(b).

§ 572.315 Rating criteria for planning grants.

HUD will review each application for a planning grant that qualifies for additional consideration under the screening procedures described in § 572.300(c), in accordance with the following rating criteria;

(a) *Capability.* The ability of the applicant to develop a HOPE 3 homeownership program in a reasonable time and in a successful manner. In assigning points for this criterion, HUD will consider evidence in the application that demonstrates:

(1) The capability of the applicant to develop a HOPE 3 homeownership program, demonstrated through previous experience of the applicant or key staff in managing acquisition, rehabilitation, construction, real estate financing, counseling and training, or other relevant activities, or by an explanation of how such capability will be obtained.

(2) The ability of the applicant to handle financial resources, demonstrated through such evidence as previous experience of the applicant or key staff and existing financial control procedures, or an explanation of how such capability will be obtained.

(b) *Public/private support.* In assigning points for this criterion, HUD shall consider:

(1) The extent of interest of the unit of general local government (or Indian tribe, where applicable), or State or territorial government, and other public agencies, in support of a homeownership program, demonstrated through evidence of intent to provide assistance, such as supportive services (including counseling and training), rehabilitation loans or grants, interest rate subsidies, water and sewer improvements, street and sidewalk improvements, and tax abatements.

(2) The extent of interest of the private sector and nonprofit organizations (including places of worship, banks, neighborhood or community organizations, the business community, or other community groups) in support of a home ownership program, demonstrated through evidence of intent to provide assistance such as the donation of labor or materials, interest rate reductions or other financing subsidies, and volunteer assistance in some aspect of the program (activities of the applicant will not be considered under this subcriterion).

(c) *Need for homehownership program.* In assigning points for this criterion, HUD will consider the relative percentage of the total number of rental households consisting of persons with incomes at or below the poverty level, as determined by the Bureau of Census, in the applicable jurisdiction or jurisdictions.

(d) *Planning approach.* HUD will consider the extent to which the proposal represents a sound approach to planning, demonstrates an understanding of the nature and scope of activities required to successfully implement a homeownership program, and is likely to result in a successful homeownership program.

§ 572.320 Rating criteria for implementation grants.

If the Regional allocation is not sufficient to fund each application that qualifies for additional consideration under the screening procedures described in § 572.300(c), HUD will rate each application that does so qualify in accordance with the following rating criteria:

(a) *Capability.* The ability of the applicant to develop and carry out the proposed homeownership program in a reasonable time and in a successful manner. In assigning points for this criterion, HUD will consider evidence demonstrating:

(1) The capability of the applicant to handle financial resources, demonstrated through such evidence as previous experience of the applicant or key staff and existing financial control procedures.

(2) The capability of the applicant to manage the proposed homeownership program as a whole, demonstrated through previous experience of the applicant or key staff in managing acquisition, rehabilitation, construction, real estate financing, counseling and training, or other relevant activities.

(b) *Public/private support.* In assigning points for this criterion, HUD will consider:

(1) The extent of commitment of the unit of general local government (or Indian tribe, where applicable), or State or territorial government, and other public agencies in support of the program, such as the provision of supportive services (including counseling and training), rehabilitation loans or grants, interest rate subsidies, water and sewer improvements, street and sidewalk improvements, and tax abatements.

(2) The extent of commitment of the private sector and nonprofit organizations (including places of worship, banks, neighborhood or community organizations or other community groups) in support of the program, such as the donation of labor or materials, interest rate reductions or other financing subsidies, and commitment of volunteer assistance in some aspect of the program (activities of the applicant shall not be considered under this subcriterion).

(c) *Quality of program design.* In assigning points for this criterion, HUD will consider the extent to which the proposed program is logical, feasible, innovative, and will substantially achieve its stated objectives in the required timeframes and within the proposed budget.

(d) *Efficiency.* In assigning points for this criterion, HUD will consider the cost-effectiveness in using Federal grant funds, determined by dividing the amount of the grant under consideration (adjusted by the R.S. Means Cost Construction Index, where appropriate) by the total number of units expected to be assisted.

(e) *MBE/WBE goals.* HUD will assign points under either paragraph (e)(1) or (2) of this section, as applicable, and will consider:

(1) The extent to which the applicant demonstrates a firm commitment to promoting the use of minority business enterprises and women-owned businesses. For example, the applicant has used such businesses in the past, has set forth specific affirmative steps it will take to ensure that such businesses have an equal opportunity to obtain and compete for contracts, or both. These steps may include the steps outlined at 24 CFR 85.36(e) and 24 CFR 570.506(g)(6), but may not include awarding contracts solely or in part on the basis of race or gender. (See § 572.405(d).)

(2) In the case of applications submitted by Indian tribes or IHAs, the requirements of the Indian Self-Determination and Education

Assistance Act, 25 U.S.C. 450e(b), apply. For such applicants, points for this factor will be assigned based on the extent to which the applicant demonstrates a firm commitment to promoting the use of minority business enterprises and women-owned businesses, to the maximum extent consistent with, but not in derogation of, the Indian Self-Determination and Education Assistance Act.

(f) *Inventory.* In assigning points for this criterion, HUD will consider the extent to which the proposal will emphasize the use of eligible Federal properties.

(g) *Fair housing choice.* In assigning points for this criterion, HUD will consider the degree to which the applicant's proposal furthers fair housing choice through its affirmative marketing strategy, the proposed areas in which eligible properties are located, or a combination of these factors.

Subpart E—Other Federal Requirements

§ 572.400 Comprehensive Housing Affordability Strategy (CHAS).

(a) *Applicants that are States or units of general local government.* The applicant must have a HUD-approved complete or abbreviated CHAS pursuant to the requirements of the CHAS regulations (24 CFR part 91), and must submit a certification that the proposed activities in the application for funding are consistent with the HUD-approved CHAS.

(b) *Applicants that are not States or units of general local government.* The applicant must submit a certification by the jurisdiction or jurisdictions in which the proposed program will be located that the applicant's proposed activities are consistent with the jurisdiction's HUD-approved CHAS. The certification must be made by the unit of general local government or governments or the State, pursuant to the CHAS regulations at 24 CFR 91.1(b)(1)(ii), and as may be further described in the NOFA.

(c) *Indian tribes and the Insular Areas of Guam, the U.S. Virgin Islands, American Samoa and the Northern Mariana Islands.* These entities are not required to have a CHAS or to make CHAS certifications. An application by an Indian tribe or other applicant for a program that will be located on a reservation of an Indian tribe will not require a certification by the tribe or the State. However, where an Indian tribe or IHA is the applicant for a program that will not be located on a reservation, the certification requirements under the preceding paragraph will apply.

(d) *Timing of CHAS certification submissions.* Except as otherwise set forth in the NOFA with respect to certifications of consistency with an abbreviated CHAS, a required certification must be submitted by the funding application submission deadline announced in the NOFA. A jurisdiction required to make the certification must therefore get its CHAS approved by HUD in time for the certification to be submitted by the applicable deadline, i.e., the funding application deadline announced in the NOFA or, if the NOFA permits a later submission date for the certification, the later date. (HUD has 60 days to approve a CHAS.) However, in no event will an application be considered for funding if a required CHAS has not been submitted for HUD approval by the funding application deadline. All certifications must be signed by the public official responsible for submitting the CHAS to HUD, or his or her authorized representative, and must meet the requirements of the CHAS regulations at 24 CFR 91.80 (a) and (b), "Consistency certification."

§ 572.405 Nondiscrimination and equal opportunity requirements.

The following authorities apply to homeownership programs under this part:

(a) *Fair housing requirements.* (1) The requirements of the Fair Housing Act (42 U.S.C. 3601–19) and implementing regulations at 24 CFR part 100, part 109, and part 110; Executive Order 11063, as amended by Executive Order 12259 (3 CFR, 1958–1963 Comp., p. 652 and 3 CFR, 1980 Comp., p. 307) (Equal Opportunity in Housing) and implementing regulations at 24 CFR part 107; and title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) (Nondiscrimination in Federally Assisted Programs) and implementing regulations issued at 24 CFR part 1.

(2) The Indian Civil Rights Act (25 U.S.C. 1301 *et seq.*) applies to tribes when they exercise their powers of self-government. Thus, it is applicable in all cases when an IHA has been established by exercise of such powers. In the case of the IHA established pursuant to State law, the applicability of the Indian Civil Rights Act shall be determined on a case-by-case basis. Developments subject to the Indian Civil Rights Act must be developed and operated in compliance with its provisions and all implementing HUD requirements, instead of title VI and the Fair Housing Act and their implementing regulations.

(b) *Discrimination on the basis of age or handicap.* The prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101–07) and implementing regulations at 24 CFR part 146, and the prohibitions against discrimination against handicapped individuals under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR part 8. With respect to program accessibility standards, the provisions of 24 CFR 8.29 apply.

(c) *Employment opportunities.* (1) The requirements of section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) (Employment Opportunities for Businesses and Lower Income Persons in Connection with Assisted Projects); and Executive Order 11246 (3 CFR, 1964–1965 Comp., p. 339) (Equal Employment Opportunity) and implementing regulations at 41 CFR part 60.

(2) In the case of Indian tribes and IHAs, the requirements of the Indian Self-Determination and Education Assistance Act (see 25 U.S.C. 450e(b); 24 CFR 905.165 (a) and (b) and 905.360); and Executive Order 11246 and 41 CFR part 60 to the maximum extent consistent with, but not in derogation of, the Indian Self-Determination and Education Assistance Act (see 24 CFR 905.170(b) and 905.360).

(d) *Minority and women's business enterprises.* The requirements of Executive Order 11625, as amended by Executive Order 12007 (3 CFR, 1971–1975 Comp., p. 616); Executive Order 12432 (3 CFR, 1983 Comp., p. 198); and Executive Order 12138, as amended by Executive Order 12608 (3 CFR, 1979 Comp., p. 393). Consistent with HUD's responsibilities under these Orders, recipients must make efforts to encourage the use of minority and women's business enterprises in connection with funded activities. In the case of applications submitted by Indian tribes or IHAs, recipients' efforts must be consistent with, but not in derogation of, the Indian Self-Determination and Education Assistance Act, 25 U.S.C. 450e(b).

(e) *Affirmative fair housing marketing.* The recipient must adopt a strategy for informing and soliciting applications from people who are least likely to apply, because of race, color, religion, sex, handicap, familial status, or national origin, for the program without special outreach, consistent with the affirmative fair housing marketing requirements. (See 24 CFR 92.351 for an example of an affirmative fair marketing strategy. Paragraph (e) of this section does not apply to Indian tribes and IHAs, as described in paragraph (a) (2) of this section.

(f) *Authority for collection of racial, ethnic, and gender data.* HUD requires submission of racial, ethnic, and gender data under this part under the authority of section 562 of the Housing and Community Development Act of 1987 and section 808(e)(6) of the Fair Housing Act.

(g) *Requirements applicable to religious organizations.* Where the applicant is, or proposes to contract with, a primarily religious organization, or a wholly secular organization established by a primarily religious organization, to provide, manage, or operate housing under the program, the organization must undertake its responsibilities under the homeownership program in accordance with the following principles:

(1) It will not discriminate against any employee or applicant for employment under the program on the basis of religion and will not limit employment or give preference in employment to persons on the basis of religion;

(2) It will not discriminate against any person applying for housing or other assistance under the program on the basis of religion and will not limit such assistance or give preference to persons on the basis of religion;

(3) It will provide no religious instruction or counseling, conduct no religious services or worship (which term does not include voluntary, non-denominational prayer before meetings), engage in no religious proselytizing, and exert no other religious influence in the provision of assistance under the homeownership program.

§ 572.410 Environmental procedures and standards.

(a) *Planning grants.* HUD has determined that its approval of applications for planning grants under this part is categorically excluded from environmental review and compliance requirements of the National Environmental Policy Act of 1969 (NEPA) and that other Federal environmental laws and authorities listed in 24 CFR 50.4 are not applicable.

(b) *Implementation grants.* (1) Recipients of implementation grants must comply with the applicable environmental laws and authorities at 24 CFR 50.4 and must:

(i) Supply HUD with information necessary for it to perform any necessary environmental review of the property (or neighborhood);

(ii) Carry out mitigating measures required by HUD or select alternate eligible property; and

(iii) Not acquire or otherwise carry out program activities with respect to any eligible property until HUD approval for the property (or neighborhood) is received.

(2) Before any amounts under this part are used to acquire or rehabilitate an eligible property, HUD must determine whether the proposed activities trigger applicability thresholds for the applicable Federal environmental laws and authorities. These may apply when the property is:

(i) Located within designated coastal barriers;

(ii) Listed on, or eligible for listing on, the National Register of Historic Places; or is located within, or adjacent to, an historic district;

(iii) Located near hazardous operations handling fuels or chemicals of an explosive or flammable nature;

(iv) Contaminated by toxic chemicals or radioactive materials;

(v) Located within a runway clear zone at a civil airport or within a clear zone or accident potential zone at a military airfield; or

(vi) Located within a special flood hazard area or within a location requiring flood insurance protection.

(3) A recipient may choose to make the threshold reviews itself or with assistance from State or local governments or qualified persons or to refer the property to HUD for threshold review. Where the recipient makes the threshold review itself, it must submit the result to HUD.

(4) If a recipient chooses not to make the threshold reviews, it must submit information to HUD to permit HUD to make the review.

(5) If HUD determines on the basis of the recipient's threshold review or HUD's threshold review that one or more of the thresholds are exceeded, HUD will conduct an environmental review of that issue and, if appropriate, establish mitigating measures that the recipient must carry out for the property unless it decides to select an alternate property.

§ 572.415 Conflict of interest.

(a) *Conflict of interest.* In addition to the conflict of interest requirements in OMB Circular A–110 [1] and 24 CFR part 85, no person who is an employee, agent, consultant, officer, or elected or appointed official of the recipient or cooperating entity named in the application and who exercises or has exercised any functions or responsibilities with respect to assisted activities, or who is in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from the activity, or have an interest in any contract, subcontract, or agreement with respect thereto, or the proceeds thereunder, either for himself or herself or for those with whom he or she has family or business ties, during his or her tenure or for one year thereafter, except that a resident of an eligible property may acquire an ownership interest.

(b) *Exception.* HUD may grant an exception to the exclusion in paragraph (a) of this section on a case-by-case basis when it determines that such an exception will serve to further the purposes of the HOPE 3 program and the effective and efficient administration of the local homeownership program. An exception may be considered only after the applicant or recipient has provided a disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict, a description of how the public disclosure was made, and an opinion of the applicant's or recipient's attorney that the interest for which the exception is sought would not violate State or local law. In determining whether to grant a requested exception, HUD will consider the cumulative effect of the following factors, where applicable:

(1) Whether the exception would provide a significant cost benefit or an essential degree of expertise to the local homeownership program that would otherwise not be available;

(2) Whether an opportunity was provided for open competitive bidding or negotiation;

(3) Whether the person affected is a member of a group or class intended to be the beneficiaries of the activity and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;

(4) Whether the affected person has withdrawn from his or her functions or responsibilities, or the decisionmaking process, with respect to the specific activity in question;

(5) Whether the interest or benefit was present before the affected person was in a position as described in paragraph (b) of this section;

(6) Whether undue hardship will result either to the applicant, recipient, or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and

(7) Any other relevant considerations.

§ 572.420 Miscellaneous requirements.

(a) *Application of OMB Circulars.* (1) The policies, guidelines, and requirements of OMB Circular Nos. A–87 (Cost Principles Applicable to

[1] See § 572.425(b) concerning availability of OMB Circulars.

Grants, Contracts and Other Agreements with State and Local Governments) and 24 CFR part 85 (Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments) apply to the award, acceptance, and use of assistance under this part by applicable entities, and to the remedies for non-compliance, except where inconsistent with the provisions of NAHA, other Federal statutes, or this part. Circular Nos. A–110 (Grants and Cooperative Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations), A–122 (Cost Principles Applicable to Grants, Contracts and Other Agreements with Nonprofit Institutions), and, as applicable, A–21 (Cost Principles for Educational Institutions) apply to the acceptance and use of assistance under this part by covered organizations, except where inconsistent with the provisions of NAHA, other Federal statutes, or this part. Recipients are also subject to the audit requirements of OMB Circular A–128 (Audits of State and Local Governments) implemented at 24 CFR part 44, and OMB Circular A–133 (Audits of Institutions of Higher Learning and Other Nonprofit Institutions), as applicable.

(2) Copies of OMB Circulars may be obtained from E.O.P. Publications, room 2200, New Executive Office Building, Washington, DC 20503, telephone (202) 395–7332 (this is not a toll-free number). There is a limit of two free copies.

(b) *Anti-lobbying certification.* (1) In accordance with 24 CFR part 87, applicants for and recipients of assistance exceeding $100,000 must certify that no Federal funds have been or will be spent on lobbying activities in connection with the assistance. Applicants and recipients must also disclose whether nonappropriated funds have been spent or committed for lobbying activities if those activities would be prohibited if paid with appropriated funds. Substantial monetary penalties may be imposed for failure to file the required certification or disclosure.

(2) Paragraph (b)(1) of this section does not apply to Indian tribes or IHAs. Indian tribes, tribal organizations, or any other Indian organization with respect to expenditures specifically permitted by other Federal law are not covered by the definition of "person" in 24 CFR part 87.

(c) *Drug-free workplace.* Applicants must certify that they will provide a drug-free workplace, in accordance with the Drug-free Workplace Act of 1988 and HUD's implementing regulations at 24 CFR part 24, subpart F.

(d) *Debarred or suspended contractors.* The provisions of 24 CFR part 24 apply to the employment, engagement of services, awarding of contracts, subgrants, or funding of any recipients, cooperating entities, or contractors or subcontractors under this part, during any period of debarment, suspension, or placement in ineligibility status.

(e) *Labor standards.* If other Federal programs are used in connection with the HOPE 3 homeownership program, labor standards requirements apply to the extent required by such other Federal programs.

(f) *Flood insurance.* Pursuant to the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001–4128), the recipient may not provide financial assistance for acquisition or rehabilitation of properties located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, unless:

(1) The community in which the area is situated is participating in the National Flood Insurance program (see 44 CFR parts 59 through 79), or less than one year has passed since FEMA notification regarding such hazards; and

(2) Flood insurance is obtained as a condition of the acquisition or rehabilitation of the property.

(g) *Coastal Barrier Resources Act.* Pursuant to the Coastal Barrier Resources Act (16 U.S.C. 3601), HUD will not approve use of properties in the Coastal Barrier Resources System.

(h) *Lead-based paint testing and abatement.* Any residential property assisted under the HOPE 3 program established under this part constitutes HUD-associated housing for the purpose of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821, *et seq.*) and is, therefore, subject to 24 CFR part 35. Unless otherwise provided, recipients are responsible for testing and abatement activities.

§ 572.425 Recordkeeping and reports; audit of recipients.

(a) *General records.* Each recipient must keep records that will facilitate an effective audit to determine compliance with program requirements and that fully disclose:

(1) The amount and disposition by the recipient of the planning and implementation grants received under this part, including sufficient records that document the reasonableness and necessity of each expenditure;

(2) The amount and disposition of proceeds from financing obtained in connection with the program, sales to eligible families, and any funds recaptured upon sale by the homeowner;

(3) The total cost of the homeownership program;

(4) The amount and nature of any other assistance, including cash, property, services, or other items contributed as a condition of receiving an implementation grant;

(5) The cost or other value of all in-kind contributions towards the match required by § 572.220; and

(6) Any other proceeds received for, or otherwise used in connection with, the homeownership program under this part.

(b) *Family size and income; racial, ethnic, and gender data.* The recipient must maintain records on the family size and income, and racial, ethnic, and gender characteristics of families who apply for homeownership and families who become homeowners.

(c) *Selection procedures.* The recipient must maintain a copy of its procedures for identifying and selecting eligible families in accordance with § 572.110, and records documenting the eligibility of each family selected for homeownership.

(d) *Rehabilitation standards.* The recipient must maintain written rehabilitation standards required by § 572.100(d)(5).

(e) *Cooperative and condominium agreements.* The recipient must maintain a copy of any condominium and cooperative association agreements for properties under a homeownership program approved under this part.

(f) *Amounts available for reuse.* The recipient must keep and make available to HUD all records necessary to calculate accurately payments due to HUD under § 572.135(b) and (c).

(g) *Access by HUD and the Comptroller General.* For purposes of audit, examination, monitoring, and evaluation, each recipient must give HUD (including any duly authorized representatives and the Inspector General) and the Comptroller General of the United States (and any duly authorized representatives) access to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this part, including all records required to be kept under this section.

(h) *Reports.* The recipient must submit reports required by HUD.

(Approved by the Office of Management and Budget, with respect to implementation grants, under control number 2506–0128.)

Dated: June 9, 1993.

Andrew Cuomo,

Assistant Secretary for Community Planning and Development.

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N-93-3611; FR-3490-N-01]

HOPE for Homeownership of Single Family Homes Program (HOPE 3); Notice of Fund Availability

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice of fund availability.

SUMMARY: This NOFA announces the availability of $86 million in funding for implementation grants for the HOPE for Homeownership of Single Family Homes Program (HOPE 3). The Notice contains information concerning eligible applicants, funding available for implementation grants, and application requirements and procedures. HUD published, for public comment, a Notice of Program Guidelines for HOPE 3 on February 4, 1991 (56 FR 4458) and amended Guidelines on January 14, 1992 (57 FR 1592). Elsewhere in this issue of the **Federal Register** is the final rule for the HOPE 3 program. The rule, which will be codified as 24 CFR part 572, contains detailed programmatic information and the requirements for the HOPE 3 program. Applicants are advised to consult the regulation in order to prepare an application in compliance with the requirements of the final rule, many of which are not repeated in this NOFA. Failure to follow the rule will result in applications being rejected by HUD.

DATES: Applications for implementation grants for the HOPE 3 program must be received in the appropriate HUD Field Office by 4 p.m. local time on September 3, 1993. Applications may be hand delivered to the appropriate HUD Field Office no later than 4 p.m. local time on the deadline date. Applications sent by facsimile (FAX) will not be accepted. HUD will not waive this deadline for actual submission for any reason.

ADDRESSES: An original and two copies of the completed application must be submitted to the HUD Field Office having jurisdiction over the locality or area in which the proposed program is located. Applications should be addressed to the attention of: Director, Community Planning and Development Division. A list of HUD Field Offices appears at the end of this NOFA. Applicants must submit their applications to the CPD Division in the correct Field Office, including applicants in States with more than one Field Office. For applications submitted by Indian tribes and IHAs, the correct Field Office is the CPD Division in the office listed at the end of the NOFA with jurisdiction over the geographic area covered by the application. Indian tribes and IHAs should not submit their applications to the Office of Indian Programs or Indian Programs Division. Applicants should contact their local office to confirm the appropriate place for submission. Failure to submit an application to the correct Field Office in accordance with the above procedures will result in disqualification of the application.

FOR FURTHER INFORMATION CONTACT: John Garrity, Office of Affordable Housing Programs, Department of Housing and Urban Development, room 7158, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708-0324; (TDD (202) 708-2565). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act Statement

The information collection requirements contained in this NOFA have been submitted to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980, and have been assigned OMB control number 2506-0128.

I. Purpose and Substantive Description

A. Authority

The funding made available under this NOFA is authorized by title IV of the National Affordable Housing Act (42 U.S.C. 12891-12898), which created the HOPE 3 Program. The final rule for the program, which will be codified at 24 CFR part 572, is being published elsewhere in today's **Federal Register**. If there is any conflict between this NOFA and the regulation, the regulation shall be controlling.

B. Allocation Amounts

The purpose of this NOFA is to announce the availability of a total of $86 million in funds for implementation grants, appropriated by the Department's Appropriations Act for fiscal year 1993 (Pub. L. 102-389).

The amount made available for implementation grants has been allocated to each of the 10 HUD Regions by a formula described in the final rule (24 CFR 572.210(b)). However, no Region will be allocated less than $4 million in order to ensure that national geographic diversity is maintained. The formula results in the following allocation by HUD Region for FY 1993:

Region I—$4,000,000
Region II—$8,896,000
Region III—$7,818,000
Region IV—$15,621,000
Region V—$13,274,000
Region VI—$12,936,000
Region VII—$4,000,000
Region VIII—$4,000,000
Region IX—$11,455,000
Region X—$4,000,000

C. Reallocation of Funds

If funds remain after HUD has approved all approvable implementation grant applications in a Region or if any funds become available due to deobligation of grant amounts, the remaining amounts from each Region may be combined and HUD may use them in accordance with § 572.310(f) of the regulation.

D. Implementation Grant Cap

1. For FY 1993, the maximum total grant amount for a single applicant is $3.0 million. A single applicant may apply for more than one implementation grant, but HUD will not approve grants for any one applicant that total more than $3.0 million.

2. Refer to § 572.210(c) for overall limitations for implementation grants.

E. Eligible Applicants

An eligible applicant is a private nonprofit organization; a cooperative association; or a public body (including a PHA, an IHA, Indian tribe or an agency or instrumentality of a public body) in cooperation with a private nonprofit organization, all as further defined in the regulations.

II. Implementation Grant Applications

A. Application Process

Application packages for implementation grants, including SF 424, other forms, and instructions for preparing applications, are available from the CPD Division in the appropriate HUD Field Office (see the list of HUD Field Offices at the end of this NOFA) or through the Affordable Housing Information Center at 1-800-998-9999. Only timely applications received in the appropriate Field Office will be considered for funding. Applications (original and two copies) must be physically received no later than 4:00 p.m. on the deadline (see "Dates" at the beginning of this NOFA) at the appropriate HUD Field Office, Attention: Director, Community Planning and Development Division. It is not sufficient for an application to bear a postmark within the deadline. Applications sent by facsimile (FAX) will not be accepted.

B. Application Submission Requirements

Complete application submission requirements are contained in the application package. All potential applicants are urged to contact their HUD Field Office for information and guidance from HUD about program requirements and preparation of an application and for the time and place of any workshops or training sessions to be held within the Field Office's jurisdiction.

C. Application Contents

Each application must contain a description of the proposed homeownership program demonstrating consistency with all requirements specified in the regulation and the application package. The following is a summary description of the contents of the implementation grant application package.

(1) Summary of Homeownership Program. The application must contain an executive summary of the homeownership program being proposed including information about the lead applicant and cooperating entities, the amount of grant requested, local match and total program cost, the number of homebuyers to be assisted, the location of the program, and the activities being proposed.

(2) Program Neighborhoods and Neighborhood Characteristics. The application must contain a description of the anticipated locations of the properties to be used in the program, by specifying particular neighborhoods where activities will be carried out and describing racial and ethnic characteristics of residents of the neighborhoods.

(3) Applicant Information. (i) Qualifications and Experience of Applicant. The application must describe the applicant and contain evidence of its qualifications and experience, including experience in providing housing for low income families, and capacity to carry out the program and comply with the program requirements. To demonstrate adequate internal management controls, the application must contain the auditor's summary of the last certified independent audit report and a description of any unresolved serious problems or audit findings, if applicable, or a certification from a certified public accountant who has examined the current internal management controls or is establishing those systems for a new entity.

(ii) Requirements for Joint Applications. If two or more entities join in submitting an application, such as a public body in cooperation with a private nonprofit organization or two private nonprofit organizations, the application must include a copy of an executed written agreement between the entities that delineates their respective roles and responsibilities and identifies the lead applicant that will execute the grant agreement and assume legal responsibility for the grant.

(iii) Evidence of Section 501(c) Status. An application must contain evidence of an IRS ruling or determination of tax exempt status under Section 501(c) of the Internal Revenue Code for a private nonprofit organization when it is the lead applicant or when it is designated as the cooperating entity with a public body that is required to apply in conjunction with a private nonprofit organization. An application from a private nonprofit organization organized in the Commonwealth of Puerto Rico (where it is the lead applicant or designated cooperating nonprofit) must contain a letter from the Treasury Department of the Commonwealth of Puerto Rico evidencing that the organization has tax exempt status under Puerto Rico law.

(iv) Requirement for Cooperative Associations. An application submitted by a cooperative association must contain an opinion of counsel that the organization is currently organized and existing under the laws of the applicable State, territory, local government, or Indian tribe, and has as its primary purpose acquiring, owning, and operating housing for its members or shareholders, as applicable.

(4) Unit Information. (i) The application must contain information concerning the anticipated source of units and evidence that at least 10 properties from eligible HOPE 3 sources are either currently available or were available during the 12-month period prior to submission of the application. It must also contain information about the number of units to be used in the program, the size of units, the average acquisition and rehabilitation cost, the basis for the estimate, the terms (if known) to the entity that will purchase the units for resale to eligible families.

(ii) Rehabilitation Standards. The application must contain information about the rehabilitation of the units to be used in the program including—

(A) The type of improvements to be made to, or amenities to be provided for, the units, the source of funds, and provider;

(B) how the applicant will ensure that the unit will be free from any defects that pose a danger to life, health, or safety before transfer of an ownership interest in a unit to an eligible family or occupancy of a unit by an eligible family under a lease purchase agreement;

(C) a plan describing how the applicant will ensure the unit will, not later than two years after the transfer to an eligible family, meet the minimum rehabilitation standards required by HUD under 24 CFR 572.100(d), or any higher standards established by the recipient or required by lenders; and,

(D) where applicable, how the applicant will manage the provision of sweat equity by homebuyers, including (a) a description of the anticipated scope of work, (b) a schedule of completion, (c) a description of how homebuyers (and others donating labor in connection with the sweat equity activity) will be trained, (d) an identification of who will supervise the work, i.e. a licensed general contractor, and (e) a contingency plan if the sweat equity is not fully provided or the schedule is not met.

(iii) Type of Ownership. The application must specify the type or types of ownership interests that the homebuyers will acquire under the program, including fee simple ownership, condominium ownership, cooperative ownership, or another form of ownership proposed and justified by the applicant and approved by HUD. See § 572.115 of the final rule.

(iv) Management Entity. The application must identify and describe the entity that will operate and manage the property, and contain a copy of the proposed contract, or state that the applicant intends to operate and manage the property. Where homeowners will have full responsibility upon acquiring a homeownership interest in a property (as is expected in scattered-site, fee simple ownership arrangements), this requirement will only cover the period, if any, until the homeowners become fully responsible.

(v) Rental Housing Impact. The application must contain a statement concerning whether or not more than 10 percent of the affordable single family rental housing units in the market area will be eliminated as a result of the homeownership program.

(5) Homebuyer Information. (i) Plan for Selecting and Identifying Eligible Families. The application must contain a plan for identifying and selecting eligible families to participate in the homeownership program. The plan must contain the elements required under 24 CFR 572.110—Identifying and Selecting Eligible Families for Homeownership.

(ii) Description of Potential Homebuyers. The application must

contain a description of the general composition of potential eligible families who may participate in the program (and residents of occupied properties selected for use under the program) including family size and income, and racial, ethnic, and gender characteristics.

(iii) Homebuyer Financing. (A) The application must contain information concerning the source and type of homebuyer financing and information about the homebuyer's estimated purchase price of the property.

(B) Lease/Purchase. The application must specifiy if the applicant proposes to enter into an interim lease/purchase agreement on any or all of the properties to be used in the program. See 24 CFR 572.5 for the definition of lease/purchase, which is generally limited to a two-year period.

(C) Affordability Requirements. The application must demonstrate that the monthly expenditure for prinicpal, interest, taxes, and insurance by an eligible family that is necessary to complete the sale for the initial acquisition of a unit is not less than 20 percent but not more than 30 percent of the adjusted income of the family. In setting the sales price for acquisition by the family, the applicant must take into account the need to comply with the affordability standards contained in 24 CFR 572.120.

(D) Homebuyer Continued Affordability. The application must contain a feasible plan for demonstrating reasonable efforts to ensure continued affordability by initial homeowners of eligible properties. See 24 CFR 572.120(b).

(6) Program Schedule. The application must contain a schedule requiring completion of program activities under the grant agreement no later than four years from the effective date of the grant agreement. See 24 CFR 572.210(f) for related requirements and provisions allowing HUD to permit a longer deadline for completion of program activities. See 24 CFR 572.115 for requirements for the timely transfer of ownership interests to eligible families.

(7) Program Budget. The application must contain a program budget including the amount of the grant requested and match contributions being made for each proposed activity, a description of each proposed activity and a basis for the estimated cost for each amount proposed and other sources for funds. The budget must demonstrate that the proposed financing from all sources is sufficient to accomplish the program's objectives.

(8) Matching and Other Contributions. (i) The application must contain evidence of commitments for the resources that are expected to be contributed toward the match required under 24 CFR 572.220, and of any other resources that are expected to be made available in support of the homeownership program. Except for administrative costs, acceptable evidence that the contribution will be provided must be included. For example, if 20 years of tax abatement will be counted toward the match, the application should include a copy of the law or other official action by the chief executive officer or appropriate legislative body documenting this commitment. Cash or other property contributions (except those related to administrative costs) must be supported by evidence of a firm commitment by the donor to donate the cash or property, subject only to approval of the implementation grant and any other necessary conditions approved by HUD.

(ii) If the match requirement does not apply to an IHA in accordance with § 572.210(e) of the final rule, the application must contain a certification that the IHA has not received, and will not receive, amounts under title I of the Housing and Community Development Act of 1974 for the fiscal year in which HUD obligates the HOPE grant funds.

(9) Sale and Resale Information. (i) Plan for Use of Sale and Resale Proceeds. The application must contain a plan for the use of proceeds from sales to eligible families and amounts families may not retain upon resale.

The plan must provide that any proceeds of sale and resale proceeds that may not be retained by a homebuyer and any interest earned thereon are separately accounted for and committed for approved activities within one year of receipt. The application must also identify, by name and address, the entity (and its contact person) that will be responsible for ensuring that all sale and resale proceeds are collected; all sale and resale proceeds are used for approved purposes after grant closeout; and all amounts due to HUD are promptly paid in accordance with the requirements in § 572.135 of the final rule.

(ii) Proposed Additional Resale Restrictions. If Any. The application must contain a description of and justification for any proposed restrictions on the resale of units by initial for subsequent homeowners under the homeownership program (see § 572.130(e) of the final rule). The required restrictions set forth in § 572.130 need not be restated.

(10) Evidence of Public/Private Support. The application must contain a description and evidence of any State or local government, private sector, or nonprofit organization support of the proposed homeownership program.

(11) Minority Business Enterprises and Women-Owned Business Enterprises. The application must contain a description of the applicant's use of minority business enterprises and women-owned business enterprises in the past, if applicable, and a description of specific affirmative steps it will take to ensure that such businesses have an equal opportunity to compete and obtain contracts.

(12) Plan for Counseling and Training. The application must contain a plan for providing counseling and training for homebuyers selected under the program, including information about the topics to be covered, the number of homebuyers to be assisted, the schedule for providing such assistance, and the providers of the services.

(13) Economic Development Activities, If Any. If economic development activities are proposed, the application must contain a description of the economic development activities proposed under the program. The application must demonstrate that the proposed activities are directly related to the proposed homeownership program, and describe how these activities will promote the self-sufficiency of homebuyers and homeowners. See § 572.215(n) of the final rule.

(14) Relocation Assistance. If relocation activities are proposed, the application must describe the proposed relocation activities, in accordance with the requirements of § 572.145 of the final rule. The description must specify the approximate number of families and individuals who are expected to choose to move and the number who will be temporarily relocated during rehabilitation, the estimated costs, the source of funding, the organization that will carry out the relocation if different than the applicant, and other available resources (including, for example, Section 8 assistance).

(15) Comprehensive Housing Affordability Strategy (CHAS) Certification. Applicants that are States or units of general local government: The applicant must have a HUD-approved CHAS for FY 1993 and must submit a certification that the proposed activities are consistent with the HUD-approved CHAS for FY 1993.

Applicants that are not States or units of general local government: The applicant must submit a certification by the jurisdiction or jurisdictions in

which the proposed program will be located that the applicant's proposed activities are consistent with the jurisdiction's HUD-approved CHAS for FY 1993. A required certification must be made by the unit of general local government if it is required to have, or has, a complete CHAS, or if it is authorized to use an abbreviated CHAS and is applying for the same program under this NOFA (and therefore has, or will have, an abbreviated CHAS for fiscal year 1993 for that program). Otherwise the certification may be made by the State, or if the program will be located in part in a unit of general local government authorized to use an abbreviated CHAS, by the unit of general local government if it is willing to prepare such a CHAS.

Certain entities (Indian tribes and the Insular Areas of Guam, the Virgin Islands, American Samoa and the Northern Mariana Islands) are not required to have a CHAS or to make CHAS certifications. An application by an Indian tribe or other applicant for a program that will be located on a reservation of an Indian tribe does not require a certification by the tribe or State. However, where an Indian tribe or IHA is the applicant for a program that will not be located on a reservation, the requirement for a certification by the jurisdiction or jurisdictions in which the program will be located under the preceding paragraph applies.

All CHAS certifications must be made by the public official responsible for submitting the CHAS certification to HUD, or his or her authorized representative. All CHAS certifications must be submitted as part of the application by the application submission deadline set forth in this NOFA, except as provided in the next paragraph. The required CHAS must therefore have been submitted more than 60 days before the application submission deadline, since HUD has 60 days to review and approve the CHAS. Where the certification of consistency with an abbreviated CHAS is permitted to be submitted after the application submission deadline, as described in the next paragraph, the CHAS must nevertheless be submitted by the application submission deadline. Failure to submit the CHAS by the application submission deadline is not a correctable deficiency during application screening.

If a required certification will be made by a unit of general local government with respect to an abbreviated CHAS which has been submitted by the application submission deadline but has not yet been approved by HUD, the deadline will not be applied to the certification of consistency. Instead, the application must include a written statement from an authorized public official responsible for the CHAS that the jurisdiction has submitted an appreciated CHAS for FY 1993 for HUD approval and that the proposed activities in the application are consistent with it. If HUD approves the CHAS, the required certification of consistency with a HUD-approved CHAS for FY 1993 must be submitted as soon as possible thereafter, but not later than grant approval. The grant will not be awarded unless the abbreviated CHAS is approved and the required certification is made.

(16) Nondiscrimination and Equal Opportunity Certification. The application must contain—

(i) A certification that the applicant will comply with the requirements of the Fair Housing Act (42 U.S.C. 3601–19) and implementing regulations at 24 CFR parts 100, 109, and 110; Executive Order 11063, as amended by Executive Order 12259 (3 CFR, 1958–1963 Comp., p. 652 and 3 CFR, 1980 Comp., p. 307) (Equal Opportunity in Housing) and implementing regulations at 24 CFR part 107; and title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) (Nondiscrimination in Federally Assisted Programs) and implementing regulations issued at 24 CFR part 1. In the case of an application from an Indian tribe or IHA, under the circumstances described in § 572.405(a)(2) of the final rule, a certification that the applicant will comply with the Indian Civil Rights Act (25 U.S.C. 1301 et seq.). See 24 CFR 572.405(a).

(ii) A certification that the applicant will comply with the requirements of the Age Discrimination Act of 1975 (42 U.S.C. 6101–07) and implementing regulations at 24 CFR part 146, and section 504 of the Rehabilitation Act of 1973 and implementing regulations at 24 CFR part 8. See 24 CFR 572.405(b).

(17) Desegregation Statement. The application must contain a statement from the applicant explaining whether or not a desegregation order, agreement, or plan that applies to the applicant is in effect or known to the applicant to be under consideration; that the applicant is not in violation of any existing desegregation order, compliance agreement or voluntary agreement, or a statement describing the circumstances of the violation; and describing any potential impact the proposed homeownership program may have on implementing any existing or pending order, agreement, or plan.

(18) Environmental Assurance. The application must contain an assurance that the recipient will comply with the environmental requirements in 24 CFR 572.410(b)(1).

(19) Other Requirements. The application must contain other information and certifications required by the application package.

D. Selection Process

The selection process for implementation grants under the HOPE 3 Program consists of a screening review, and then, for those applications meeting all screening requirements, rating and ranking under substantive rating criteria. Rating and ranking will only occur if there are more applications that meet screening requirements than funds available in that Region. Field Offices will rate applications on rating criteria #1, 2, 3, 5, 6, and 7 and then forward their applications to their respective Regional Office. (See Section III.F. of this NOFA.) Regional Offices will review Field Office scores for consistency and, following application review, may adjust scores to ensure accuracy and consistency of ratings. Headquarters will rate on criterion #4 and will provide the ratings to the Regional Office.

E. Screening Process/Corrections to Deficient Applications

(1) HUD will screen each application submitted on or before the deadline to determine if it is complete, is internally consistent, contains correct computations, and complies with all requirements of this NOFA and the regulation. In addition, HUD will determine whether there appear to be a sufficient number of suitable, available properties in the general locations identified in the application for the proposed activities. For this purpose, at least ten suitable units in eligible properties must be currently available or have been available in the 12-month period prior to application submission. Where HUD determines that an application as initially submitted is fundamentally incomplete or would require substantial revisions, it will not consider the application further.

(2) Where HUD determines an application is deficient in one or more of the areas in paragraph E(1) of this section but is not fundamentally incomplete and does not require substantial revisions, it will notify the applicant in writing and give it an opportunity to correct the technical deficiencies in its application. HUD will not notify the applicant of any deficiencies that relate solely to the rating of the application.

(3) The notification will require the applicant to submit additional or

corrected material so that it is received in the appropriate HUD Field Office no later than 4:00 p.m. local time on the 14th calendar day after the date of the written notification to the applicant giving it an opportunity to modify its application. HUD may not extend this deadline for actual receipt of the material for any reason. After review of all additional or corrected materials, HUD will not consider further any applications that do not comply with the requirements of the NOFA and the regulation.

F. Rating Criteria

All applications meeting screening requirements will be selected for funding if sufficient funds are available within the Regional allocation. If there are more applications that meet screening requirements than funds available in that Region, all applications meeting the screening requirements will be rated and ranked, using the following substantive rating criteria:

1. Capability of the Applicant—up to 25 points.

2. Demonstrated Public/Private Support—up to 20 points.

3. Quality of Program Design—up to 30 points.

4. Efficiency—up to 10 points.

5. Inventory—up to 5 points.

6. Minority Business Enterprise/ Women-owned Business Enterprise—up to 5 points.

7. Fair Housing Choice—up to 5 points.

Further description of the rating of applications and of the factors considered under each rating criterion may be found in § 572.320 of the final rule.

G. Ranking and Selection

Regional Offices will rank all applications that have been rated within their Region, and make recommendations for selection, within their allocations, to HUD Headquarters, which will make the selections. Further description of the procedure for selection is contained in § 572.310 of the regulation.

IV. Other Matters

A. Paperwork Reduction Act

The information collection requirements contained in this NOFA have been approved by the Office of Management and Budget (OMB) under section 3540(h) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)), and assigned OMB control number 2506–0128.

B. Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made for the program regulations in accordance with HUD regulations at 24 CFR part 50, which implements section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development, room 10276, 451 Seventh Street, SW., Washington, DC 20410.

C. Federalism Executive Order

The General Counsel, as the Designated Official for HUD under section 6(a) of Executive Order 12612, *Federalism*, has determined that the provisions in this NOFA are closely based on statutory requirements and impose no significant additional burdens on States or other public bodies. This NOFA does not affect the relationship between the Federal Government and the States and other public bodies or the distribution of power and responsibilities among various levels of government. Therefore, the policy is not subject to review under Executive Order 12612.

D. Family Executive Order

The General Counsel, as the Designated Official under Executive Order 12606, *The Family*, has also determined that some of the policies in this NOFA will have a potential significant impact on the formation, maintenance, and general well-being of the family. Achievement of homeownership by low-income families in the program can be expected to support family values, by helping families achieve security and independence; by enabling them to live in decent, safe and sanitary housing; and by giving them the skills and means to live independently in mainstream American society. Since the impact on the family is beneficial, no further review is necessary.

E. Section 102 of the HUD Reform Act

HUD will ensure that documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a five-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. In addition, HUD will publish a **Federal Register** notice of all recipients awarded assistance under this NOFA. (See 24 CFR 12.14(a) and 12.16(b), and the Notice published in the **Federal Register** on January 16, 1992 (57 FR 1942), for further information on these documentation and public access requirements.)

F. Section 103 of the HUD Reform Act

Section 103 of the Housing and Urban Development Reform Act of 1989 (HUD Reform Act) proscribes the communication of certain information by HUD employees to persons not authorized to receive that information during the selection process for the award of assistance. HUD's regulations implementing section 103 are at 24 CFR part 4. In accordance with the requirements of section 103, HUD employees involved in the review of applications and in the making of funding decisions are restrained by 24 CFR part 4 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted by 24 CFR part 4. Applicants who have questions should contact the HUD Office of Ethics at the address or telephone number in the following paragraph.

G. Section 112 of the HUD Reform Act

Section 112 of the HUD Reform Act added a new section 13 to the Department of Housing and Urban Development Act (42 U.S.C. 3531). Section 13 contains two provisions concerning efforts to influence HUD's decisions with respect to financial assistance. The first imposes disclosure requirements on those who are typically involved in these efforts—those who pay others to influence this award of assistance or the taking of a management action by the Department *and* those who are paid to provide the influence. The second restricts the payment of fees to those who are paid to influence the award of HUD assistance, if the fees are tied to the number of housing units received or are based on the amount of assistance received, or if they are contingent upon the receipt of assistance. Section 13 was implemented at 24 CFR part 86. Appendix A of the rule contains example of activities covered by the rule. Any questions concerning the rule should be directed to the Office of

Ethics, room 2158, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; (202) 708–3815 TDD/Voice. (This is not a toll-free number.) Forms necessary for compliance with the rule may be obtained from the local HUD office.

H. Prohibition Against Lobbying Activities

The use of funds awarded under this NOFA is subject to the disclosure requirements and prohibitions of section 319 of the Department of Interior and Related Agencies Appropriations Act for Fiscal Year 1990 (31 U.S.C. 1352) (The "Byrd Amendment") and the implementing regulations at 24 CFR part 87. These authorities prohibit recipients of federal contracts, grants, or loans from using appropriated funds for lobbying the Executive or Legislative branches of the federal government in connection with a specific contract, grant, or loan. The prohibition also covers the awarding of contracts, grants, cooperative agreements, or loans unless the recipient has made an acceptable certification regarding lobbying. Under 24 CFR part 87, applicants, recipients, and subrecipients of assistance exceeding $100,000 must certify that no federal funds have been or will be spent on lobbying activities in connection with the assistance.

Indian Housing Authorities (IHAs) established by an Indian tribe as a result of the exercise of the tribe's sovereign power are excluded from coverage of the Byrd Amendment, but IHAs established under State law are not excluded from the statute's coverage.

Dated: June 9, 1993.

Andrew Cuomo,

Assistant Secretary for Community Planning and Development.

HUD Field Offices

Alabama

Jasper H. Boatright, Beacon Ridge Tower, 600 Beacon Pkwy. West, Suite 300, Birmingham, AL 35209–3144; (205) 290–7645, (TDD) (205) 731–1617.

Alaska

Colleen Craig, Fed. Bldg., 222 W. 8th Ave., #64, Anchorage, AK 99513–7537; (907) 271–4665.

Arizona

Diane Domzalski, 400 N. 5th St., Suite 1600, 2 Arizona Center, Phoenix, AZ 85004; (602) 379–4754, (TDD) (602) 379–4754.

Arkansas

Billy M. Parsley, 425 West Capitol Ave., Suite 900, Little Rock, AR 72201–3488; (501) 324–6375, (TDD) (501) 324–5405.

California

(Southern)

Herbert L. Roberts, 1615 W. Olympic Blvd., Los Angeles, CA 90015–3801; (213) 251–7235, (TDD) (213) 251–7038.

(Northern)

Gordon H. McKay, 450 Golden Gate Ave., P.O. Box 36003, San Francisco, CA 94102–3448; (415) 556–5576, (TDD) (415) 556–8357.

Colorado

Barbara Richards, Exec. Tower Bldg., 1405 Curtis Street, Denver, CO 80202–2349; (303) 844–3811, (TDD) (303) 844–6158.

Connecticut

Daniel Kolesar, 330 Main Street, Hartford, CT 06106–1860; (203) 240–4508, (TDD) (203) 240–4522.

Delaware

John Kane, Liberty Sq. Bldg., 105 S. 7th St., Philadelphia, PA 19106–3392; (215) 597–2665, (TDD) (215) 597–5564.

District of Columbia

(Including Northern VA and MD suburbs)

James H. McDaniel, 820 First St., NE, Washington, DC 20002; (202) 275–0094, (TDD) (202) 275–0967.

Florida

James N. Nichol, 325 W. Adams St., Jacksonville, FL 32202–4303; (904) 232–3587, (TDD) (904) 232–1241.

Georgia

Charles N. Straub, Russell Fed. Bldg., Room 688, 75 Spring St., SW, Atlanta, GA 30303–3388; (404) 331–5139, (TDD) (404) 730–2654.

Hawaii

Patty A. Nicholas, 7 Waterfront Plaza, Suite 500, 500 Ala Moana Blvd., Honolulu, HI 96813–4918; (808) 541–1327, (TDD) (808) 551–1356.

Idaho

John G. Bonham, 520 SW 6th Ave., Portland, OR 97204–1596; (503) 326–7018.

Illinois

Richard Wilson, Ralph Metcalfe Federal Building, 77 West Jackson Blvd., Chicago, IL 60604–3507; (312) 353–1696.

Indiana

Robert F. Poffenberger, 151 N. Delaware St., Indianapolis, IN 46204–2526; (317) 226–5169.

Iowa

Gregory A. Bevirt, Braiker/Brandeis Bldg., 210 S. 16th St., Omaha, NE 68102–1622; (402) 221–3703, (TDD) (402) 221–3703.

Kansas

Miguel Madrigal, Gateway Towers 2, 400 State Ave., Kansas City, KS 66101–2406; (913) 236–2184, (TDD) (913) 236–3972.

Kentucky

Ben Cook, P.O. Box 1044, 601 W. Broadway, Louisville, KY 40201–1044; (502) 582–5394, (TDD) (502) 582–5139.

Louisiana

Greg Hamilton, P.O. Box 70288, 1661 Canal St., New Orleans, LA 70112–2887; (504) 589–7212.

Maine

David Lafond, Norris Cotton Fed. Bldg., 275 Chestnut St., Manchester, NH 03101–2487; (603) 666–7640, (TDD) (603) 666–7518.

Maryland

(Except Montgomery and Prince George's)

Harold Young, Equitable Bldg., 5th Floor, 10 S. Howard St., Baltimore, MD 21201; (410) 962–2520; (TDD) (410) 962–1857.

Massachusetts

Frank Del Vecchio, Thomas P. O'Neill, Jr., Fed. Bldg., 10 Causeway St., Boston, MA 02222–1092; (617) 565–5342, (TDD) (617) 565–5453.

Michigan

Richard Paul, Patrick McNamara Bldg., 477 Michigan Ave., Detroit, MI 48226–2592; (313) 226–4343.

Minnesota

Shawn Huckleby, 220 2nd St. South, Minneapolis, MN 55401–2195; (612) 370–3019.

Mississippi

Jeanie E. Smith, Dr. A.H. McCoy Fed. Bldg., 100 W. Capitol St., Room 910, Jackson, MS 39269–1096; (601) 965–4765, (TDD) (601) 965–4171.

Missouri

(Eastern)

David H. Long, 1222 Spruce St., St. Louis, MO 63103–2836; (314) 539–6524, (TDD) (314) 539–6331.

(Western)

Miguel Madrigal, Gateway Towers 2, 400 State Ave., Kansas City, KS 66101–2406; (913) 236–2184, (TDD) (913) 236–3972.

Montana

Barbara Richards, Exec. Tower Bldg., 1405 Curtis St., Denver, CO 80202–2349; (303) 844–3811.

Nebraska

Gregory A. Bevirt, Braiker/Brandeis Bldg., 210 S. 16th St., Omaha, NE 68102–1622; (402) 221–3703, (TDD) (402) 221–3703.

Nevada

(Las Vegas, Clark Cnty.) Diane Domzalski, 400 N. 5th St., Suite 1600, 2 Arizona Center, Phoenix, AZ 85004; (602) 379–4754, (TDD) (602) 379–4461. (Remainder of state) Gordon H. McKay, 450 Golden Gate Ave., P.O. Box 36003, San Francisco, CA 94102–3448; (415) 556–5576, (TDD) (415) 556–8357.

New Hampshire

David Lafond, Norris Cotton Fed. Bldg., 275 Chestnut St., Manchester, NH 03101–2487; (603) 666–7640, (TDD) (603) 666–7518.

New Jersey

Frank Sagarese, Military Park Bldg., 60 Park Pl., Newark, NJ 07102–5504; (201) 877–1776, (TDD) (201) 877–6649.

New Mexico

R.D. Smith, 1600 Throckmorton, P.O. Box 2905, Fort Worth, TX 76113–2905; (817) 885–5483, (TDD) (817) 728–5447.

New York

(Upstate)

Michael F. Merrill, Lafayette Ct., 465 Main St., Buffalo, NY 14203–1780; (716) 846–5768, (TDD) (716) 846–5787.

(Downstate)

Joan Dabelko, 26 Federal Plaza, New York, NY 10278–0068; (212) 264–2885, (TDD) (212) 264–0927.

North Carolina

Charles T. Ferebee, 415 N. Edgeworth St., Greensboro, NC 27401–2107; (919) 333–5711, (TDD) (919) 333–5518.

North Dakota

Barbara Richards, Exec. Tower Bldg., 1405 Curtis St., Denver, CO 80202–2349; (303) 844–3811.

Ohio

Jack E. Riordan, 200 N. High St., Columbus, OH 43215–2499; (614) 469–6743.

Oklahoma

Katie Worsham, Murrah Fed. Bldg., 200 NW 5th St., Oklahoma City, OK 73102–3202; (405) 231–4973, (TDD) (405) 231–4181.

Oregon

John G. Bonham, 520 SW 6th Ave., Portland, OR 97204–1596; (503) 326–7018.

Pennsylvania

(Western)

Bruce Crawford, Old Post Office and Courthouse Bldg., 700 Grant St., Pittsburgh, PA 15219–1906; (412) 644–5493, (TDD) (412) 644–5747.

(Eastern)

John Kane, Liberty Sq. Bldg., 105 S. 7th St., Philadelphia, PA 19106–3392; (215) 597–2665, (TDD) (215) 597–5564.

Puerto Rico

Carman R. Cabrera, 159 Carlos Chardon Ave., San Juan, PR 00918–1804; (809) 766–5576.

Rhode Island

Frank Del Vecchio, Thomas P. O'Neill, Jr., Fed. Bldg., 10 Causeway St., Boston, MA 02222–1092; (617) 565–5342, (TDD) (617) 565–5453.

South Carolina

Ed Bradley, Strom Thurmond Fed. Bldg., 1835–45 Assembly St., Columbia, SC 29201–2480; (803) 765–5564.

South Dakota

Barbara Richards, Exec. Tower Bldg., 1405 Curtis St., Denver, CO 80202–2349; (303) 844–3811.

Tennessee

Virginia Peck, 710 Locust St., Knoxville, TN 37902–2526; (615) 549–9426, (TDD) (615) 549–9372.

Texas

(Northern)

R.D. Smith, 1600 Throckmorton, P.O. Box 2905, Fort Worth TX; 76113–2905; (817) 885–5483, (TDD) (817) 728–5447.

(Southern)

John T. Maldonado, Washington Sq., 800 Dolorosa, San Antonio, TX 78207–4563; (512) 229–6820, (TDD) (512) 229–6885.

Utah

Barbara Richards, Exec. Tower Bldg., 1405 Curtis St., Denver, CO 80202–2349; (303) 844–3811.

Vermont

David Lafond, Norris Cotton Fed. Bldg., 275 Chestnut St., Manchester, NH 03101–2487; (603) 666–7640, (TDD) (603) 666–7518.

Virginia

(except Northern Virginia)

Joseph Aversano, The 3600 Centre, 3600 West Broad St., P.O. Box 90331, Richmond, VA 23230–0331; (804) 278–4503, (TDD) (804) 278–4501.

Washington

John Peters, Fed'l Office Bldg., 900 First Ave., Suite 200, Seattle, WA 98104–1000; (206) 220–5150.

West Virginia

Bruce Crawford, Old Post Office and Courthouse Bldg., 700 Grant St., Pittsburgh, PA 15219–1906; (412) 644–5493, (TDD) (412) 644–5747.

Wisconsin

Lana J. Vacha, Henry Reuss Fed. Plaza, 310 W. Wisconsin Ave., Suite 1380, Milwaukee, WI 53203–2289; (414) 297–3113.

Wyoming

Barbara Richards, Exec. Tower Bldg., 1405 Curtis St., Denver, CO 80202–2349; (303) 844–3811 (TDD) (303) 844–6158.

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Part III

Department of Education

National Institute on Disability and Rehabilitation Research; Notice Inviting Applications for New Awards Under Certain Programs for FY 1994

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services

[CFDA Nos.: 84.133A, 84.133F, 84.133G, and 84.133P]

National Institute on Disability and Rehabilitation Research; Notice Inviting Applications for New Awards Under Certain Programs for Fiscal Year (FY) 1994

Note to Applicants: This notice is a complete application package. Together with the statute authorizing the programs and applicable regulations governing the programs, including the Education Department General Administrative Regulations (EDGAR), this notice contains information, application forms, and instructions needed to apply for a grant under these competitions.

This notice supports the National Education Goals. National Education Goal 5 calls for all Americans to possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

The estimated funding levels in this notice do not bind the Department of Education to make awards in any of these categories, or to any specific number of awards or funding levels, unless otherwise specified in statute.

The statute requires that each applicant for a grant demonstrate how its proposed activities will address the needs of individuals from minority backgrounds who have disabilities.

Applicable Regulations

The Education Department General Administrative Regulations (EDGAR), 34 CFR parts 74, 75, 77, 80, 81, 82, 85, and 86; and the following program regulations:

Research and Demonstration Projects—34 CFR parts 350 and 351.

Research Fellowships—34 CFR part 356.

Field Initiated Projects—34 CFR parts 350 and 357.

Research Training and Career Development Program—34 CFR part 360.

Program Title: Research and Demonstration Projects.

CFDA Number: 84.133A.

Purpose: Research and Demonstration Projects support research and demonstrations in single project areas on problems encountered by individuals with disabilities in their daily activities. These projects may conduct research on rehabilitation techniques and services, including analysis of medical, industrial, vocational, social, psychiatric, psychological, recreational, economic, and other factors to improve the rehabilitation of individuals with disabilities.

Invitational Priorities: The Secretary is particularly interested in applications that meet one of the following invitational priorities. However, under 34 CFR 75.105(c)(1) an application that meets an invitational priority does not receive competitive or absolute preference over other applications. The invitational priorities are:

(1) Studies to further the development of universal designs; and

(2) Studies that examine whether children with disabilities are more likely than children without disabilities to be victims of abuse.

Selection Criteria: The Secretary uses the following selection criteria to evaluate applications under this program.

(a) *Potential Impact of Outcomes:* Importance of Program (Weight 3.0). The Secretary reviews each application to determine to what degree—

(1) The proposed activity relates to the announced priority;

(2) The research is likely to produce new and useful information (research activities only);

(3) The need and target population are adequately defined;

(4) The outcomes are likely to benefit the defined target population;

(5) The training needs are clearly defined (training activities only);

(6) The training methods and developed subject matter are likely to meet the defined need (training activities only); and

(7) The need for information exists (utilization activities only).

(b) *Potential Impact of Outcomes:* Dissemination/Utilization (Weight 3.0). The Secretary reviews each application to determine to what degree—

(1) The research results are likely to become available to others working in the field (research activities only);

(2) The means to disseminate and promote utilization by others are defined;

(3) The training methods and content are to be packaged for dissemination and use by others (training activities only); and

(4) The utilization approach is likely to address the defined need (utilization activities only).

(c) *Probability of Achieving Proposed Outcomes; Program/Project Design* (Weight 5.0). The Secretary reviews each application to determine to what degree—

(1) The objectives of the project(s) are clearly stated;

(2) The hypothesis is sound and based on evidence (research activities only);

(3) The project design/methodology is likely to achieve the objectives;

(4) The measurement methodology and analysis is sound (research and development/demonstration activities only);

(5) The conceptual model (if used) is sound (development/demonstration activities only);

(6) The sample populations are correct and significant (research and development/demonstration activities only);

(7) The human subjects are sufficiently protected (research and development/demonstration activities only);

(8) The device(s) or model system is to be developed in an appropriate environment;

(9) The training content is comprehensive and at an appropriate level (training activities only);

(10) The training methods are likely to be effective (training activities only);

(11) The new materials (if developed) are likely to be of high quality and uniqueness (training activities only);

(12) The target populations are linked to the project (utilization activities only); and

(13) The format of the dissemination medium is the best to achieve the desired result (utilization activities only).

(d) Probability of Achieving Proposed Outcomes: Key Personnel (Weight 4.0). The Secretary reviews each application to determine to what degree—

(1) The principal investigator and other key staff have adequate training and/or experience and demonstrate appropriate potential to conduct the proposed research, demonstration, training, development, or dissemination activity;

(2) The principal investigator and other key staff are familiar with pertinent literature and/or methods;

(3) All required disciplines are effectively covered;

(4) Commitments of staff time are adequate for the project; and

(5) The applicant is likely, as part of its non-discriminatory employment practices, to encourage applications for employment from persons who are members of groups that traditionally have been underrepresented, such as—

(i) Members of racial or ethnic minority groups;

(ii) Women;

(iii) Handicapped persons; and

(iv) The elderly.

(e) *Probability of Achieving Proposed Outcomes: Evaluation Plan* (Weight 1.0). The Secretary reviews each application to determine to what degree—

(1) There is a mechanism to evaluate plans, progress and results;

(2) The evaluation methods and objectives are likely to produce data that are quantifiable; and

(3) The evaluation results, where relevant, are likely to be assessed in a service setting.

(f) *Program/Project Management: Plan of Operation* (Weight 2.0). The Secretary reviews each application to determine to what degree—

(1) There is an effective plan of operation that insures proper and efficient administration of the project(s);

(2) The applicant's planned use of its resources and personnel is likely to achieve each objective;

(3) Collaboration between institutions, if proposed, is likely to be effective; and

(4) There is a clear description of how the applicant will include eligible project participants who have been traditionally underrepresented, such as—

(i) Members of racial or ethnic minority groups;

(ii) Women;

(iii) Handicapped persons; and

(iv) The elderly.

(g) *Program/Project Management: Adequacy of Resources* (Weight 1.0). The Secretary reviews each application to determine to what degree—

(1) The facilities planned for use are adequate;

(2) The equipment and supplies planned for use are adequate; and

(3) The commitment of the applicant to provide administrative support and adequate facilities is evident.

(h) *Program/Project Management: (Budget and Cost Effectiveness* (Weight 1.0). The Secretary reviews each application to determine to what degree—

(1) The budget for the project(s) is adequate to support the activities;

(2) The costs are reasonable in relation to the objectives of the projects(s); and

(3) The budget for subcontracts (if required) is detailed and appropriate.

Eligible Applicants: Parties eligible to apply for grants under this program are public and private nonprofit and for-profit agencies and organizations, including institutions of higher education and Indian tribes and tribal organizations.

Program Authority: 29 U.S.C. 761a and 762.

APPLICATION NOTICE FOR FISCAL YEAR 1994 RESEARCH AND DEMONSTRATION PROJECTS CFDA NO. 84.133A

Funding priority	Deadline for transmittal of applications	Estimated number of awards	Estimated size of awards (per year)	Project period (months)
Research and Demonstration Projects	November 4, 1993	2	175,000	36

Program Title: Rehabilitation Research Fellowships.

CFDA Number: 84.133F.

Purpose: The purpose of this program is to build research capacity by providing support to highly qualified individuals to perform research on the rehabilitation of disabled persons.

Selection Criteria: The Secretary evaluates applications for fellowships according to the following criteria in 34 CFR 356.30.

(a) Quality and level of formal education, previous work experience, and recommendations of present or former supervisors or colleagues that include an indication of the applicant's ability to work creatively in scientific research; and

(b) The quality of a research proposal of no more than 12 pages containing the following information:

(1) The importance of the problem to be investigated to the purpose of the Act and the mission of NIDRR.

(2) The research hypotheses or related objectives and the methodology and design to be followed.

(3) Assurance of the availability of any necessary data resources, equipment, or institutional support, including technical consultation and support where appropriate, required to carry out the proposed activity.

Eligible Applicants: Individuals only are eligible to apply for research fellowships under this program.

Program Authority: 29 U.S.C. 761a(d); 34 CFR 356.32(b).

APPLICATION NOTICE FOR FISCAL YEAR 1994 RESEARCH FELLOWSHIPS CFDA NO. 84.133F

Funding priority	Deadline for transmittal of applications	Estimated number of awards	Estimated size of awards (per year)	Project period (months)
Research Fellowships	October 15, 1993	10	40,000	12

Program Title: Field-Initiated Research.

CFDA Number: 84.133G.

Purpose: This program is designed to encourage eligible parties to originate valuable ideas for research and demonstration, development, or knowledge dissemination projects to improve the lives of individuals with disabilities, and to support research and demonstration, development, or knowledge dissemination projects as described in program regulations that address important activities not supported by Institute-funded research or that complement that research in a promising way.

The Secretary is particularly interested in applications that meet the following invitational priorities: Implementation of the Americans with Disabilities Act (ADA); children and adults with epilepsy; Repetitive motion syndrome; adults with autism; Attention Deficit Disorder; innovative rehabilitation counseling strategies; and developing science and math careers for students with disabilities. However, under 34 CFR 75.105(c)(1) an application that meets one or more of these invitational priorities does not receive competitive or absolute preference over other applications.

Selection Criteria: The Secretary uses the following criteria to evaluate an application under this program.

(a) *Importance of the problem.* (20 points) The Secretary reviews each application to determine the extent to which—

(1) The proposed project addresses a problem that is significant to persons with disabilities or to those who provide services to them; and

(2) The proposed project is likely to produce new and useful knowledge, techniques, or devices that will develop or disseminate solutions to problems confronting persons with disabilities.

(b) *Design of the project.* (45 points) (1) The Secretary reviews each application for a research and demonstration project to determine the extent to which—

(i) The review of the literature is appropriate and indicates familiarity with the relevant current research;

(ii) The research hypotheses are theoretically sound and based on current knowledge;

(iii) The sample populations are adequate and appropriately selected;

(iv) The data collection instruments and methods are appropriate and likely to be successful;

(v) The data analysis measures are appropriate; and

(vi) The application discusses the anticipated research results and demonstrates how those results would satisfy the original hypotheses.

(2) The Secretary reviews each application for a knowledge dissemination project to determine the extent to which—

(i) The need for the information has been demonstrated;

(ii) The target populations are appropriately specified;

(iii) The dissemination methods are appropriate to the target population;

(iv) The materials for dissemination are prepared in media accessible to the target population;

(v) There are adequate means of documenting and evaluating the effectiveness of the dissemination activity.

(3) The Secretary reviews each application for a development project to determine the extent to which—

(i) The proposed project will use the most effective and appropriate technology available in developing the new device or technique;

(ii) The proposed development is based on a sound conceptual model that demonstrates an awareness of the state-of-the-art in technology;

(iii) Devices or techniques will be developed and tested in an appropriate environment;

(iv) The applicant considers the cost-effectiveness and usefulness of the device or technique to be developed for persons with disabilities; and

(v) The applicant discusses the potential for commercial or private manufacture, marketing, and distribution of the product.

(c) *Personnel.* (20 points) The Secretary reviews each application to determine the extent to which—

(1) The key personnel have adequate training and experience in the required discipline to conduct the proposed activities;

(2) The allotment of staff time is adequate to accomplish the proposed activities; and

(3) The applicant ensures that personnel are selected for employment without regard to race, color, national origin, gender, age, or handicapping conditions.

(d) *Management and Evaluation.* (15 points) The Secretary reviews each application to determine the extent to which—

(1) The resources of the applicant are adequate, appropriate, and accessible to individuals with disabilities;

(2) The proposed budget is adequate and appropriate for the activities to be carried out;

(3) There is a plan, appropriate to the type of field-initiated project, to evaluate the effectiveness of the project in accomplishing its goals and objectives;

(4) The applicant provides a plan of operations, appropriate to the type of field-initiated project, indicating that it will achieve the project objectives in a timely and effective manner; and

(5) Appropriate collaboration with other agencies is assured.

Eligible Applicants: Public and private organizations, including institutions of higher education and Indian tribes and tribal organizations, are eligible to apply for awards under this program.

Authority: 29 U.S.C. 762.

APPLICATION NOTICE FOR FISCAL YEAR 1994 FIELD-INITIATED RESEARCH CFDA NO. 84.133G

Funding priority	Deadline for transmittal of applications	Estimated number of awards	Estimated size of awards (per year)	Project period (months)
Field-Initiated Projects	October 5, 1993	20	125,000	36

Program Title: Research Training and Career Development Program.

CFDA Number: 84.133P.

Purpose: The purpose of this program is to expand capability in the field of rehabilitation research by supporting projects that provide advanced training in rehabilitation research. These projects provide research training and experience at an advanced level to individuals with doctorates or similar advanced degrees who have clinical or other relevant experience, including experience in management or basic science research, in fields pertinent to rehabilitation, in order to qualify those individuals to conduct independent research on problems related to disability and rehabilitation.

Selection Criteria: The Secretary uses the following criteria in 360.31 to evaluate an application under this program.

(a) *Importance and potential contribution.* (20 points) The Secretary reviews each application to determine to what degree—

(1) The applicant is responsive to any priority established under § 360.32;

(2) The applicant proposes to provide training in a rehabilitation discipline or area of study in which there is a shortage of qualified researchers, or to provide training to a trainee population in which there is a need for more qualified researchers, such as clinicians in rural areas, or clinicians who are directly experienced with underserved populations; and

(3) The applicant is likely to make a significant increase in the number of trained rehabilitation researchers.

(b) *Quality of proposed training program.* (40 points) The Secretary reviews each application to determine to what degree—

(1) The applicant's proposed recruitment program is likely to be effective in recruiting highly qualified trainees;

(2) The proposed didactic and classroom training programs emphasize scientific methodology are multidisciplinary, comprehensive, and appropriate to the level of the trainees, and are likely to produce qualified independent researchers;

(3) The quality and extent of the academic mentorship, guidance, and supervision to be provided to each individual trainee are of a high level and are likely to produce highly qualified researchers;

(4) The type, extent, and quality of the proposed clinical and laboratory research experience, including the opportunity to participate in research on meaningful topics at an advanced level, are likely to develop individuals with the capacity to perform independent research; and

(5) The opportunities for collegial and collaborative activities, exposure to outstanding scientists in the field, and opportunities to participate in the preparation of scholarly or scientific publications and presentations are extensive and appropriate.

(c) *Personnel and resources committed to the project.* (30 points) The Secretary evaluates each application to determine to what degree—

(1) The activities of the project will be implemented by sufficient and qualified staff who are outstanding scientists in the field;

(2) The project director and other key staff are experienced in the delivery of advanced research training as well as knowledgeable about the methodology and literature of pertinent subject areas;

(3) All required disciplines are effectively included; and

(4) The applicant possesses the appropriate facilities, laboratories, and access to clinical populations and organizations representing persons with disabilities to support the conduct of advanced clinical rehabilitation research.

(d) *Management and operating plans.* (10 points) The Secretary evaluates each application to determine to what degree—

(1) There is an effective plan of operation that ensures proper and efficient administration of the project;

(2) There is an effective plan for collaboration with other institutions of higher education and organizations whose participation is necessary to ensure effective classroom and clinical research training;

(3) The applicant, as part of its nondiscriminatory employment practices, will ensure that its personnel are selected without regard to race, color, national origin, gender, age or handicapping condition;

(4) The applicant has provided an adequate plan for the use of facilities, resources, supplies and equipment;

(5) The budget for the project is reasonable and adequate to support the proposed activities; and

(6) The applicant provides an appropriate plan for the evaluation of all phases of the project.

Eligible Applicants: Institutions of higher education are eligible to receive awards under this program.

Program Authority: 29. U.S.C. 761a(k).

Application Notice for Fiscal Year 1994 Research Training and Career Development Program
CFDA No. 84.133P

Funding priority	Deadline for transmittal of applications	Estimated number of awards	Estimated size of awards (per year)	Project period (months)
Research Training and Career Development Program	August 27, 1993	3	150,000	36

Instructions for Transmittal of Appliances

(a) If an applicant wants to apply for a grant, the applicant shall—

(1) Mail the original and two copies of the application on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA # (Applicant must insert number and letter)), Washington, DC 20202–4725, or

(2) Hand deliver the original and two copies of the application by 4:30 p.m. (Washington, DC time) on the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA # (Applicant must insert number and letter)), room #3633, Regional Office Building #3, 7th and D Streets, SW., Washington, DC.

(b) An applicant must show one of the following as proof of mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

(c) If an application is mailed through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Notes: (1) The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

(2) An applicant wishing to know that its application has been received by the Department must include with the application a stamped self-addressed postcard containing the CFDA number and title of this program.

(3) The applicant must indicate on the envelope and—if not provided by the Department—in Item 10 of the Application for Federal Assistance (Standard Form 424) the CFDA number—and letter, if any—of the competition under which the application is being submitted.

Application Forms and Instructions

The appendix to this application is divided into four parts. These parts are organized in the same manner that the submitted application should be organized. These parts are as follows:

Part I: Application for Federal Assistance (Standard Form 424 (Rev. 4–88)) and instructions.

Part II: Budget Form—Non-Construction Programs (Standard Form 424A) and instructions.

Part III: Application Narrative.

Additional Materials

Estimated Public Reporting Burden.

Assurances—Non-Construction Programs (Standard Form 424B).

Certification Regarding Lobbying, Debarment, Suspension, and Other Responsibility Matters: and Drug-Free WorkPlace Requirements (ED Form 80–0013).

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion: Lower Tier Covered Transactions (ED Form ED 80–0014) and instructions.

Note: ED Form ED–80–0014 is intended for the use of primary participants and should not be transmitted to the Department.

Disclosure of Lobbying Activities (Standard Form LLL (if applicable) and instruction; and Disclosure Lobbying Activities Continuation Sheet (Standard Form LLL–A).

An applicant may submit information on a photostatic copy of the application and budget forms, the assurances, and the certifications. However, the application form, the assurances, and the certifications must each have an original signature. No grant may be awarded unless a completed application form has been received.

FOR FURTHER INFORMATION CONTACT: Dianne Villines, U.S. Department of Education, room 3417 Switzer Building,

400 Maryland Avenue, SW., Washington, DC 20202–2704. Telephone: (202) 205–5450. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–8887.

Authority: 29 U.S.C. 760–762.

Dated: June 30, 1993.

William L. Smith,

Acting Assistant Secretary, Office of Special Education and Rehabilitative Services.

Appendix

Application Forms and Instructions

Applicants are advised to reproduce and complete the application forms in this Section. Applicants are required to submit an original and two copies of each application as provided in this Section.

Frequent Questions

1. Can I Get an Extension of the Due Date?

No! On rare occasions the Department of Education may extend a closing date for all applicants. If that occurs, a notice of the revised due date is published in the **Federal Register.** However, there are no extensions or exceptions to the due date made for individual applicants.

2. What Should Be Included in the Application?

The application should include a project narrative, vitae of key personnel, and a budget, as well as the Assurances forms included in this package. Vitae of staff or consultants should include the individual's title and role in the proposed project, and other information that is specifically pertinent to this proposed project. The budgets for both the first year and subsequent project years should be included.

If collaboration with another organization is involved in the proposed activity, the application should include assurances of participation by the other parties, including written agreements or assurances of cooperation. It is *not* useful to include general letters of support or endorsement in the application.

If the applicant proposes to use unique tests or other measurement instruments that are not widely known in the field, it would be helpful to include the instrument in the application.

Many applications contain voluminous appendices that are not helpful and in many cases cannot even be mailed to the reviewers. It is generally not helpful to include such things as brochures, general capability statements of collaborating organizations, maps, copies of publications, or descriptions of other projects completed by the applicant.

3. What Format Should Be Used for the Application?

NIDRR generally advises applicants that they may organize the application to follow the selection criteria that will be used. The specific review criteria vary according to the specific program, and are contained in this Consolidated Application Package.

4. May I Submit Applications to More Than One NIDRR Program Competition or More Than One Application to a Program?

Yes, you may submit applications to any program for which they are responsive to the program requirements. You may submit the same application to as many competitions as you believe appropriate. You may also submit more than one application in any given competition.

5. What is the Allowable Indirect Cost Rate? The limits on indirect costs vary according to the program and the type of application.

Applicants in the FIR, AND Innovation grants programs should limit indirect charges to the organization's approved rate. If the organization does not have an approved rate, the application should include an estimated actual rate.

6. Can Profitmaking Businesses Apply for Grants?

Yes. However, for-profit organizations will not be able to collect a fee or profit on the grant, and in some programs will be required to share in the costs of the project.

7. Can Individuals Apply for Grants?

No. Only organizations are eligible to apply for *grants* under NIDRR programs.

8. Can NIDRR Staff Advise Me Whether My Project is of Interest to NIDRR or Likely to be Funded?

No. NIDRR staff can advise you of the requirements of the program in which you propose to submit your application. However, staff cannot advise you of whether your subject area or proposed approach is likely to receive approval.

9. How Do I Assure That My Application Will Be Referred to the Most Appropriate Panel for Review?

Applicants should be sure that their applications are referred to the correct competition by clearly including the competition title and CFDA number, including alphabetical code, on the Standard Form 424, and including the title of the priority to which they are responding.

10. How Soon After Submitting My Application Can I Find Out if it Will Be Funded?

The time from closing date to grant award date varies from program to program. Generally speaking, NIDRR endeavors to have awards made within five to six months of the closing date. Unsuccessful applicants generally will be notified within that time frame as well. For the purpose of estimating a project start date, the applicant should estimate approximately six months from the closing date, but no later than the following September 30.

11. Can I Call NIDRR to Find Out If My Application is Being Funded?

No! When NIDRR is able to release information on the status of grant applications, it will notify applicants by letter. The results of the peer review cannot be released except through this formal notification.

12. If My Application is Successful, Can I Assume I Will Get the Requested Budget Amount in Subsequent Years?

No. Those budget projections are necessary and helpful for planning purposes. However, a complete budget and budget justification must be submitted for each year of the project and there will be negotiations on the budget each year.

13. Will All Approved Applications be Funded?

No. It often happens that the peer review panels approve for funding more applications than NIDRR can fund within available resources. Applicants who are approved but not funded are encouraged to consider submitting similar applications in future competitions.

Public reporting burden for these collections of information is estimated to average 30 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Send comments regarding this burden estimate or any other aspect of these collections of information, including suggestions for reducing this burden, to: The U.S. Department of Education, Information Management and Compliance Division, Washington, DC 20202–4651; and to the Office of Management and Budget, Paperwork Reduction Project 1820–0027, Washington, DC 20503.

Research and Demonstration Projects (CFDA No. 84.133A) 34 CFR parts 350 and 351.

Research Fellowships (CFDA No. 84.133F) 34 CFR part 356.

Field-Initiated Research (CFDA No. 84.133G) 34 CFR parts 350 and 357.

Research Training and Career Development Program (CFDA No. 84.133P) 34 CFR part 360.

BILLING CODE 4000–01–U

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

2. DATE SUBMITTED	Applicant Identifier
3. DATE RECEIVED BY STATE	State Application Identifier
4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

1. TYPE OF SUBMISSION:
Application: ☐ Construction ☐ Non-Construction
Preapplication: ☐ Construction ☐ Non-Construction

5. APPLICANT INFORMATION

Legal Name: | Organizational Unit:

Address (give city, county, state, and zip code): | Name and telephone number of the person to be contacted on matters involving this application (give area code)

6. EMPLOYER IDENTIFICATION NUMBER (EIN): ☐☐ – ☐☐☐☐☐☐☐

8. TYPE OF APPLICATION:
☐ New ☐ Continuation ☐ Revision
If Revision, enter appropriate letter(s) in box(es): ☐ ☐
A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other (specify):

7. TYPE OF APPLICANT: (enter appropriate letter in box) ☐
A. State H. Independent School Dist.
B. County I. State Controlled Institution of Higher Learning
C. Municipal J. Private University
D. Township K. Indian Tribe
E. Interstate L. Individual
F. Intermunicipal M. Profit Organization
G. Special District N. Other (Specify): _____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: ☐☐ – ☐☐☐
TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT (cities, counties, states, etc.):

13. PROPOSED PROJECT:
Start Date | Ending Date

14. CONGRESSIONAL DISTRICTS OF:
a. Applicant | b. Project

15. ESTIMATED FUNDING:

a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	.00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?
a. YES THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON
DATE _____
b. NO ☐ PROGRAM IS NOT COVERED BY E.O. 12372
☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?
☐ Yes If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a. Typed Name of Authorized Representative | b. Title | c. Telephone number

d. Signature of Authorized Representative | e. Date Signed

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

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INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item: Entry:

1. Self-explanatory.
2. Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).
3. State use only (if applicable).
4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7. Enter the appropriate letter in the space provided.
8. Check appropriate box and enter appropriate letter(s) in the space(s) provided:
   - "New" means a new assistance award.
   - "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date.
   - "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.
9. Name of Federal agency from which assistance is being requested with this application.
10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.
11. Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

Item: Entry:

12. List only the largest political entities affected (e.g., State, counties, cities).
13. Self-explanatory.
14. List the applicant's Congressional District and any District(s) affected by the program or project.
15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

OMB Approval No. 0348-0044

BUDGET INFORMATION — Non-Construction Programs

SECTION A – BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		$	$	$	$	$
2.						
3.						
4.						
5. TOTALS		$	$	$	$	$

SECTION B – BUDGET CATEGORIES

6 Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY				Total (5)
	(1)	(2)	(3)	(4)	
a. Personnel	$	$	$	$	$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges (sum of 6a - 6h)					
j. Indirect Charges					
k. TOTALS (sum of 6i and 6j)	$	$	$	$	$
7. Program Income	$	$	$	$	$

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SECTION C - NON-FEDERAL RESOURCES

(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.	$	$	$	$
9.				
10.				
11.				
12. TOTALS (sum of lines 8 and 11)	$	$	$	$

SECTION D - FORECASTED CASH NEEDS

	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$	$	$	$	$
14. NonFederal					
15. TOTAL (sum of lines 13 and 14)	$	$	$	$	$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT

(a) Grant Program	FUTURE FUNDING PERIODS (Years)			
	(b) First	(c) Second	(d) Third	(e) Fourth
16.	$	$	$	$
17.				
18.				
19.				
20. TOTALS (sum of lines 16 -19)	$	$	$	$

SECTION F - OTHER BUDGET INFORMATION

(Attach additional Sheets if Necessary)

21. Direct Charges:	22. Indirect Charges:
23. Remarks	

SF 424A (4-88) Page 2
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INSTRUCTIONS FOR THE SF-424A

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A,B,C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A,B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a-k of Section B.

Section A. Budget Summary
Lines 1-4, Columns (a) and (b)

For applications pertaining to a *single* Federal grant program (Federal Domestic Assistance Catalog number) and *not requiring* a functional or activity breakdown, enter on Line 1 under Column (a) the catalog program title and the catalog number in Column (b).

For applications pertaining to a *single* program *requiring* budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the catalog program title on each line in *Column* (a) and the respective catalog number on each line in Column (b).

For applications pertaining to *multiple* programs where one or more programs *require* a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1-4, Columns (c) through (g.)

For new applications, leave Columns (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

Lines 1-4, Columns (c) through (g.) (continued)

For continuing grant program applications, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For supplemental grants and changes to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5 — Show the totals for all columns used.

Section B Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1-4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Lines 6a-i — Show the totals of Lines 6a to 6h in each column.

Line 6j - Show the amount of indirect cost.

Line 6k - Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)-(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

INSTRUCTIONS FOR THE SF-424A *(continued)*

Line 7 – Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount. Show under the program narrative statement the nature and source of income. The estimated amount of program income may be considered by the federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal-Resources

Lines 8-11 – Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a) – Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b) – Enter the contribution to be made by the applicant.

Column (c) – Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d) – Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e) – Enter totals of Columns (b), (c), and (d).

Line 12 — Enter the total for each of Columns (b)-(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13 – Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14 – Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15 – Enter the totals of amounts on Lines 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Lines 16 - 19 – Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20 – Enter the total for each of the Columns (b)-(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F. Other Budget Information

Line 21 – Use this space to explain amounts for individual direct object-class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22 – Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23 – Provide any other explanations or comments deemed necessary.

FINANCIAL STATUS REPORT

(Short Form)

(Follow instructions on the back)

1. Federal Agency and Organizational Element to Which Report is Submitted	2. Federal Grant or Other Identifying Number Assigned By Federal Agency	OMB Approval No. 0348–0039	Page	of pages

3. Recipient Organization (Name and complete address, including ZIP code)			
4. Employer Identification Number	5. Recipient Account Number or Identifying Number	6. Final Report ☐ Yes ☐ No	7. Basis ☐ Cash ☐ Accrual

8. Funding/Grant Period *(See Instructions)* From: (Month, Day, Year)	To: (Month, Day, Year)	9. Period Covered by this Report From: (Month, Day, Year)	To: (Month, Day, Year)

10. Transactions:	I Previously Reported	II This Period	III Cumulative
a. Total outlays			
b. Recipient share of outlays			
c. Federal share of outlays			
d. Total unliquidated obligations			
e. Recipient share of unliquidated obligations			
f. Federal share of unliquidated obligations			
g. Total Federal share *(Sum of lines c and f)*			
h. Total Federal funds authorized for this funding period			
i. Unobligated balance of Federal funds *(Line h minus line g)*			

11. Indirect Expense	a. Type of Rate *(Place "X" in appropriate box)* ☐ Provisional ☐ Predetermined ☐ Final ☐ Fixed			
	b. Rate	c. Base	d. Total Amount	e. Federal Share

12. *Remarks: Attach any explanations deemed necessary or information required by Federal sponsoring agency in compliance with governing legislation.*

13. Certification: **I certify to the best of my knowledge and belief that this report is correct and complete and that all outlays and unliquidated obligations are for the purposes set forth in the award documents.**

Typed or Printed Name and Title	Telephone (Area code, number and extension)
Signature of Authorized Certifying Official	Date Report Submitted

Previous Editions not Usable

Standard Form 269A (REV 4-88)
Prescribed by OMB Circulars A-102 and A-110

FINANCIAL STATUS REPORT

(Short Form)

Please type or print legibly. The following general instructions explain how to use the form itself. You may need additional information to complete certain items correctly, or to decide whether a specific item is applicable to this award. Usually, such information will be found in the Federal agency's grant regulations or in the terms and conditions of the award. You may also contact the Federal agency directly.

Item	Entry	Item	Entry

1, 2 and 3. Self-explanatory.

4. Enter the employer identification number assigned by the U.S. Internal Revenue Service.

5. Space reserved for an account number or other identifying number assigned by the recipient.

6. Check *yes* only if this is the last report for the period shown in item 8.

7. Self-explanatory.

8. Unless you have received other instructions from the awarding agency, enter the beginning and ending dates of the current funding period. If this is a multi-year program, the Federal agency might require cumulative reporting through consecutive funding periods. In that case, enter the beginning and ending dates of the grant period, and in the rest of these instructions, substitute the term "grant period" for "funding period."

9. Self-explanatory.

10. The purpose of columns, I, II and III is to show the effect of this reporting period's transactions on cumulative financial status. The amounts entered in column I will normally be the same as those in column III of the previous report in *the same funding period*. If this is the first or only report of the funding period, leave columns I and II blank. If you need to adjust amounts entered on previous reports, footnote the column I entry on this report and attach an explanation.

10a. Enter total program outlays less any rebates, refunds, or other credits. For reports prepared on a cash basis, outlays are the sum of actual cash disbursements for direct costs for goods and services, the amount of indirect expense charged, the value of in-kind contributions applied, and the amount of cash advances and payments made to sub-recipients. For reports prepared on an accrual basis, outlays are the sum of actual cash disbursements for direct charges for goods and services, the amount of indirect expense incurred, the value of in-kind contributions applied, and the net increase or decrease in the amounts owed by the recipient for goods and other property received, for services performed by employees, contractors, subgrantees and other payees, and other amounts becoming owed under programs for which no current services or performances are required, such as annuities, insurance claims, and other benefit payments.

10b. Self-explanatory.

10c. Self-explanatory.

10d. Enter the amount of unliquidated obligations, including unliquidated obligations to subgrantees and contractors.

Unliquidated obligations on a cash basis are obligations incurred, but not yet paid. On an accrual basis, they are obligations incurred, but for which an outlay has not yet been recorded.

Do not include any amounts on line 10d that have been included on lines 10a, b or c.

On the final report, line 10d must be zero.

10e, f, g, h and i. Self-explanatory.

11a. Self-explanatory.

11b. Enter the indirect cost rate in effect during the reporting period.

11c. Enter the amount of the base against which the rate was applied.

11d. Enter the total amount of indirect costs charged during the report period.

11e. Enter the Federal share of the amount in 11d.

Note: If more than one rate was in effect during the period shown in item 8, attach a schedule showing the bases against which the different rates were applied, the respective rates, the calendar periods they were in effect, amounts of indirect expense charged to the project, and the Federal share of indirect expense charged to the project to date.

OMB Approval No. 0348-0040

ASSURANCES — NON-CONSTRUCTION PROGRAMS

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C.§§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.
7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction subagreements.

Standard Form 424B (4-88)
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10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program andto purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED

SF 424B (4-88) Back

CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over $100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110 --

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 --

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about--

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will--

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3124, GSA Regional Office

Building No. 3), Washington, DC 20202-4571. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted—

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

_____

_____

_____

Check ☐ if there are workplaces on file that are not identified here.

DRUG-FREE WORKPLACE (GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 –

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3124, GSA Regional Office Building No. 3), Washington, DC 20202-4571. Notice shall include the identification number(s) of each affected grant.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0013, 6/90 (Replaces ED 80-0008, 12/89; ED Form GCS-008, (REV. 12/88); ED 80-0010, 5/90; and ED 80-0011, 5/90, which are obsolete)

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transactions

This certification is required by the Department of Education regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, for all lower tier transactions meeting the threshold and tier requirements stated at Section 85.110.

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion--Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0014, 9/90 (Replaces GCS-009 (REV. 12/88), which is obsolete)

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB
0346-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:	2. Status of Federal Action:	3. Report Type:
☐ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	☐ a. bid/offer/application b. initial award c. post-award	☐ a. initial filing b. material change For Material Change Only: year _____ quarter ____ date of last report _____

4. Name and Address of Reporting Entity:	5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:
☐ Prime ☐ Subawardee Tier ____, *if known*: Congressional District, *if known*:	Congressional District, *if known*:
6. Federal Department/Agency:	7. Federal Program Name/Description: CFDA Number, *if applicable*: _____
8. Federal Action Number, *if known*:	9. Award Amount, *if known*: $
10. a. Name and Address of Lobbying Entity (*if individual, last name, first name, MI*):	b. Individuals Performing Services (*including address if different from No. 10a*) (*last name, first name, MI*):

(*attach Continuation Sheet(s) SF-LLL-A, if necessary*)

11. Amount of Payment (*check all that apply*):	13. Type of Payment (*check all that apply*):
$ _____ ☐ actual ☐ planned	☐ a. retainer ☐ b. one-time fee ☐ c. commission ☐ d. contingent fee ☐ e. deferred ☐ f. other; specify: _____
12. Form of Payment (*check all that apply*): ☐ a. cash ☐ b. in-kind; specify: nature _____ value _____	

14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11:

(*attach Continuation Sheet(s) SF-LLL-A, if necessary*)

15. Continuation Sheet(s) SF-LLL-A attached: ☐ Yes ☐ No

16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature: _____

Print Name: _____

Title: _____

Telephone No.: _____ Date: _____

Federal Use Only:

Authorized for Local Reproduction
Standard Form - LLL

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee", then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.

    (b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).

11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.

12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.

13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.

14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.

15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.

16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D.C. 20503

DISCLOSURE OF LOBBYING ACTIVITIES
CONTINUATION SHEET

Approved by OM
0348-0046

Reporting Entity: _____ Page _____ of _____

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Standard Form - LLL-A

[FR Doc. 93-15914 Filed 7-6-93; 8:45 am]
BILLING CODE 4000-01-C

federal register

Wednesday
July 7, 1993

Part IV

Department of Education

Research in Education of Individuals With Disabilities Program and Program for Children and Youth With Serious Emotional Disturbance; Notice of Proposed Priorities for FY 1994 and 1995

DEPARTMENT OF EDUCATION

Research In Education of Individuals With Disabilities Program and Program for Children and Youth With Serious Emotional Disturbance

AGENCY: Department of Education.

ACTION: Notice of proposed priorities for Fiscal Years 1994 and 1995.

SUMMARY: The Secretary proposes priorities for fiscal years 1994 and 1995 for two programs administered by the Office of Special Education and Rehabilitative Services under the Individuals With Disabilities Education Act. The Secretary takes this action to focus Federal assistance on identified needs to improve outcomes for children with disabilities. The proposed priorities are intended to ensure wide and effective use of program funds. A separate competition would be established for each priority.

DATES: Comments must be received on or before September 7, 1993 for the Research in Education of Individuals With Disabilities Program; and August 6, 1993 for the Program for Children and Youth with Serious Emotional Disturbance.

ADDRESSES: All comments concerning these proposed priorities should be addressed to: Linda Glidewell, U.S. Department of Education, 400 Maryland Avenue, SW., room 3524, Switzer Building, Washington, DC 20202–2641.

FOR FURTHER INFORMATION CONTACT: The name, address, and telephone number of the person at the Department to contact for information on each specific proposed priority is listed under that priority.

SUPPLEMENTARY INFORMATION: This notice contains five proposed priorities under the Research in Education of Individuals with Disabilities Program and one proposed priority under the Program for Children and Youth with Serious Emotional Disturbance. The purpose of each program is stated separately under the title of that program.

These proposed priorities would support the National Education Goals by improving understanding of how to enable children and youth with disabilities to reach higher levels of academic achievement.

The Secretary will announce the final priorities in a notice in the **Federal Register**. The final priorities will be determined by responses to this notice, available funds, and other considerations of the Department. Funding of particular projects depends on the availability of funds, the content of the final priorities, and the quality of the applications received. Further, priorities proposed for FY 1995 could be affected by enactment of legislation reauthorizing these programs. The publication of these proposed priorities does not preclude the Secretary from proposing additional priorities, nor does it limit the Secretary to funding only these priorities, subject to meeting applicable rulemaking requirements.

Note: This notice of proposed priorities does not solicit applications. Notices inviting applications under these competitions will be published in the **Federal Register** concurrent with or following publication of the notices of final priorities.

Research in Education of Individuals With Disabilities Program

Purpose of Program: The Research in Education of Individuals with Disabilities Program is authorized by Part E of the Individuals with Disabilities Education Act (20 U.S.C. 1441–1443). The program provides support (1) to advance and improve the knowledge base and improve the practice of professionals, parents, and others providing early intervention, special education, and related services—including professionals in regular education environments—to provide children with disabilities effective instruction and enable them to successfully learn; and (2) for research and related purposes, surveys, or demonstrations relating to physical education or recreation, including therapeutic recreation, for infants, toddlers, children, and youth with disabilities.

Priorities: Under 34 CFR 75.105(c)(3) the Secretary proposes to give an absolute preference to applications that meet any one of the following priorities. The Secretary proposes to fund under these competitions only applications that meet any one of these absolute priorities:

Proposed Absolute Priority 1—School-Linked Services to Support Better Outcomes for Children With Disabilities

Background

Special and general educators are increasingly engaged in the search for and implementation of services that will ensure equity, excellence, and inclusion for children and youth with disabilities. While successful adult outcomes are significantly based on one's education as a child, productivity, independence, and quality of life are also influenced by access to and provision of health and social services. Schools increasingly acknowledge that many of these noneducational services are vitally needed, but the needs often go unmet. In response, some schools are coordinating and providing these services through policies and approaches described as school-linked services.

The provision of school-linked services appears to offer considerable promise but presents many issues. Multiple service systems must operate in a coordinated and flexible manner to meet the educational, related services, and noneducational needs of children with disabilities. Differences in organization and administrative structures, regulations and mandates, funding mechanisms and incentives, professional roles, and governance can represent barriers and make the development and implementation of school-linked services difficult. Very little is known about the extent of involvement or outcomes of children and youth with disabilities in schools developing or providing school-linked services, or about the policy and programmatic implications of these types of services for these children.

The purpose of this proposed priority is to support research projects to study (1) the participation of and outcomes for families and students with disabilities who receive services in schools developing or implementing school-linked services, and (2) the programmatic and policy implications associated with the delivery of educational and related services using school-linked approaches.

School-linked services are those (1) provided to children and their families through a collaboration among schools, health care providers, and social services agencies; (2) that place the school as the central participant in planning and governing the collaborative effort; and (3) provided or coordinated by personnel located at or near the school.

Proposed Priority

A project must select one or more sites located in schools that are committed to developing or implementing school-linked approaches to service delivery. In planning and implementing its research, a project must—

(a) Analyze and describe the participation of and academic and social outcomes for students with disabilities and their families;

(b) Provide an in-depth profile of the particular school-linked approach studied including information describing community, school, and student characteristics;

(c) Describe the advantages and disadvantages of the particular approach implemented by the project as

compared to other approaches (e.g., traditional, community-based, family-based);

(d) Describe the programmatic and policy implications, including barriers, that would need to be overcome, associated with the provision of services to students with disabilities within the school-linked approach studied by the project;

(e) Incorporate the ongoing involvement of relevant service systems, parents, and policymakers at the community level in the goals, design, and implementation strategies of the project; and

(f) Develop products and information that are usable by, accessible to, and disseminated to relevant audiences, including the research community, representatives of school and other relevant service systems, and parents.

A project must budget for two trips annually to Washington, DC, for (1) a two-day Research Project Directors' meeting; and (2) another meeting, to meet and collaborate with the project officer of the Office of Special Education Programs and the other projects funded under this priority, to share information and to discuss findings and methods of dissemination.

Proposed Competitive Priority

Within this proposed absolute priority 1, the Secretary, under 34 CFR 75.105(c)(2)(i), proposes to give preference to applications that meet the following competitive priority. The Secretary proposes to award up to 10 points to an application that meets this competitive priority in a particularly effective way. These points would be in addition to any points the application earns under the selection criteria for the program:

A project that would include a site or sites where, due to high levels of poverty or complicated social, cultural, or geographic relationships, the need for closer ties between schools and the providers of vital noneducational services (e.g., health and social services) is especially great.

For Further Information Contact: Judith Fein, U.S. Department of Education, 400 Maryland Avenue, SW, room 3524, Switzer Building, Washington, DC 20202–2641. Telephone: (202) 205–8116. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Proposed Absolute Priority 2—Synthesize and Communicate a Professional Knowledge Base: Contributions to Research and Practice

Background

Traditionally researchers have communicated their findings from individual research projects and systematic lines of research through journal publications and conference presentations. These findings are communicated to other researchers and engage researchers in dialogues. These dialogues contribute to innovation and development in special education.

In recent years the Office of Special Education Programs (OSEP) has sought to expand these traditional approaches. While continuing to support innovation and development, OSEP has established a goal to foster the use of a professional knowledge base by professionals who educate children and youth with disabilities and parents who are involved in the education of their children and youth with disabilities. This goal challenges the research and practice communities to examine beliefs and attitudes about empirical and practice knowledge, the methods for capturing the knowledge, and the communication across professional communities committed to improving the outcomes for children and youth with disabilities.

The purpose of this proposed priority is to synthesize and communicate an extant professional knowledge base on curricular, instructional, or organizational strategies and approaches that would contribute to professional practice as a means for achieving better outcomes for children and youth with disabilities.

Proposed Priority

A project must—

(a) In conducting a synthesis of the literature—

(1) Identify and implement rigorous social science methods for synthesizing the professional knowledge base (e.g., integrative reviews (Cooper, 1982), best-evidence synthesis (Slavin, 1989), meta-analysis (Glass, 1977), multi-vocal approach (Ogawa & Malen, 1991), and National Institute of Mental Health consensus development program (Huberman, 1977));

(2) Identify the topical focus and the relevant and irrelevant concepts under review, and pose hypotheses around which the synthesis would be conducted;

(3) Develop hypotheses with input from potential consumers of the synthesis to enhance the usability and validity of project efforts. Consumers include researchers, policymakers, educators, other relevant practitioners, individuals with disabilities, and parents;

(4) Develop and implement procedures for locating and organizing the extant literature and ensure that these procedures address and guard against potential threats to the integrity and generalizability of findings;

(5) Establish criteria and procedures for judging the appropriateness of studies;

(6) Meet with the Office of Special Education Programs and with the other projects funded under this priority to review their topical focus and methodological approach for conducting the synthesis prior to the start of their respective synthesis; and

(7) Analyze and interpret the professional knowledge base, including identification of general trends in the literature, points of consensus and conflict among the findings, and areas of evidence where the literature base is lacking. The interpretation of the literature base must address the contributions of the findings for improving the practice of professionals educating children and youth with disabilities; and

(b) In communicating its findings—

(1)(i) Cooperate with OSEP to convene a forum—to be held in Washington, DC between the 18th and 21st months of the project—at which the project would exchange findings from the synthesis activity with researchers, policymakers, educators, other relevant practitioners, individuals with disabilities, and parents; and

(ii) Provide draft copies of its analysis and interpretations to participants;

(2) Based on discussion and feedback from forum participants, prepare final synthesis documents; and

(3)(i) Develop the information products that have the greatest potential for use by national professional education and parent organizations in their existing communication systems and member networks.

(ii) In developing the information products the project must propose products appropriate for the topical focus and audience, provide a rationale for those proposed types of products, and propose communication strategies for fostering the use of the products by the appropriate audience.

(iii) The project must coordinate with OSEP to finalize information products for various systems and networks.

Each project must budget for:

(1) A two-day meeting in Washington, DC, during the first year, as described under paragraph (b)(1) of this proposed priority;

(2) The two-day Research Project Directors' meeting to be held in Washington, DC, each year of the project; and

(3) Two trips for up to two days each to Washington, DC, for the activity described under paragraph (b)(3)(iii) of this proposed priority.

For Further Information Contact: Martha Coutinho, U.S. Department of Education, 400 Maryland Avenue, SW., room 3522, Switzer Building, Washington, DC 20202–2640. Telephone: (202) 205–8156. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Proposed Absolute Priority 3—State and Local Education Efforts to Implement the Transition Requirements in the Individuals With Disabilities Education Act

Background

Despite the progress and accomplishments related to implementation of the Individuals with Disabilities Education Act (IDEA) over the last several years, much remains to be done to improve the outcomes of youth with disabilities. Expanded transition services, now mandated by IDEA, highlight the importance of individualized planning and implementation of specific activities targeted to adolescents, to focus educators' attention on outcomes and the preparedness of youth to assume productive adult lives.

IDEA provides for a number of specific activities that are defined as transition services. These services are to be made available to all students age 16 and older, and may be extended to students age 14 or younger, if appropriate. Transition services are defined in IDEA as a coordinated set of activities for a student, designed within an outcome-oriented process, that promotes movement from school to post-school activities, including post-secondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation. The coordinated set of activities must be based on the individual student's needs, taking into account the student's preferences and interests, and must include instruction, community experiences, the development of employment and other post-school adult living objectives, and, if appropriate, acquisition of daily living skills and functional vocational evaluation (20 U.S.C. 1401(a)(19)).

There is considerable State and local variation with respect to the implementation of these expanded requirements. Very little information exists on the nature and extent of State and local implementation, including policies, procedures, and practices. Moreover, policymakers, administrators, and educators at the Federal, State, and local levels lack information regarding the nature of student participation and the impact these services have on student outcomes; the extent other agencies are involved in the transition process; and the degree transition services access and use information and services available from a variety of Federal programs.

This proposed priority would support one cooperative agreement to study the progress being made to implement the transition services mandated by IDEA. The specific goals of the research are to describe Federal, State, and local implementation, including policies, procedures, and practices associated with transition services; to identify barriers to effective implementation; and to evaluate the impact of transition services on student outcomes.

Proposed Priority

(a) The project must include substudies in the following areas:

(1) The range and variation in State and local policies related to the definitional components of transition services;

(2) Student participation in transition planning, and student outcomes associated with implementation of transition services;

(3) State and local policies, practices and procedures related to the implementation of the transition services, with information obtained from local service providers (the substudy may include visits to illustrative sites);

(4) Interagency involvement in transition planning and services, including a description of the impediments associated with interagency involvement in transition planning and provision of services; and

(5) Federal program services and relevant policies related to meeting the transition requirements, including special education, vocational education, rehabilitation services, adult education, postsecondary education, the Job Training Partnership Act, and the Americans with Disabilities Act.

(b) In planning and implementing the substudies, the project must include appropriate policymakers, administrators, and service providers involved in the design and delivery of transition services to youth with disabilities.

(c) The project must submit for approval—

- A plan for conducting the substudies and disseminating reports within 60 days of the start of the project;
- A report for substudy (1) by the end of year one;
- Reports for substudies (2), (3), and (4) by the end of year two;
- A report for substudy (5) by the middle of year 3; and
- A final report at the end of year three. The final report must include the following: an executive summary, introduction, project objectives, methodology, findings organized by substudy, summary, and conclusions regarding the progress being made by State and local agencies to implement the IDEA transition requirements.

The project must budget for two trips, annually, to Washington, DC, for (1) a two-day Research Project Directors' meeting; and (2) another two-day meeting to meet with the project officer of the Office of Special Education Programs (OSEP) and with other OSEP work groups, as appropriate, to plan and review project activities and progress.

For Further Information Contact: Tom V. Hanley, U.S. Department of Education, 400 Maryland Avenue, SW., room 3526, Switzer Building, Washington, DC 20202–2641. Telephone: (202) 205–8110. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Proposed Absolute Priority 4—Center for Policy Research

Background

After 16 years of experience implementing the requirements of the Individuals with Disabilities Education Act, parents, educators, and policymakers are calling for reforms in the ways services are delivered to students with disabilities and for a careful examination of the procedures used to ensure that students with disabilities are effectively and appropriately served. A recent report from the National Association of State Boards of Education (1992) calls for sweeping reforms in the service delivery system and in the way special education has been organized and administered at the Federal, State, and local levels. The Center for Policy Options in Special Education at the University of Maryland

has identified issues and options associated with the restructuring of schools and the implications for special education (1992).

Increasingly concerns are expressed with the emphasis that has been placed on procedural compliance, rather than quality outcomes, for special education. A school district could be in full compliance with all procedural requirements and yet have a dropout rate in excess of 40 percent for students with disabilities. Reports from many jurisdictions suggest that much reform in special education service delivery is already emerging at the school building and school district level. However, the anecdotes, while revealing potentially promising innovations, indicate that little systematic research is occurring to document the effects of these reforms. Furthermore, the reform activities themselves have typically not been well described. The need also exists to improve the capacity to conduct policy research in special education.

The Secretary intends to make an award with a project period of up to 36 months. The Secretary may make a continuation award for an additional two-year period, subject to the requirements of 34 CFR 75.253(a). Under 34 CFR 75.234(a)(4), the Secretary would assess in particular the continued need for the center proposed in this priority.

Proposed Priority

This proposed priority would establish a center to conduct a program of policy research to examine the impact of general education reform on students with disabilities and the impact of special education reform activities on the education of all students. The specific goals of the center would be—

- To improve educational outcomes for students with disabilities by describing and documenting reforms occurring at the Federal, State, and local levels; assessing the impact of these reforms; and providing policy options to decision-makers at all levels; and
- To contribute to improving the quality of policy research as it relates to the education of students with disabilities. This would require collaboration between special education researchers and nationally recognized policy researchers in related fields.

The center must—

(a) Fund as research assistants at least five graduate students per year who have concentrations in either policy or disability issues;

(b) Contribute to the development and use of rigorous methodologies in conducting policy research by (1) demonstrating the use of innovative and rigorous methodologies in studying critical policy issues, and (2) facilitating the exchange of relevant information with those conducting research in either or both special education and general education;

(c) In consultation with the Office of Special Education Programs (OSEP), develop a program of policy research that addresses the significant reform issues impacting on service delivery to students with disabilities. The reform issues to be considered must include, but are not limited to, the following:

(1) How statutory and regulatory flexibility can be provided at the Federal, State, and local levels while the rights of students with disabilities are protected.

(2) How performance and compliance monitoring and program audits can promote program improvement, and how other program strategies (e.g., technical assistance) contribute to program improvement.

(3) How State and local efforts to restructure the delivery of both general education and special education have affected the delivery of services to students with disabilities.

(4) What policies and other strategies have been effective in promoting the inclusion of students with disabilities in regular education programs, and what policies, and other strategies have provided disincentives.

(5) The effects of efforts at the Federal, State, and local levels to coordinate various categorical programs; e.g., the Chapter 1 program for disadvantaged students and programs for students with disabilities;

(d) Develop and use effective communication strategies for ensuring that the center's policy research is available for decision making at the appropriate Federal, State, and local levels. Issues to be addressed in developing communication strategies must include, but are not limited to, the timing and format of information; the method of communication; and the scientific and practical credibility of the information;

(e) Address the needs of various audiences for policy research in both the substance and format of the information; and

(f) Create organizational support for using information through involving decisionmakers in early stages of investigations, prior to the development of communication strategies. Study planning and implementation must include the participation of a group of appropriate policymakers, administrators, disability advocates, and other relevant constituents including the National Center on Outcomes funded by the Office of Special Education Programs.

The center must budget for two trips, annually, to Washington, DC for (1) a two-day Research Project Directors' meeting; and (2) another meeting to meet with the project officer of the Office of Special Education Programs to plan and review project activities and progress.

For Further Information Contact: Louis Danielson, U.S. Department of Education, 400 Maryland Avenue, SW., room 3532, Switzer Building, Washington, DC 20202–2640. Telephone: (202) 205–8119. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Proposed Absolute Priority 5—Initial Career Awards

Background

There is need to enable individuals in the initial phases of their careers to initiate and develop promising lines of research that would improve early intervention services for infants and toddlers, and special education for children and youth with disabilities. Support for research activities among individuals in the initial phases of their careers is intended to develop the capacity of the special education research community. This proposed priority would address the additional need to provide support for a broad range of field-initiated research projects—focusing on the special education and related services for children and youth with disabilities and early intervention for infants and toddlers—consistent with the purpose of the program as described in 34 CFR 324.1.

The purpose of this proposed priority is to award grants to eligible applicants for the support of individuals in the initial phases of their careers to initiate and develop promising lines of research consistent with the purposes of the program.

For fiscal year 1994 awards, projects may support individuals who completed a doctoral program and graduated no earlier than the 1989–90 academic year. For fiscal year 1995 awards, individuals must have completed a doctoral program and graduated no earlier than the 1990–1991 academic year. Projects proposing to support individuals who are members of racial or ethnic minority groups, or both, are particularly encouraged by the

Secretary to apply for grants under this proposed priority.

Proposed Priority

To be considered for funding under this proposed priority, a project must—

(a) Pursue a line of inquiry that reflects a programmatic strand of research emanating either from theory or a conceptual framework. The line of research must be evidenced by a series of related questions that establish directions for designing future studies extending beyond the support of this award. The project is not intended to represent all inquiry related to the particular theory or conceptual framework; rather, it is expected to initiate a new line or advance an existing one;

(b) Include, in its design and conduct, sustained involvement with nationally recognized experts having substantive or methodological knowledge and expertise relevant to the proposed research. Experts do not have to be at the same institution or agency at which the project is located, but the interaction must be sufficient to develop the capacity of the researcher to effectively pursue the research into mid-career activities. At least 50 percent of the researcher's time must be devoted to the project;

(c) Prepare its procedures, findings, and conclusions in a manner that informs other interested researchers and is useful for advancing professional practice or improving programs and services to infants, toddlers, children, and youth with disabilities and their families; and

(d) Disseminate project procedures, findings, and conclusions to appropriate research institutes, clearinghouses, and technical assistance providers.

A project must budget for the two-day Research Project Directors' meeting to be held in Washington, DC, each year of the project.

For Further Information Contact: Tom V. Hanley, U.S. Department of Education, 400 Maryland Avenue, SW., room 3526, Switzer Building, Washington, DC 20202–2640. Telephone: (202) 205- 8110. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Applicable Program Regulations: 34 CFR part 324.

Program Authority: 20 U.S.C. 1441–1443.

Program for Children and Youth With Serious Emotional Disturbance

Purpose of Program: This program supports projects designed to improve special education and related services to children and youth with serious emotional disturbance. Types of projects that may be supported under the program include, but are not limited to, research, development, and demonstration projects. Funds may also be used to develop and demonstrate approaches to assist and prevent children with emotional and behavioral problems from developing serious emotional disturbance.

Priority: Under 34 CFR 75.105(c)(3) the Secretary proposes to give an absolute preference to applications that meet the following priority. The Secretary proposes to fund under this competition only applications that meet this absolute priority:

Proposed Absolute Priority—Preventing the Development of Serious Emotional Disturbance Among Children and Youth With Emotional and Behavioral Problems

Background

Improving the academic performance of our Nation's students is a major focus of educational reform initiatives. However, academically focused reform initiatives may potentially divert, not strengthen, the ability of schools to meet the psychological, social, and behavioral needs of students. Schools often do not provide specific educational experiences that promote the personal and social development of youth, complemented, if necessary, with programs and services to prevent children with emotional and behavioral problems from developing serious emotional disturbance.

Our Nation's schools need a reorientation of the fundamental approach to addressing the diverse and complex patterns of psychological and social behavior presented by students, including those with serious emotional disturbance. Approaches are needed that focus on the positive outcomes desired, rather than negative outcomes to be eliminated. Schools must be responsible and accountable for ensuring that, rather than develop serious emotional disturbance, students with emotional and behavioral problems achieve positive academic, personal, and social outcomes. School-based research that incorporates the demands of the environment is needed to design and test interventions that would enhance the personal and social development of students with emotional and behavioral problems, so as to prevent the development of serious emotional disturbance.

This proposed priority would support research projects that implement and test innovative interventions enabling schools to provide positively oriented instruction, curricula, and support services needed to prevent students with emotional and behavioral problems from developing serious emotional disturbance. The research would study how to assist schools in preparing these students to meet the personal and social demands of post-school environments.

Proposed Priority

To be considered for funding under this proposed priority, a project must—

(a) Provide a conceptual framework for the proposed preventive approach. The conceptual framework must reflect findings from multi-disciplinary research, as well as, validated interventions and strategies relevant for promoting personal and social development of children with emotional and behavioral problems;

(b) As part of the conceptual framework: (1) Address the challenge and diversity of mental health, psychological, and social characteristics so as to assist children with emotional and behavioral problems from developing serious emotional disturbance;

(2) Identify and define the outcomes related to personal and social development that would comprise the basis for the design of the proposed preventive components;

(3) Document the rationale for each outcome construct; and

(4) Describe means for measuring these outcomes;

(c) Propose interventions that (1) are comprehensive and positive; (2) promote the social and emotional development of students with emotional and behavioral problems; and (3) provide the cornerstone for building school-wide capacity for meeting the social and emotional needs of children with emotional and behavioral problems. The interventions must encompass an array of experiences that ensure that children with emotional and behavioral problems acquire and demonstrate in various settings the competencies needed to achieve the measurable desired outcomes related to personal and social development;

(d) Provide and test interventions within the general education environment and expand these to include home-based and community-based components appropriate to the proposed approach;

(e) Implement interventions that involve the active participation of a

broad range of constituents, including school personnel, parents, and community agencies;

(f) Assess the efficacy of the proposed interventions for improving personal and social outcomes for students with emotional and behavioral problems; and

(g) Evaluate the implementation of the proposed interventions to enhance the personal and social adjustment of students with emotional and behavioral problems across school environments.

A project must budget for two trips, annually, to Washington, DC, for (1) a two-day Research Project Directors' meeting; and (2) another two-day meeting to meet with the project director of the Office of Special Education Programs and the other projects funded under this priority to share their approaches, designs, and experiences, and to design collaborative products.

For Further Information Contact: Linda Glidewell, U.S. Department of Education, 400 Maryland Avenue, SW., room 3524, Switzer Building, Washington, DC 20202–2640. Telephone: (202) 205–9099. Individuals who use a telecommunications device for the deaf may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Applicable Program Regulations: 34 CFR Part 328.

Program Authority: 20 U.S.C. 1426.

Intergovernmental Review: The Program for Children and Youth with Serious Emotional Disturbance 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 these proposed priorities.

All comments submitted in response to this notice will be available for public inspection, during and after the comment period, in room 3524, 300 C Street, SW., Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Monday through Friday of each week except Federal holidays.

(Catalog of Federal Domestic Assistance Numbers: Research in Education of Individuals with Disabilities Program, 84.023, and Program for Children and Youth with Serious Emotional Disturbance, 84.237)

Dated: April 30, 1993.

Richard Riley,

Secretary of Education.

[FR Doc. 93–15915 Filed 7–6–93; 8:45 am]

BILLING CODE 4000–01–U

federal register

Wednesday
July 7, 1993

Part V

The President

Proclamation 6578—National Literacy Day, 1993 and 1994

Executive Order 12854—Implementation of the Cuban Democracy Act

Federal Register
Vol. 58, No. 128
Wednesday, July 7, 1993

Presidential Documents

Title 3—

The President

Proclamation 6578 of July 2, 1993

National Literacy Day, 1993 and 1994

By the President of the United States of America

A Proclamation

America is a grand and prosperous Nation. We enjoy the highest standard of living of any major nation, and we lead the world in many other aspects. For instance, many of the greatest educational institutions in the world are American. However, despite this success—or maybe because of it—Americans take many things for granted. Our relative wealth has often led us to neglect the basic strengths on which this Nation was founded and has prospered. One of these strengths is an education level for all Americans adequate to support a productive work force, strong family structures, and a responsible citizenry.

Literacy is fundamental for all facets of life, yet there are approximately 27 million adults who lack the most fundamental skills necessary to survive and succeed in our society. It is my goal as President of the United States to give all Americans the opportunity to learn to read, write, and develop basic skills. National Literacy Day provides us a time to reaffirm our commitment to ensuring that all Americans possess the basic reading and math skills on which all further learning must be built.

The fifth National Education Goal calls for every American, by the year 2000, to possess the knowledge and skills necessary to compete in a global economy. That goal highlights one critical fact of life: The world of work is changing rapidly. Americans, and especially young Americans, will never succeed in tomorrow's economy with yesterday's skills. That is why we must have the courage to change our education system to face the challenges of the 21st century.

My Administration's education reform legislation, the Goals 2000: Educate America Act, establishes high academic and occupational standards, while providing support to States and communities to help them reach those standards. Fifty million Americans have no high school diploma, and half of those who do graduate do not go on to college. We must be sure that these Americans receive the education and training they need to compete in a high-wage, high-skills economic climate.

Literacy is not a luxury. It is a right and a responsibility. It is hard for most of us to imagine functioning in our society without the ability to complete a job application or balance a checkbook. It is a disadvantage that is intolerable in a Nation dedicated to the principles of freedom and equality.

In recent years progress has been made toward a more widely literate society. States and communities, volunteer and religious organizations, businesses and labor organizations have all made invaluable contributions to raising public awareness and assisting undereducated adults. I applaud the good work that these groups have done, and I encourage them to join in a partnership with our Federal initiatives to completely erase American illiteracy by the year 2000.

To recognize the urgent need to increase literacy to ensure the future well-being of our country and all its citizens, the Congress, by House Joint Resolution 213, has designated July 2, 1993, and July 2, 1994, as "National Literacy Day" and has requested the President to issue a proclamation in observance of this day.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim July 2, 1993, and July 2, 1994, as "National Literacy Day."

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

William J. Clinton

[FR Doc. 93–16244
Filed 7–6–93; 10:53 am]
Billing code 3195–01–P

Presidential Documents

Executive Order 12854 of July 4, 1993

Implementation of the Cuban Democracy Act

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Trading with the Enemy Act, as amended (50 U.S.C. App. 1–6, 7–39, 41–44), the Cuban Democracy Act of 1992 (Public Law 102–484, sections 1701–1712, October 23, 1992, 106 Stat. 2575) (the "Act"), and section 301 of title 3, United States Code,

I, WILLIAM J. CLINTON, President of the United States of America, hereby order:

Section 1. *Implementation of the Act.* All agencies are hereby directed to take all appropriate measures within their authority, including the promulgation of rules and regulations, to carry out the provisions of the Act.

Sec. 2. *Functions of the Department of State.* The Secretary of State shall be responsible for implementing sections 1704, 1707, and 1708 of the Act. Responsibility for transmitting the certification required by section 1707 and the report required by section 1708 of the Act is delegated to the Secretary of State.

Sec. 3. *Functions of the Department of the Treasury.* Except as provided in section 4 of this order, the Secretary of the Treasury shall be responsible for implementing sections 1705(b)–(e) and 1706 of the Act, to the extent that these sections pertain to transactions with Cuba.

Sec. 4. *Functions of the Department of Commerce.* The Secretary of Commerce shall be responsible for implementing sections 1705(b)–(e) of the Act, to the extent that these sections pertain to the exportation to Cuba from the United States or from a third country of goods and technology subject to the jurisdiction of the Department of Commerce.

Sec. 5. *Consultation.* In consultation with the Secretary of State, the Secretary of the Treasury and the Secretary of Commerce are hereby authorized to take such actions, including the promulgation of rules and regulations, as may be necessary to carry out the purposes of the Act and this order.

Sec. 6. Nothing in this order shall be deemed to affect any functions vested by law in the Federal Communications Commission.

Sec. 7. *Effective Date.* This order shall be effective immediately.

William J. Clinton

THE WHITE HOUSE,
July 4, 1993.

[FR Doc. 93–16288
Filed 7–6–93; 12:05 pm]
Billing code 3195–01–P

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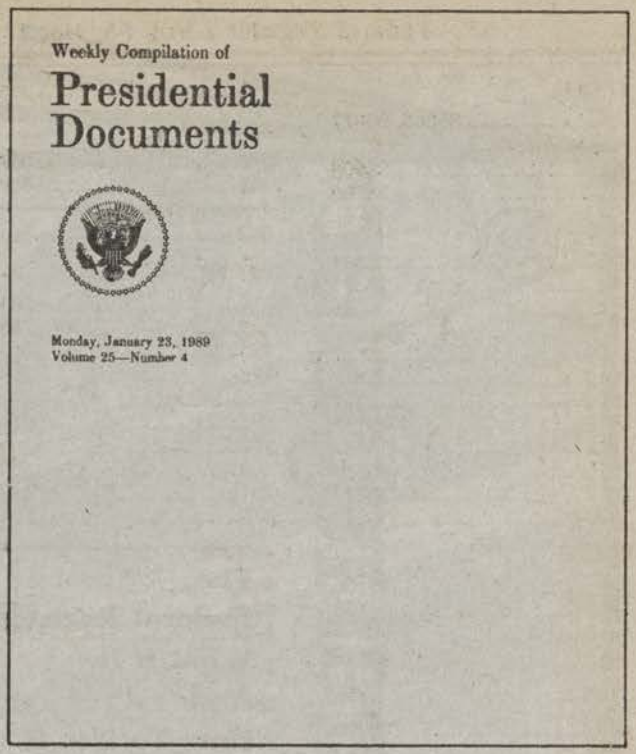

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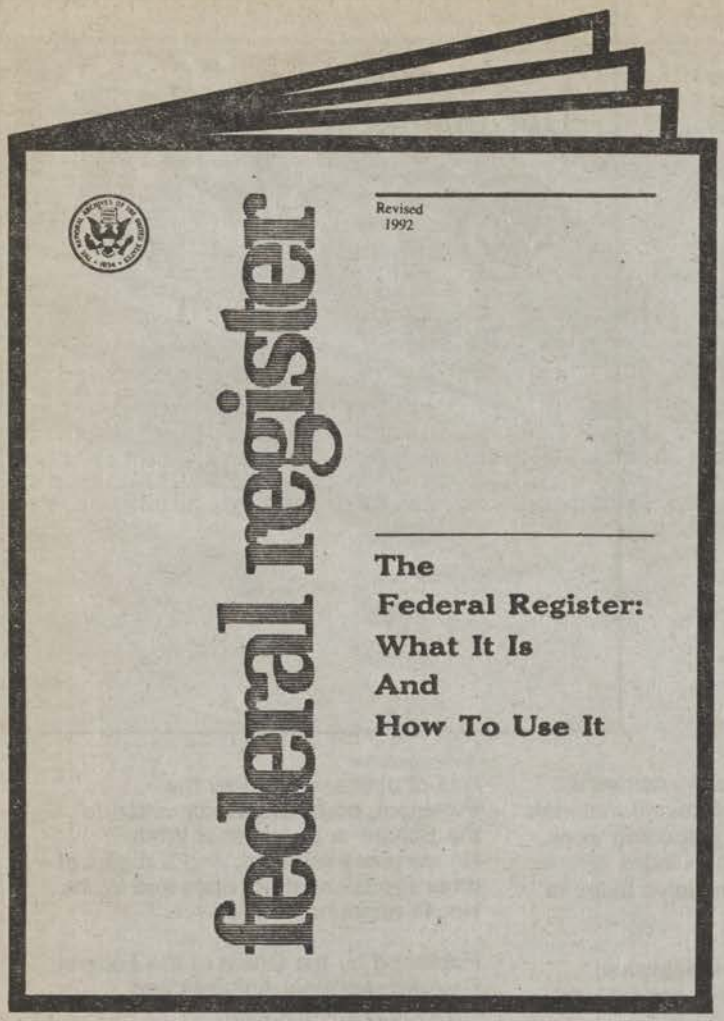

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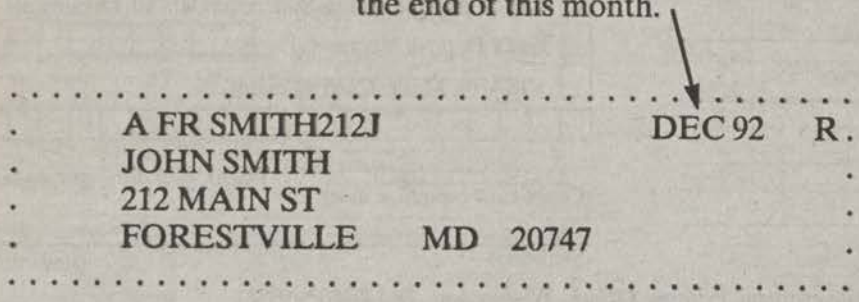

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